

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 451 (2021)<sup>1</sup> Monitoring of the European Charter of Local Self-Government in Hungary

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

*a.* Article 2, paragraph 1*b*, of the Charter of the Congress of Local and Regional Authorities of the Council of Europe appended to Statutory Resolution CM/Res(2020)1 of the Committee of Ministers, which stipulates that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 1, paragraph 2, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1, which stipulates that “[t]he 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 the effective implementation of the principles of the European Charter of Local Self-Government”;

*c.* Chapter XVIII of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe on the organisation of monitoring procedures;

*d.* the Guidelines for civil participation in political decision making (CM(2017)83, adopted by the Committee of Ministers on 27 September 2017;

*e.* Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;

*f.* Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;

*g.* Congress Recommendation 341 (2013) on local and regional democracy in Hungary;

*h.* the explanatory memorandum to this recommendation (document CG-FORUM(2021)01-03) on local and regional democracy in Hungary.

2. The Congress points out that:

*a.* Hungary joined the Council of Europe on 6 November 1990, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 6 April 1992 and ratified it in full on 21 March 1994; the Charter entered into force in respect of Hungary on 1 July 1994;

*b.* the Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter “the Monitoring Committee”) decided to examine the situation of local and regional democracy in Hungary. It entrusted the co-rapporteurs Mr Marc Cools, Belgium (L, ILDG) and Mr Jean-Pierre Liouville, France (R, SOC), with the task of preparing and submitting to the Congress a report on local democracy in Hungary. The delegation was assisted by Professor Tania Groppi, Vice-President of the Group of Independent Experts on the European Charter of Local Self-Government, and by the Congress Secretariat;

*c.* the monitoring visit took place from 19 to 21 March 2019. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the report;

*d.* the co-rapporteurs wish to thank the Permanent Representation of Hungary to the Council of Europe and all those whom they met during the visit.

3. The Congress notes with satisfaction that in Hungary:

*a.* the capital city has a special status;

*b.* local authorities enjoy freedom of association to defend their interests;

*c.* national minorities can establish self-governing local authorities to safeguard and promote their cultural identity and to represent their cultural interests at local and national levels.

4. The Congress notes, however, that most of the shortcomings raised in its Recommendation 341 (2013) have not been addressed and expresses its concerns in particular on the following issues:

*a.* the scope of local government’s own and delegated competences is very limited (Articles 3.1 and 4.2 of the Charter), with most of them being reassigned to State deconcentrated administration (Article 4.5 of the Charter) in violation of the subsidiarity principle of division of competences (Article 4.3 of the Charter);

*b.* the interference by the State in the local functions undermines the assignment to local authorities of full and exclusive powers (Article 4.4 of the Charter);

*c.* a genuine regional level of self-government as such does not exist in Hungary since counties have almost no significant competences and do not enjoy any financial autonomy;

*d.* there is no real and appropriate consultation mechanism in place in practice on all matters that concern local authorities, notably on redistribution and allocation of financial resources (Articles 4.6 and 9.6 of the Charter);

*e.* local authorities cannot recruit high quality staff, and the organisational autonomy of small local self-government units to determine their internal structures is limited (Articles 6.1 and 6.2 of the Charter);

*f.* the supervision of local authorities, carried out by government representatives, cannot be considered proportional to the importance of the interests that it is intended to protect (Article 8.3 of the Charter);

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1. Debated and adopted by the Statutory Forum on 12 February 2021 (see document CG-FORUM(2021)01-03, explanatory memorandum), co-rapporteurs: Marc COOLS, Belgium (L, ILDG) and Jean-Pierre LIOUVILLE, France (R, SOC/G/PD).

*g.* in spite of remarkable economic growth, local authorities' financial resources remain insufficient, and in some cases a "solidarity contribution" has a disproportionately negative impact on local finances (Articles 9.1 and 9.2 of the Charter);

*h.* local authorities lack sufficient financial resources from local taxes and charges of which they have the power to determine the rate (Articles 9.3 and 9.4 of the Charter);

*i.* the equalisation mechanism is rather obscure and limited in its impact on the protection of financially weaker local authorities (Article 9.5 of the Charter);

*j.* grants to local authorities are mostly earmarked for financing specific projects and the criteria for assignment are not objective (Article 9.7 of the Charter);

*k.* local authorities' level of trust in courts for the legal protection of their autonomy is low, thus restricting genuine enjoyment by local authorities of the right to recourse to a judicial remedy (Article 11 of the Charter).

5. In light of the foregoing, the Congress requests that the Committee of Ministers invite the authorities of Hungary to:

*a.* reverse the trend towards centralisation and, in particular, stop the allocation of local competences to the State administration and recognise the right of local authorities to manage a substantial share of public affairs, thus ensuring that the subsidiarity principle is applied in practice;

*b.* limit the interference by State authorities in municipal functions;

*c.* strengthen the position of counties in terms of their competences and financial resources;

*d.* introduce a fair and effective consultation process with local authorities in an appropriate way and in due time, as set out in Article 4.6 of the Charter on all matters that concern them directly;

*e.* ensure local authorities' ability to recruit high-quality staff by providing necessary resources and increase the organisational autonomy of small local self-government units;

*f.* make sure that the supervision over local authorities is proportional to the importance of the interests that it is intended to protect;

*g.* allocate sufficient financial resources to local authorities, thereby respecting the principle that the resources should be commensurate with their functions;

*h.* enable local authorities to establish local taxes and to determine their rate in order to strengthen local authorities' fiscal capacity;

*i.* revise the equalisation system to ensure its fairness and transparency;

*j.* establish a fair and transparent mechanism for allocating grants to local authorities;

*k.* follow the recommendations of the European Commission for Democracy through Law (Venice Commission), contained in its opinions on the judiciary in Hungary, to guarantee to local authorities the right of recourse to an effective judicial remedy and to restore their trust in the national judicial system.

6. The Congress calls on the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to take account of this recommendation on local and regional democracy in Hungary and the explanatory memorandum in their activities relating to this member State.