

36th SESSION

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Fighting nepotism within local and regional authorities

Recommendation 428 (2019)¹

1. For local and regional governments to function effectively, they need competent and highly motivated staff. Merit-based recruitment and promotion are preconditions for ensuring the impartiality and quality of public service delivery. At the same time, the power of local and regional authorities to recruit and dismiss staff has been recognised as a significant corruption risk.
2. Aware that corruption in all its forms constitutes a destructive threat to the efficiency and quality of good governance at both local and regional level, at its 31st plenary session in October 2016, the Congress adopted a roadmap of activities to fight corruption, including a report on nepotism.
3. Local and regional authorities are especially vulnerable to nepotism, and other forms of favouritism, due to their size, autonomy and proximity with citizens. As nepotism practices in these circumstances can be more visible to the general public, they have greater potential to damage the public trust that is crucial to the proper functioning of government.
4. Nepotism can discourage skilled, motivated and competent candidates from applying for certain positions, and result in the recruitment of unqualified staff, and subsequently distort the proper functioning of government, by allowing private interests to prevail over public interests.
5. Recruitment processes need to be transparent and conducted according to ethical rules and standards, to prevent the undue influence of public officials in the selection procedure, where conflicts of interest might arise.
6. As the European Charter of Local Self-Government recognises, adequate remuneration is another essential condition for ensuring high-quality staff and minimising the risk of nepotism and other forms of favouritism.
7. In the light of the above considerations, the Congress, bearing in mind:
 - a. Article 6.2 of the European Charter of Local Self-Government;
 - b. the Council of Europe Programme of Action Against Corruption (1996);
 - c. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles;
 - d. the Criminal Law Convention on Corruption (ETS No. 173);
 - e. the Civil Law Convention on Corruption (ETS No. 174);

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)16](#), explanatory memorandum), rapporteur: Wilma DELISSEN VAN TONGERLO, Netherlands (L, ILDG).

- f. the Council of Europe Model Code of Conduct for Public Officials (2000);
- g. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;
8. Invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:
- a. Ensure that their legislation complies with this recommendation and includes sufficient provisions to mitigate this risk and to combat and deal with suspected cases of nepotism, notably by:
- i. protecting whistleblowers who report cases of nepotism;
 - ii. ensuring the impartiality and protection of judges and prosecutors conducting nepotism investigations;
 - iii. providing appropriate sanctions for proven cases of nepotism;
- b. Take steps to develop their administrative culture to eliminate tolerance of all forms of favouritism;
- c. Establish agencies to monitor the implementation and effectiveness of nepotism legislation and to ensure professional training by means of:
- i. education for public officials through seminars, workshops or meetings;
 - ii. fostering awareness among public officials of their rights, responsibilities and duties in this respect;
 - iii. ensuring the selection of competent staff in public bodies that inspect and monitor local and regional authorities for incidences of nepotism;
- d. Ensure the independence of officials working in audit institutions;
- e. Ensure transparency, accountability, fairness and equality in the recruitment process by:
- i. using standardised examination systems for appointing and recruiting public officials;
 - ii. providing clear and comprehensive explanations of the recruitment and selection process;
 - iii. obliging public officials involved in selection processes to declare any present or past relationships with candidates;
 - iv. prohibiting public officials from having direct or indirect influence over employees to whom they are related;
 - v. prohibiting public officials from recommending family connections to be hired in the same workplace or soliciting other employees to hire relatives;
 - vi. ensuring the efficiency of recruitment process control systems;
 - vii. establishing effective and responsible human resources management systems;
- f. Ensure an adequate level of remuneration for local and regional authority staff;
- g. Encourage and contribute to co-operation and exchange of experience on these issues at the national and international level, including co-ordination with civil society groups and think-tanks, listening and responding to their proposals and recommendations.

