

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 356 (2014)¹ Post-monitoring of local and regional democracy in Bosnia and Herzegovina

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

a. Article 2.1.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 2.3 of the aforementioned Statutory Resolution CM/Res(2011)2, which provides 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 307 (2010) REV2 on procedures for monitoring the obligations and commitments entered into by the Council of Europe member States in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122);

d. its Resolution 299 (2010) on Follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009), which provides that the Congress commits itself to using 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;

e. its Resolution 353 (2013) REV on Congress post-monitoring and post observation of elections: developing political dialogue;

f. its Recommendation 202 (2006) and its Recommendation 324 (2012) on local and regional democracy in Bosnia and Herzegovina.

2. The Congress notes that:

a. Bosnia and Herzegovina signed and ratified the European Charter of Local Self-Government (ETS No. 122) on 12 July 2002 without reservations or declarations, and

the instrument came into force in respect of Bosnia and Herzegovina on 1 November 2002;

b. Bosnia and Herzegovina 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).

3. Two years after the adoption of its last recommendation, the Congress notes with satisfaction:

a. the general compatibility of Bosnia and Herzegovina’s legislation on local self-government with the principles of the Charter, in particular the improvement of the legislative framework in Bosnia and Herzegovina and in the entities which includes explicit references to the Charter;

b. the successful implementation of the population census carried out in October 2013, which is fundamental in order to draw up and implement effective public policies at local authority level;

c. the repeated expression of consensus by the authorities of Bosnia and Herzegovina about the need to ensure consistency in the legislation on local self-government at all levels.

4. The Congress notes, however, the lack of action on Congress Recommendation (324) 2012 on local and regional democracy in Bosnia and Herzegovina. In particular, it notes with concern that:

a. this lack of action is due to the continuous political and institutional deadlock at State level as well as in the Federation of Bosnia and Herzegovina. Such deadlock is preventing constitutional reform which appears essential for a series of fundamental issues, not least for guaranteeing the fundamental rights of all citizens and for fulfilling the obligations of the country’s membership in the Council of Europe. If such a reform were not implemented, the interests of the population would not be properly defended;

b. the citizens are becoming increasingly bewildered in the face of a political system which has proven incapable of reforming itself in the interests of its population;

c. a lack of action regarding the implementation of Congress Recommendation (324) 2012 can be observed even in areas where constitutional reform is not an essential precondition for implementation, such as, inter alia, the recognition of municipal property and the improvement of inter-municipal co-operation.

5. In the light of the above, the Congress recommends that the Committee of Ministers urge the authorities of Bosnia and Herzegovina to:

a. guarantee the fundamental functions of local self-government in practice, including the allocation of sufficient financial resources to local authorities, commensurate with their powers and responsibilities, in particular by revising the existing legal provisions on financial equalisation;

b. review the legislation on local self-government within the entities, and the sub-level of government with a view to ensuring clear apportionment of the powers of local authorities in line with the principle of subsidiarity, setting

a timeline for the implementation of reforms related to the implementation of Congress Recommendation (324) 2012;

c. strengthen and promote inter-municipal co-operation and the joint delivery of certain public services, in particular across the Inter-Entity Boundary Line, in order to guarantee that all municipalities are able to exercise their powers despite the great fragmentation of the territory of Bosnia and Herzegovina, and to actively support existing initiatives in this direction;

d. adopt a legal framework recognising municipal property, thus enabling the calculation of the revenue base of local authorities;

e. consider signing and then ratifying in the near future the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority;

f. support the post-monitoring process in 2014 in order to continue the political dialogue with authorities at all levels of governance in Bosnia and Herzegovina on the implementation of Recommendation 324 (2012) and the present recommendation;

g. call on the expertise and assistance of the Congress in drawing up, in co-operation with all the relevant stakeholders, and in particular with the national associations of local authorities in Bosnia and Herzegovina, any reform programmes aimed at increasing decentralisation in line with the Charter.

1. Debated and adopted by the Congress on 27 March 2014, 3rd Sitting (see Document [CG\(26\)13FINAL](#) explanatory memorandum), rapporteurs: Jean-Marie Belliard, France (R, EPP/CCE) and Beat Hirs, Switzerland (L, ILDG).