

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 329 (2012)<sup>1</sup> Local democracy in “the former Yugoslav Republic of Macedonia”

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

*a.* Article 2, paragraph 1.*b* of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2, paragraph 3 of the above-mentioned Statutory Resolution CM/Res(2011)2, stipulating that: “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

*c.* its Resolution 299 (2010) on the follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Authorities (Utrecht, Netherlands, 16-17 November 2009), which provides that the Congress will use the Council of Europe Reference Framework for Regional Democracy in its monitoring activities, as well as the reply given by the Committee of Ministers to Congress Recommendation 282 (2010) (CM/Cong(2011)Rec282final) encouraging the governments of member States to take account of the aforementioned reference framework in their policies and reforms;

*d.* the explanatory memorandum on local democracy in “the former Yugoslav Republic of Macedonia” drawn up by the rapporteurs, Mr Ian Micallef<sup>2</sup> and Ms Andrée Buchmann, following a monitoring visit to “the former Yugoslav Republic of Macedonia” from 5 to 7 December 2011. In their work, the rapporteurs were assisted by Dr Jens Woelk, consultant, who is a member of the Group of Independent Experts on the European Charter of Local Self-Government, and by the secretariat of the Congress.

2. The Congress notes that:

*a.* “the former Yugoslav Republic of Macedonia” signed the European Charter of Local Self-Government (ETS No. 122) on 14 June 1996 and ratified it on 6 June 1997 without making any declarations upon the deposit of the instrument of ratification. The charter entered into force on 1 October 1997;

*b.* “the former Yugoslav Republic of Macedonia” has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

*c.* the Monitoring Committee decided on 23 March 2011 to carry out the second monitoring of the state of local and regional self-government in “the former Yugoslav Republic of Macedonia” and its compliance with the European Charter of Local Self-Government. It instructed I. Micallef and A. Buchmann to prepare and submit to the Congress, as rapporteurs, the report on local democracy in this country;

*d.* the Congress delegation carried out a monitoring visit from 5 to 7 December 2011 visiting Skopje, Strumica and Zhelino.

3. The Congress wishes to thank the Permanent Representation of “the former Yugoslav Republic of Macedonia” to the Council of Europe and the Macedonian authorities at central, regional and local levels, the Association of the Units of Local Self-Government (ZELS) and experts, as well as other interlocutors, for their valuable co-operation at different stages of the monitoring procedure and the information conveyed to the delegation.

4. The Congress notes with satisfaction that:

*a.* the measures taken since its Recommendation 217 (2007) represent further improvement and marked progress towards local democracy;

*b.* consultation of local authorities by the State in matters concerning local self-government is in line with the requirements of Article 4, paragraph 6, of the European Charter of Local Self-Government, given that it is guaranteed by law and the parliamentary local government committee is involved in the legislative procedure;

*c.* the role of ZELS in consultation and co-operation between local authorities and the central government has been enshrined in Article 81 of the law on local self-government as well as by a memorandum of understanding with the Ministry of Local Self-Government on co-operation in the context of decentralisation;

*d.* a reasonable policy to strengthen municipalities’ financial resources gradually, along with proper monitoring and audit procedures, has been adopted and transparency regarding municipalities’ tax resources and allocations from central government appear to have improved, including requirements for municipal borrowing;

*e.* several promising steps have been taken in the right direction to ensure a more equitable distribution of revenues, including the application of the new formula for a “guaranteed minimum-income” for municipalities and the establishment of a committee (in which mayors and ZELS participate) to monitor the redistribution among and allocation of financial resources to local authorities;

*f.* a new “Balanced Regional Development” policy has been adopted for better co-ordination of regional policy and the involvement of municipalities is guaranteed by the regional

institutions and the mechanisms of participation between central government and regions' municipalities;

*g.* the signature of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, as well as the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144), are on the agenda of the government for 2012.