36th SESSION

The Congress' contribution to the reflection on the future of the Council of Europe (Helsinki Ministerial Session, 16-17 May 2019)

Recommendation 429 (2019) ¹

1. In 2017, the Congress celebrated 60 years of commitment to local and regional democracy within the Council of Europe. Today, representing more than 150,000 local and regional authorities in the Organisation's 47 member States, it is the embodiment of territorial democracy within the Council of Europe.
2. Since the first meeting in 1957 of the European Conference of Local and Regional Authorities, forerunner to the Congress of Local and Regional Authorities which was established in 1994 following the Council of Europe Summit of Heads of State in Vienna, territorial issues have become a key concern for central governments.
3. Over this period of time, the Congress has continued to grow in political maturity and operational capacity, determined to be a full partner of the Committee of Ministers and of central governments in promoting democracy, human rights and the rule of law at local and regional level, while with the main goal of strengthening trust in democratic institutions through proximity governance.
4. The Foreign Ministers of the 47 member States of the Council of Europe will meet in Helsinki on 16 and 17 May 2019 at a time when faith in the democratic process is faltering across Europe and the democratic values for which this Organisation stands face unprecedented challenges; the Congress fervently hopes that the conclusions and decisions of the Ministers will provide new impetus to the Council of Europe.
5. In this respect, the Congress is convinced that:
 - a. the Council of Europe, as the pan-European guarantor of human rights, democracy and the rule of law, is a central actor for innovative thinking in these domains and can contribute to the democratic dimension of Europe which is experiencing a worrying crisis;
 - b. the local and regional level can help significantly to reconnect with citizens and restore confidence in democratic processes and institutions and that the Congress can contribute its experience and that of the municipalities and regions it represents, in order to develop comprehensive strategies aimed at revitalising and regenerating European democracy.

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)08](#)), co-rapporteurs: Xavier CADORET, France (L, SOC) and Gunn Marit HELGESEN, Norway (R, EPP/CCE)

6. The Congress, consequently, has prepared a contribution to the member States' reflection on the future of the Council of Europe, and:

a. invites the Committee of Ministers to take account of this contribution, presented as an appendix to this recommendation, during its preparation for the forthcoming Helsinki Ministerial Session and in particular during the drafting of its final declaration and conclusions;

b. declares its commitment and readiness to implement the conclusions of the Ministerial Session in its areas of competence.

APPENDIX

The Congress' contribution to the reflection on the future of the Council of Europe (Helsinki Ministerial Session, 16-17 May 2019)

Strengthening local and regional democracy in the 21st century

1. Since its foundation seventy years ago in the wake of the Second World War, the Council of Europe's main purpose has been to protect the people of its 47 member States, where human rights, democracy and the rule of law are recognised as the core values of harmonious co-existence.
2. In 70 years it has succeeded in creating a common space of legal norms based on these core values, establishing, notably, a unique system of human rights protection centred on the European Convention and Court of Human Rights. It has promoted a model of democratic governance at both national and local level that represents as much of a landmark feature of the European model as the human rights protection mechanism.
3. With regard to local democracy, it has played a key role in building pluralist and cohesive societies, which can be rightly seen as one of the Council of Europe's main achievements.
4. National governments themselves recognised this when, in the preamble to the European Charter of Local Self-Government, they defined local democracy as one of the main foundations of any democratic regime. This importance of communities and their elected representatives has become an acknowledged feature of the Council of Europe and provides today a valuable opportunity for the Organisation to make a positive contribution to the democratic debate taking place in our member countries.
5. The future of the Council of Europe is inseparable from the future of European democracy and the European model of society which this Organisation has built and upheld and which paved the way for the creation of the European Union (EU). Yet today, this model is in danger of unravelling. The protection it offers to Europeans is being challenged by far-reaching changes that affect, to varying degrees, all nations. The initial role of the Council of Europe, which is as relevant today as it was 70 years ago, is now being pursued in the context of a global transformation which concerns all societies and all aspects of people's lives, whether political, economic, social or cultural.
6. The tangible effects of global warming, and more generally the widespread perception that our environment is deteriorating as a result of human action, the onset of a serious decline in biodiversity, the struggle to cope with the increasing pace of technological change and its consequences on employment, the challenges of migration, the globalisation of our economies and its impact on our traditional cultural references are the "visible part" of this worldwide systemic shift.
7. These transformations affect the way we see the world around us and think about it. A number of our intellectual reference points are becoming less and less certain, leading to social anxiety and an evolution in our political perceptions, reflected more specifically in a crisis of representation that manifests itself in many European countries, in particular by the rise of anti-liberal tendencies, the return of authoritarian temptations, the resurgence of nationalism along with territorial aspirations for secession, and the emergence of a "clash" society in which confrontation is the norm, with new forms of individual and collective violence. Many of these phenomena have been observed during Congress monitoring and electoral observation missions.
8. For years prior to these developments, there has been a growing loss of public confidence in elections and in democratic institutions, which has resulted in increasingly worrying abstention rates and a rising number of votes for extreme parties, particularly the extreme right, and a widespread crisis of confidence in the media that has shaken our very conception of factual truth.

