

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 506 (2024)¹ Monitoring of the application of the European Charter of Local Self- Government in Montenegro

1. The Congress of Local and Regional Authorities of the Council of Europe (“the Congress”) 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 relating to the Congress, stipulating 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 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating 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 on the organisation of monitoring procedures;

d. the contemporary commentary by the Congress on the explanatory report to the European Charter of Local Self-Government, adopted by the Statutory Forum on 7 December 2020;

e. the Congress priorities for 2021-26, in particular Priority 6 *b.* on the quality of representative democracy and citizen participation;

f. the Sustainable Development Goals of the United Nations 2030 Agenda for Sustainable Development, in particular Goal 11 on sustainable cities and communities and Goal 16 on peace, justice and strong institutions;

g. the Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

h. 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;

1. Debated by the Chamber of Local Authorities during the 46th Session on 27 March 2024 and adopted by the Congress on 27 March 2024 (see document [CPL \(2024\)46-03](#), explanatory memorandum), co-rapporteurs: Cemal BAŞ, Türkiye (L, EPP/CCE), and Sören SCHUMACHER, Germany (R, SOC/G/PD).

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

j. the previous Congress recommendation on the monitoring of the application of the European Charter of Local Self-Government in Montenegro ([Recommendation 379\(2015\)](#));

k. the explanatory memorandum to the current recommendation on the monitoring of the application of the European Charter of Local Self-Government in Montenegro.

2. The Congress points out that:

a. Montenegro joined the Council of Europe on 11 May 2007, signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 24 June 2005 and ratified it with reservations on 12 September 2008. The Charter entered into force in Montenegro on 1 January 2009;

b. the Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (“the Monitoring Committee”) decided to examine the situation of local democracy in Montenegro in the light of the Charter. It instructed Cemal BAŞ, Türkiye (L, EPP/CCE), and Sören Schumacher, Germany (R, SOC/G/PD), with the task of preparing and submitting to the Congress a report on the application of the Charter in Montenegro;

c. the monitoring visit took place from 3 to 5 October 2023. 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 explanatory memorandum;

d. the rapporteurs wish to thank the Permanent Representation of Montenegro to the Council of Europe and all those whom they had exchanges with during these meetings.

3. The Congress notes with satisfaction:

a. the establishment of strategic initiatives for reforming the public administration, with a declared focus on decentralisation and digitalisation, such as the Public Administration Reform Strategy 2022-2026 and the Strategy of Regional Development 2023-2027 as well as the ongoing analysis of the functioning of local self-government, which may be useful in the assessment of future local self-government reform;

b. the establishment in 2017 of the Ministry of Public Administration and Local Self-Government as the competent authority for local government, which strengthens the institutional focus on local self-government at the central level;

c. the good practice of minority language use in the performance of local public functions in municipalities where the majority of the population belongs to ethnic minorities;

d. the existence of a right of the Union of Municipalities of Montenegro to apply directly to the Constitutional Court.

4. The Congress expresses its concern on the following issues:

a. the general trend towards recentralisation of local competences, including but not limited to the essential area of spatial planning;

b. the practice of *ad-hoc* assignment of competences to municipalities without allocating adequate funding for the assigned tasks;

c. the insufficient financial capacity of smaller municipalities to guarantee the high-quality performance of their functions and the reduction in the share of tax revenue for most municipalities following the adoption of the 2021 Law on Personal Income Tax (known as the “Europe Now” programme);

d. the lack of decision-making powers at local level regarding local taxes or fees coupled with the limited right of local authorities to dispose of their property, which restricts local financial autonomy;

e. the obligation of municipalities to receive authorisation from central level to perform some municipal functions, such as to spend funds received from the State budget to finance municipal capital projects;

f. an overregulation of local responsibilities that leaves little room for their adaptation to local needs. This also concerns the freedom of municipalities to determine their own internal administrative structures;

g. the considerable shortcomings in the practice of the consultation process, which, although it is prescribed by law, does not take place in a timely manner and on all questions that concern local authorities, including on financial matters;

h. the lack of consultation of local authorities and local populations concerned by municipal boundary changes;

i. the lack of clarity and transparency in the procedure for allocating grants.

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

a. resume the previous decentralisation efforts and pursue the declared local self-government reform in consultation with municipalities and the Union of Municipalities;

b. make sure that the assignment of tasks to municipalities is carried out in accordance with the law and is accompanied by the funds necessary for their execution;

c. refrain from re-allocating local competences to the State administration and reconsider the allocation of planning competences to enable local authorities to manage a substantial share of public affairs under their own responsibility and in the interests of the local population;

d. conduct the financial impact assessment of policies and laws that affect local self-government resources, in order to ensure the proper compensation of the loss of revenues;

e. strengthen local fiscal autonomy by increasing the decision-making power of local authorities in the area of local taxation and fees;

f. make sure that local authorities can exercise their own competences, without ministerial approval, and that they have a sufficient margin of appreciation to determine their own internal administrative structures for effective management;

g. systematically and effectively consult local authorities, notably through the Union of Municipalities, to give effect to the legally defined “spirit of partnership” in relations between municipalities and central government. To this end, establish a permanent consultation mechanism at the level of ministries to involve local authorities in consultations on the draft legislation affecting them;

h. consult the local authorities and citizens concerned on municipal boundary changes, and resolve the issue of demarcation of boundaries of the Zeta municipality to ensure its effective operation;

i. clarify the criteria for allocating grants and make sure that all municipalities have equal access to grants;

j. ratify the non-ratified Articles 6.2, 7.2 and 8.2, which are already complied with in practice;

k. reconsider the introduction of a single election day for all municipalities.

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 the monitoring of the application of the Charter in Montenegro and the accompanying explanatory memorandum in their activities relating to this member State.