5. The Congress nevertheless expresses its concerns that:

*a.* although municipalities are assigned powers of their own, these are supplemented by an array of tasks transferred in the decentralisation process, creating areas where local and central responsibilities overlap and are co-financed, bearing the risk of continuous State influence;

*b.* the ambiguity in law regarding competences, already noted in the previous recommendation, has not been resolved and while the law on local self-government formally gives local authorities great powers and responsibilities, numerous special laws set out detailed rules interfering with local autonomy;

*c.* municipalities still depend very strongly on government grants, have little discretion with regard to local taxes and the proportion of own-source taxes in their revenues remains comparatively low;

*d.* there are great wealth and development disparities between municipalities;

*e.* the property transfer of land to local authorities in order to allow them to pursue a municipal development policy has still not been undertaken;

*f.* municipalities are subject to supervision by different central authorities alongside the State Inspectorate, which increases the risk of going beyond the supervision of lawfulness;

*g.* there are no procedures in place for measures against mayors with serious incapacity or who are in violation of their obligations;

*h.* the distinction between the competences of the City of Skopje as capital city and as local authority dealing with 10 sub-entities is not sufficiently clear, although the city is subject to special regulations (law on the City of Skopje);

*i.* the instruments of direct and public participation of citizens at local level are not frequently used in practice;

*j.* the participation of women in local political life remains low;

*k.* consultation with the Ombudsman's office in the legislative procedure is still not regular and has been very limited since the last elections, while local authorities continue to be among the least responsive authorities to the Ombudsman's instructions and recommendations.

6. In the light of the above, the Congress requests the Committee of Ministers to invite the authorities of "the former Yugoslav Republic of Macedonia" to:

*a.* consolidate and finalise the decentralisation process, which is one of gradual transfer of competences, clarifying and consolidating the text of the law on local self-government so that it remains the reference text on these issues;

*b.* enhance the portfolio of the Ministry of Local Self-Government as the main actor in the decentralisation process, giving it a prominent co-ordination and oversight function in the process;

*c.* take into account the diverging interests of urban and rural municipalities and develop distinct strategies for them in order to reduce the great wealth and development disparities between these municipalities;

*d.* adopt clear legislation on equalisation in order to provide transparent guidelines for equalisation procedures to be implemented between local authorities, in the light of Article 9, paragraph 5, of the European Charter of Local Self-Government and also taking inspiration from the guidelines provided by the Reference Framework for Regional Democracy;

*e.* establish the legal framework and procedures to increase the proportion of own-source taxes as well as the share of value-added tax (VAT) and income tax in local budget revenues, and reduce State grants correspondingly, ensuring that the latter do not impinge on local government fiscal autonomy;

*f.* as regards consultation, draw up a law establishing the procedure, in the light of Article 5 of the European Charter of Local Self-Government, for consultation of local authorities through their associations on the procedures for modification of local authority boundaries, and to strengthen the existing procedure on consultation on the way in which redistributed resources are to be allocated to them as foreseen by Article 9, paragraph 6, of the charter, including government investments in their localities;

*g.* envisage the property transfer of land to local authorities, in order to increase their autonomy and improve their financial situation;

*h.* strengthen the administrative capacity of municipalities both at central and local level, particularly in the areas of financial control, strategic planning, human resources management and economic development;

*i.* draw up a law which would establish clearly the sanctions, and their implementation, against mayors with serious incapacity or who are in violation of their obligations;

*j.* clarify the competences and distinguish between the functions of the capital city of Skopje as capital city on the one hand, and as a local authority dealing with 10 sub-entities on the other hand;

*k.* raise public awareness of citizen participation in local political life and take the necessary measures in this respect;

*l.* promote the participation of women in local political life by introducing an electoral system favouring gender parity (for example through close lists with a "zipper system") and facilitating the access of women to local political life in the

light of Congress Recommendation 273 (2009) on equal access to local and regional elections;

*m.* promote the office of the Ombudsman and its role vis-à-vis the local authorities;

*n.* finally, sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority as well as the Convention on the Participation of Foreigners in Public Life at Local Level, given that the provisions of the first are

already part of the legislation, and that an impact analysis and an action plan for the signature of both is on the government's agenda for 2012.

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1. Debated and approved by the chamber of local authorities on 17 October 2012 and adopted by the Congress on 18 October 2012, 3rd Sitting (see Document [CPL\(23\)2](#), explanatory memorandum), rapporteurs: S. James, United Kingdom (L, ILDG) and A. Buchmann, France (R, SOC).

2. Mr Ian Micallef has not been a member of the Congress since 16 October 2012.