9. The European Union's Eurobarometer of November 2018 showed a fall in public confidence in the main national political institutions. More than 6 out of 10 EU citizens do not trust their government or parliament. As for political parties, 8 out of 10 EU citizens express their mistrust.

10. Although these analyses reveal a mixed picture in various European countries, they nevertheless show that in some of our democracies the political link between institutions and citizens has suffered considerably. A growing proportion of citizens do not feel that they are properly represented nor secure and voice their dissatisfaction with the national politicians.

11. Even before this crisis of political representation, we witnessed a weakening of intermediate bodies such as political parties, trade unions, professional associations and churches (until then seen as coherent, protective and inclusive micro-societies). The decline of these structures paved the way for a social divide between "Us" and "Them", separated by a political and social void that populist or radical movements seek to fill, offering simplistic responses to complex challenges while claiming to be new representatives of the people.

12. How can we restore the political link where it has been damaged? How can we safeguard democracy where it is being threatened? How can we repair the social fabric where it has come apart? This is the challenge of the transformations that are unfolding. All levels of governance are concerned by these questions:

- the Council of Europe, founded on the three pillars of the rule of law, democracy and human rights, which, together with other international organisations, cannot remain indifferent;
- the central governments of the member States that have to deal with these questions on a daily basis', and
- local and regional authorities, who are in permanent contact with the citizens and at the frontline of addressing citizens' concerns.

All levels clearly share these new challenges that we must meet by including in our political agenda the key question: "How to live together today?"

13. We, the members of the Congress of Local and Regional Authorities, are convinced that while responding to these challenges is a task falling primarily to central governments and multilateral organisations such as the Council of Europe, the response is also to be found at community level.

14. We also firmly believe that while this transformation may appear to be a systemic crisis having multiple dimensions, it is not a crisis that has no solution. With the right political will, the commitment of public institutions and the active involvement of societies and citizens, these negative changes can be reversed. A crisis is not the end, it represents a critical time in any process of transition to a new paradigm, and an opportunity for improvement which compels us to think about alternatives. The reflection about the future of the Council of Europe should be approached in this spirit.

15. Although our societies are complex and the global challenges serious, never before in human history have citizens had such a high level of information and freedom of opinion. A 16-year-old Swedish girl, Greta Thunberg, for example, inspires huge crowds across Europe to walk in support of climate issues. This youth has thus become a symbol of the collective awareness of climate change.

16. Our local communities – this close-knit network of entities on a human scale, often forged by centuries of history and culture – lost political visibility at the time when the idea of nationhood emerged in our political cultures. Today, given the various crises we are facing, local communities must become the focus of renewed interest.

17. In 1957 the Council of Europe, an intergovernmental organisation by nature, showed its political vision by creating its own conference of local authorities. The member States reaffirmed this vision 25 years ago when they transformed the conference into the Congress of Local and Regional Authorities, with the task of strengthening the important role played by local and regional communities, their mayors and elected representatives, and of integrating their input into the Council of Europe's legal instruments and policies to create a space of common values of democracy, human rights and the rule of law at grassroots level.

