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Report “ Local democracy in Andorra”

Strasbourg, France, 28 March 2018

Dear colleagues,

First, I would also like to express my gratitude to Mr Antoni Martí Petit, Head of Government of Andorra, for participating in our session today. We take it as a sign of the commitment of Andorra to closely co-operate with the Congress.

I totally share the position expressed by my co-rapporteur Zdenek Broz about a good level of local democracy in Andorra.

Not only does the Principality of Andorra generally comply with the ratified provisions of the Charter but it is also a rare example of the countries in which no violations of the Charter have been identified.

We would only suggest some improvements that, in our view, will allow securing and developing local democracy in Andorra even further.

Indeed, as Zdenek Broz already mentioned, long standing self-government traditions as well as proximity of local authorities to the central government have contributed extensively to the culture of systematic and effective consultations in practice. The small surface area of the country has to be taken into account since it facilitates informal ways of consultations.

We would still recommend to the Andorran authorities to formalise in law the mechanism of consultation in order to secure their maintenance on the same efficient and systematic level in future.

Our attention was drawn to the fact that the city of Andorra la Vella has no special status that would allow taking account of its particular situation and expenditures as Capital city compared to other municipalities.

Taking into account the exemplary culture of consultations that we observed in Andorra we trust that the interested parties will find the solution to this issue. Moreover, during the consultation procedure the government emphasised that in no respect did it want to weaken the position of the capital.

At the moment of our visit to Andorra an important reform of the competences and the financial resources were being negotiated in a tripartite process, involving the government, the parliament and the local authorities with a view to adapting the system of transfers to the new framework of State taxation. I should probably explain that a full system of direct taxes (such as the income tax and the tax on corporation) have been introduced quite recently in the Principality which up to 2015 based its fiscal system on indirect taxation.

During the consultation procedure, the government informed us that the criteria of distribution of financial resources among municipalities will be revised. The principle of solidarity and new parameters had been introduced in favour of the municipalities that have fewer revenues from local taxes.

We call the authorities to pursue and finalise the reform in line with the principles enshrined in the Charter.

We also recommend to Andorran authorities to consider ratifying paragraph 2 (on commensurate fiscal resources) and paragraph 5 (on financial equalisation) of Article 9 of the Charter which, in our opinion, can be considered as de-facto applied in Andorra.

Finally, Andorra has not signed the Additional Protocol to the Charter on the right to participate in the affairs of a local authority. However, we observed that in practice the participation of citizens in affairs of local authorities is in line with the requirements of the Protocol.

It appears that the main obstacle to Andorra's adherence to this instrument is a misinterpretation of the provision of the Protocol that would allegedly provide for an individual electoral right for non-national residents.

I would like to clarify this issue to avoid any misunderstanding in the future. Let me stress that the provision in question does not introduce an individual electoral right of non-nationals in the country. The State has a broad margin of appreciation as to foreign residents' right of participation in accordance with the State's own constitutional order and international legal obligations.

Under the Council of Europe standards, the matter of voting rights of foreigners is the subject of another legal instrument, which is the Convention on the Participation of Foreigners in Public Life at Local Level.

That's why we recommend to Andorra to sign and ratify the Additional protocol.

I think what I am highlighting here is important because I have read the report made by my colleagues on local democracy in Monaco and I noticed that there was a similar reluctance from the authorities of Monaco based on the same misunderstanding.

We hope you will adopt the draft recommendation. We are now ready to answer your questions should you have some.

Thank you for your attention.