

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 331 (2011)¹ The European Charter of Local Self-Government in domestic law

1. Since its entry into force in 1988, the European Charter of Local Self-Government (ETS No. 122 referred to as “the Charter”) remains the only binding European legal instrument to lay down the principles of democratic local self-government. It is the guardian of the rights of local authorities in Europe, a landmark of European democratic development, setting out for the first time the principle of subsidiarity, namely that public responsibilities are best exercised by those authorities which are closest to the citizen.

2. The application of an international treaty such as the European Charter of Local Self-Government in the domestic legal system of a state party is known as “reception”. Ratification of the Charter implies giving careful consideration to the way in which and the degree to which this reception is undertaken. In this respect, the Congress of Local and Regional Authorities of the Council of Europe notes with satisfaction that the majority of states that have ratified the Charter in the last ten years have given it direct application in their domestic legal systems.

3. The Charter now covers almost the entire European area. In this context the Congress welcomes its ratification by Andorra in March 2011, which brings the number of member states which have signed or ratified it to 45.

4. Convinced that the process of reception of the Charter into domestic legislation is of fundamental importance for the good functioning of local democracy in the states parties, the Congress resolves to continue to improve the effectiveness of the Charter and to encourage its direct applicability in states parties.

5. The monitoring of states parties’ compliance with the Charter has made it possible to conduct a constant evaluation of its interpretation and for a “Charter culture” gradually to impose itself and it has also contributed to improving the level of reception of the Charter in states parties.

6. In order to contribute to the interpretation of the European Charter of Local Self-Government and its direct application in member states, the Congress asks its Governance Committee to draft guidelines on the current interpretation

of the provisions of the Charter, for use by legislative bodies, monitoring bodies and constitutional courts. These guidelines should take into account the findings of the reports assessing states parties compliance with the Charter, in particular with regard to deriving a set of rights of local authorities, as well as the case-law of constitutional courts on the Charter, where this exists, with a view to assisting states parties in implementing the Charter.

7. The Congress asks its Monitoring Committee to:

a. continue to strengthen and develop its monitoring of the Charter and to systematically examine the issue of the reception of the Charter during its country monitoring visits;

b. raise awareness among the judicial bodies that monitoring delegations meet during their visits of the need to base their decisions on the Charter, or the system of its reception in the domestic law, in cases relating to local democracy;

c. consider what concrete measures might be appropriate in the case of non-compliance with Congress recommendations concerning the implementation of the Charter in individual states.

8. The Congress invites associations of local authorities to:

a. monitor new legislation of local democracy in their countries with a view to its compliance with the Charter;

b. ensure that local authorities are aware of their options of recourse to the courts, in cases of suspected non-compliance with the Charter, in order to request the application of the Charter’s provisions where the relevant authorities have failed to apply it;

c. maintain a regular dialogue with their national authorities with regard to improving the reception of the Charter into their domestic legal systems, with particular attention to the provisions which they have not accepted;

d. report to the Congress on action taken with regard to 8.*a*, *b* and *c* above, as well as any positive measures taken with regard to the reception of the Charter in their domestic legal systems;

e. work with their national authorities to ensure that the Charter is made available in their national, regional and minority languages, if this is not already the case, and that a copy of each translation is deposited with the Council of Europe Treaty Office for public access.

1. Debated and approved by the Chamber of Local Authorities on 19 October 2011 and adopted by the Congress on 20 October 2011, 3rd Sitting (see Document CPL(21)2, explanatory memorandum), rapporteur: W. Borsus, Belgium (L, ILDG).