18. Over decades, the Congress, as a unique pan-European platform for co-operation of local and regional authorities, has built a balanced mechanism of advancing local and regional democracy on our continent through monitoring the implementation of the European Charter of Local Self-Government in all the 47 member States, observing local and regional elections, recommending the necessary changes to governments, and sharing experiences of local and regional authorities to improve the governance of their communities.

19. Today, the Congress continues to foster dialogue between local and regional authorities and citizens and their greater involvement in decision making, including, among others, the participation of young people, of women and of the whole of civil society. Since its creation, it has supported a broader and more appropriate use of participatory democracy, through legally-regulated grassroots consultations. The Congress also pursues its fight against local corruption and all the other problems that too frequently tarnish the image of politics.

20. However, the grassroots level is not immune to the challenges and upheavals faced by our societies today, which are often aggravated by austerity measures that are affecting the ability of local authorities to serve their communities. Yet it is precisely to their elected representatives in towns, cities and regions that citizens first turn for response.

21. Local and regional authorities are indeed crucial for upholding a strong social fabric, and the increasing importance of the role of mayors in society is a political fact. Mayors, local and regional elected representatives, are at the frontline of major events in community life. This can be seen in the public responses to natural disasters, acts of terrorism and social crises such as in France, with the organisation of the "Great Debate" called for by President Macron in response to the Yellow Vest movement. Mayors and councillors are probably the only democratic elected representatives who can say without any contradiction that "the street is their office". The reactions to the appalling murder of the Mayor of Gdansk speak louder than any political analysis.

22. Mayors and councillors, as local elected officials, are the representatives of public authorities who are closest to citizens, the last line of defence against a more widespread rejection of political representation. The EU's 2018 Eurobarometer found that despite a general climate of mistrust in public affairs, there is a high level of trust (over 50%) in local elected representatives, well above the level of confidence in national governments and parliaments. It is even three times higher than the trust placed in political parties.

23. The confidence in local elected representatives goes hand in hand with the enhancement of the cultural dimension of the local context, which can be seen in the positive view of protected product designations, local distribution channels and the renewal of grassroots cultural identities. This is a powerful approach that may perhaps counterbalance the fears arising from globalisation. This newly favourable situation at local level can strengthen social cohesion at all levels.

24. Central governments can and must use the trust in mayors and our communities to rekindle democracy. There is a need to reassess the impact of the local level on citizens' participation in public institutions and the role of mayors and local elected representatives in building a European democracy. This is in the clear interest of decision makers at all levels of governance.

25. We, the members of the Congress, firmly believe that the current crisis is an opportunity to recognise local democracy as a central pillar of European democracy and to consider the territorial network of municipalities as an asset to ensure a strengthened democratic space, capable of re-establishing citizens' trust and confidence in the system of representative democracy and its actors.

26. The grassroots level is an ideal one for participatory democracy. It ensures a substantial degree of citizen participation in public affairs and decision-making. It provides an excellent platform for using innovative practices and tools such as digitalisation and open government to further strengthen democratic procedures. Local and regional communities are also key players in asserting cultural identity and implementing national policies as well as international covenants – such as the UN Sustainable Development Goals 2030, the localisation of which is already underway in many countries. Cities and regions are also instrumental in putting into practice many Council of Europe conventions – dealing with a wide range of issues from landscape to the Social Charter to gender equality and the rights of minorities

or children's rights – which serves to expand the Organisation's outreach beyond member States' central ministries.

27. As we mark the 70th anniversary of the Council of Europe this year, we, the members of the Congress, are convinced that the future of this Organisation lies in strengthening further its role in ensuring democratic stability on our continent and protection of European citizens, and in developing its role as the pan-European mechanism for intergovernmental, inter-parliamentary and territorial co-operation. We believe that the challenges facing our societies today must be addressed by promoting and using the territorial dimension of European democracy based on a new socio-territorial pact.

