

37th Session – Strasbourg, France, 29-31 October 2019

Speaking notes for the rapporteur Carla DEJONGHE (Belgium, ILDG)

Report “Local and regional democracy in Bosnia and Herzegovina” (37th session of the Congress-31 October 2019)

Dear colleagues,

I am pleased to present to you a report and a draft recommendation on local and regional democracy in Bosnia and Herzegovina, which were previously approved by the Monitoring Committee at its meeting of 3 July 2019.

I will also speak on behalf of my co-rapporteur Lelia HUNZIKER who left the Swiss delegation to the Congress and whom I would like to thank for her commitment in this monitoring process.

We have prepared our report following two parts of the monitoring visit paid to Bosnia and Herzegovina in November 2018 and February of this year.

We visited Sarajevo, East Sarajevo, Banja Luka, Mostar and municipality of Jablanica and met representatives of both Entities and Brčko District of Bosnia and Herzegovina, as well as the state, cantonal and municipal authorities.

I would like to thank the delegation of Bosnia and Herzegovina to the Congress, the Permanent Representation of Bosnia and Herzegovina to the Council of Europe and our interlocutors from Bosnia and Herzegovina at all levels of government for their assistance in organising both parts of the visit.

Let me start by stressing that the complex political system of Bosnia and Herzegovina is characterised by an extreme decentralisation of distribution of competences, notably with relation to local self-government.

Therefore, I suggest that we first take a quick glance at the political and territorial structure of the country. Then I will focus on the findings of our visits and the draft recommendation.

Just to remind you, the violent conflict of the early 1990s in former Yugoslavia ended with the signature of Dayton Peace Agreement in 1995.

Annex IV of this Agreement includes the Constitution of Bosnia and Herzegovina, which has laid the foundations of a multinational state as home to three constituent peoples living in two entities: the Republika Srpska, mainly home to the Bosnian Serb community, and the Federation of Bosnia and Herzegovina, mostly populated by Bosniaks and Croats.

We have tried to explain this situation in the draft report more in detail, but when it was adopted in July in Oslo, the Monitoring Committee took a general decision to delete the historical part section from monitoring reports. Therefore, I would like to ask the Congress secretariat to also delete the historical part from the report on Bosnia and Herzegovina in accordance with the decision taken in Oslo.

Coming back to the territorial structure of Bosnia and Herzegovina, each of the two entities of this country has its own political system.

The Federation of Bosnia and Herzegovina has a federal system that comprises three levels of government: entity level (to which we will refer as federal), cantonal level with 10 cantons and local level represented by municipalities and cities.

In contrast, the Republika Srpska is a unitary, two-tier entity, with the entity government that interacts directly with municipalities and cities.

The Constitution of Bosnia and Herzegovina guarantees the maximum autonomy to the two Entities. It does not however include the concept of local self-government except for Brčko District of which I will speak later.

In the Federation, most powers related to local government are vested with the cantons, and each canton has its own constitution. The Federal Constitution contains only a few generic provisions on fundamental principles of local self-government to be respected by the cantonal Constitutions.

Given this asymmetry of the two Entity systems - federal and unitary - we have had to conclude on partial compliance of the situation in Bosnia and Herzegovina with the Charter in cases where the state of implementation of its provisions in the entities differed.

As I mentioned earlier, Brčko District is a case of its own. Geographically situated in between two parts of the Republika Srpska, with around 80.000 inhabitants, it has a special territorial status.

Brčko is at the same time a municipality and a special district with its own assembly (composed of 31 delegates) and distinct legislation which must comply with the State legislation, but not with Entity level legislation. Election to the district assembly is held together with general elections in Bosnia and Herzegovina. The candidates representing constituent people and minorities are eligible to stand for election.

Last time, the Congress monitored the situation of local and regional democracy in Bosnia and Herzegovina and adopted the relevant recommendation in 2012. In 2014, the Congress adopted a resolution, suggesting a post-monitoring in Bosnia and Herzegovina. The post-monitoring process however did not progress to the agreement on a post-monitoring road-map.

The situation in Mostar, the city that has seen no local elections since 2008, has been a recurring issue on the Congress agenda.

Despite the Congress efforts made both in the framework of fact-finding missions organised to Mostar in 2017-2018 and the activities of the Congress "Reflection Group on Mostar", no tangible progress towards holding local elections in this city has been achieved so far.

We continue to be seriously concerned with the flagrant violation in Mostar of the right of citizens to elect local representatives in terms of Article 3.2 of the Charter. In our proposed recommendation we call upon political parties and governments at all levels of Bosnia and Herzegovina to double their efforts to find the workable solution to the situation in Mostar and to agree on a path forward through political dialogue.

Similarly, we have noted little progress in the implementation by Bosnia and Herzegovina of the previous Congress Recommendations. The system of local self-government in this country remains extremely complex and incoherent. This situation is aggravated by overlapping competences of various levels of government, difficult financial situation of municipalities, notably small and rural ones, and the apparent lack of efficiency of local public administration.

In our view, a complex and fragmented institutional structure of Bosnia and Herzegovina hinders local development as well as achieving efficient self-government at municipal level.

This adds up to another obstacle to reaching any tangible improvement in the area of local democracy – an intrusive control by political parties divided along ethnic lines of any attempt to change status quo, combined with a patronage system. Developing a genuine participatory democratic culture which would involve all citizens seems a distant reality under such conditions.

The fragmentation and division along ethnic lines also impede cooperation between neighbouring municipalities belonging to different Entities, just like the absence of coordination between the two Entities and the weakness of the State level.

Besides, politics in Bosnia and Herzegovina is in a permanent electoral campaign mode. Elections are held every second year (either general or local elections). The formation of governments often takes several months due to frequent political deadlocks while parties engage in constant political battle fuelled by divisive rhetoric.

Against such background, executives at all levels find it difficult, if not impossible, to pursue any medium and long-term projects and policies.

You probably also know that today, a year after the latest general elections of October 2018, the agreement has not been reached on State level government formation in the country.

We also regret the general lack of implementation of judicial decisions and specifically those concerning local self-government in Bosnia and Herzegovina.

The European Court of Human Rights judgements, such as the decision on the famous now Sejdić and Finci case, are no exception.

To conclude, I would like to underline that Bosnia and Herzegovina needs urgent reforms at the constitutional and legislative level to ensure that municipalities can exercise their right to self-government in compliance with the standards set out in the Charter.

We have suggested several recommendations to tackle the issues of incompliance with the Charter which, in our view, will also help Bosnia and Herzegovina to benefit from the potential of local authorities in implementing and advancing much-needed fundamental reforms.

I hope you will adopt the draft recommendation and I am ready to take your questions.

Thank you for your attention.