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Strategy on the right of local authorities to be consulted by other levels of government

Governance Committee
Rapporteur: ¹ Anders KNAPE, Sweden (L, EPP/CCE)

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Summary

The consultation of local authorities by other levels of government, as set out in the European Charter of Local Self-Government is a fundamental principle of local democracy. In its Resolution 347 (2012) and Recommendation 328 (2012), the Congress has fixed this as a priority activity, nominated a thematic rapporteur on the subject and, in the follow-up to Resolution 347, has prepared a strategy to strengthen this principle at European level.

This new resolution presents a strategy to orientate the Congress work in this area for the period 2014-2016 and in particular to draw up guidelines for all stakeholders to help them improve consultation processes.

1 L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

Strategy on the right of local authorities to be consulted by other levels of government

RESOLUTION 368 (2014)²

1. The Congress, in accordance with Congress Resolution 347 (2012) on the right of local authorities to be consulted by other levels of government;

2. Bearing in mind that, according to Statutory Resolution CM/Res(2011)2 of the Committee of Ministers, the Congress is a consultative organ of the Council of Europe, and the Committee of Ministers and the Parliamentary Assembly shall consult the Congress on issues which are likely to affect the responsibilities and essential interests of the local and/or regional authorities that the Congress represents:

a. adopts the Strategy on the right of local authorities to be consulted by other levels of government, as appended to this resolution;

b. calls on national associations of local and regional authorities to work with it to ensure the best possible implementation of the strategy.

² Debated and adopted by the Congress on 27 March 2014, 3rd sitting (see Document CG(26)9FINAL, explanatory memorandum), rapporteur : Anders KNAPE, Sweden (L, EPP/CCE).

APPENDIX

Strategy on the right of local authorities to be consulted by other levels of government

Purpose

The Congress of Local and Regional Authorities of the Council of Europe has asked the Governance Committee to present a strategy to strengthen the consultation processes between the different levels of government in the member States in order to make these more effective and thereby to improve the quality of legislation and local and regional policies.

Key activities

It is proposed that the strategy consist of the following activities, the most important being the first one, namely to develop guidelines on the application of the relevant articles of the European Charter of Local Self-Government (ECLSG).

1. Provide guidelines for national associations and/or delegations of the Congress to use as a tool and inspiration in their dialogue with their regional and national governments about improving consultation processes.
2. Make use of the findings of the Congress's monitoring and, as appropriate, its co-operation activities, to extend the application of the relevant articles of the ECLSG to all member States.
3. Systematise the evaluation of national consultation processes in the light of the above-mentioned guidelines in the Congress country monitoring exercises.
4. Collect data from member states, for example by using a questionnaire, at the end of 2015 to evaluate whether their national consultation processes are in line with the Congress guidelines and, if not, what action has been taken in response to the strategy.
5. Prepare a report in 2016 in the light of the data collected (with the possibility of following on with a second strategy for 2017-2018).

Elements to be included in consultation guidelines

Purpose of consultations between the political levels

1. It is in the interest of national and regional authorities, on the one hand, and local authorities on the other, to create forms of continuous consultations between ministries and the political representatives of the different political levels. This dialogue can:
 - a. create a readiness to meet future challenges and deal with emerging crises;
 - b. create conditions for a shared perception of the problems and opportunities related to local government and municipal operations;
 - c. provide a forum for general discussion on the financing of the tasks that the state imposes on local government;
 - d. increase government understanding of the reality in which local authorities have to deliver their share of the public services;
 - e. increase understanding within the municipal sector of the overall responsibility of parliaments and governments and their ambitions for the whole public sector;

- f. contribute to the development of legislation and policies that will be more effective in that national and, where applicable, regional authorities regularly receive comprehensive advice on the manner in which local authorities consider and are able to handle various forms of government regulation;
- g. reduce the negative effects of sectorisation by involving all ministries responsible for large municipal areas in the consultation process.

Principles and procedures of consultations

2. The right of local and regional authorities to be consulted constitutes one of the core principles of local democracy and should be enshrined in national or regional law, and where practical in the constitution.
3. Local authorities should therefore be consulted by national and, where applicable, regional authorities, and have an active role in the preparation and adoption of decisions on all matters that concern them – namely the implementation of policies or legislation directly and indirectly affecting their legal status, tasks and functions and economic or financial situation – in a manner and timing such that local authorities have a real opportunity to formulate and articulate their own views and proposals, in order to influence the decision-making process.
4. National associations of local and regional authorities should have an important role in representing their local and regional authorities at national consultations. Where member States have more than one national association, these should cooperate together as closely as possible, in order to define common positions on issues that affect them and to improve their ability to contribute to the development of legislation and policies of other levels of government.
5. Consultation processes should be defined and initiated, by legislative bodies, in a clear and transparent manner, preferably enshrined in the constitution, otherwise in laws or rules of procedures of governments and parliaments, specifying the format of such consultations, who is consulting who and for what purpose, the level of participation of representatives of local authorities, the time –frame for consultations and covering all matters of interest for local authorities.
6. Consultation with local authorities should be a required part of policy-making and the legislative process to enable these authorities to express their interests and opinions in time for them to be taken into account in policy and legislative formulation.
7. All ministries that formulate policies that have implications for local authorities must consult with representatives of the authorities concerned.
8. Consultations should be conducted in written form, in meetings and in hearings in front of parliaments and governments, making clear the participatory rights of local representatives in the consultation process and the form of national and, where applicable, regional level representation in the consultation process.
9. Central and regional authorities should provide proper clear and detailed information, in writing, about proposed policies, well before the consultations are due to take place, in order for those consulted to be well informed about the motives and objectives of each planned decision or policy.
10. Strategically important decisions should be based on a careful analysis of the implications for self-governance as well as of the economic consequences for the local and regional level.
11. Local government expertise should be involved in the process of drafting policies and legislation at an early stage, for example through participation in working groups to prepare new legislation.

12. Local authorities should have right of complaint or petition that is clearly defined, preferably in the constitution, if they believe that necessary consultations have not been properly conducted, and a right to redress if it is established that procedures were not properly followed.
13. Consultations should be regular and systematic, with a clear and precise indication of the different possible forms of consultation, and the contexts in which they are used.
14. The contributions of the different parties consulted and the results of consultation exercises should be made public; a detailed written explanation of the reasons for not retaining any proposals should be communicated and published.
15. Authorities conducting consultations should make maximum use of the increased consultation opportunities provided by new media.