28. We believe that the Council of Europe and its member States must invest in resilient local and regional communities. The tool for this is the Congress, which has at its disposal the legal framework of the European Charter of Local Self-Government and the experience of monitoring its implementation. This framework needs to be strengthened further, as does the operational and budgetary capacity of the Congress. Thus, the members of the Congress call for a renewal of the European Charter of Local Self-Government in order to better meet the challenges and new opportunities arising from the Global Development Agenda (Sustainable Development Goals) and digitalisation.

29. Due to its dual nature as both an institution and a monitoring body, the Congress has accumulated a unique knowledge of local and regional experiences which represents a source of strength for the Council of Europe as a whole. More convinced than ever of the political superiority of representative democracy, we recognise the need for political innovation to enable greater citizen participation, starting with genuine innovation and experimentation at local and regional level.

30. The Council of Europe member States created the Congress to strengthen the local and regional dimension of European democracy. To fulfil its mandate, the Congress needs to be sufficiently funded with a share of at least 3% of the overall budget of the Council of Europe. Today, sustaining the European model of a balance of powers requires, as never before, greater reliance on grassroots democracy, a new socio-territorial pact. The Congress stands ready to be involved in implementing these policies and to offer its knowledge of local and regional communities, its experience in solving problems at the grassroots and the tools at its disposal to help meet the challenges brought about by the changes in our societies.

36th SESSION

The budget and resources of the Congress for the next biennium (2020-2021)

Recommendation 430 (2019)¹

The Congress of Local and Regional Authorities of the Council of Europe,

1. reaffirming its role and institutional position within the Council of Europe as the voice of local and regional authorities from all 47 member States and the guardian of the European Charter of Local Self-Government (ECLSG), and its responsibility for promoting and fostering the implementation of Council of Europe common standards for local self-government and regional democracy in Europe;
2. highlighting the fact that, with the ratification of the ECLSG by all 47 member States in 2014, the Congress' monitoring activities, which provide that every member State shall be monitored approximately every five years, have substantially increased;
3. referring to the regular exchanges of views between the Congress President and Secretary General with the Committee of Ministers;
4. stressing the appreciation expressed on these occasions for the results achieved by the Congress as well as the acknowledgement and understanding of the risks that further budget cuts would incur not only for its statutory activities but also for its post-monitoring, thematic and co-operation activities, which are tailored to member States' demands and interests;
5. underlining the fact that it has been obliged to cut its activities including those allowing it to address the challenges identified in Secretary General Thorbjørn Jagland's annual reports on the situation of democracy, human rights and the rule of law;
6. highlighting its intention to review, in the advent of more favourable financial conditions, those cost-saving measures which have had an impact on its statutory activities, such as those related to interpretation;
7. drawing attention, in particular to:
 - a. its continued contribution – in a proportion that is higher than its share of the Ordinary Budget of the Council of Europe – to the Organisation's efficiency savings and cuts in its operational budget as well as in its human resources since 2010;
 - b. the cuts in the budget of the Congress in 2018 of 911 800€ (452 800 € for staff and 459 000€ for activities) that is 13.2 % of the initial 6 925 100€;

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)09](#)), co-rapporteurs: Anna MAGYAR, Hungary (R, EPP/CCE) and Barbara TOCE, Italy (L, SOC).

c. the additional cuts in the budget of the Congress examined by the Committee of Ministers for 2020-2021 in response to the non-payment by the Russian Federation of its obligatory contributions to the Ordinary Budget of the Council of Europe (“contingency plan”);

d. the repeated requests of the Congress, never taken into account by the Committee of Ministers, for its share of the Council of Europe’s budget to be increased to 3% in order to ensure a budgetary envelope which would enable the Congress to fully deliver with regard to the Council of Europe’s priorities while this share has dropped since 2010 from 2.92% to 2.54%;

8. asks the Committee of Ministers to:

a. acknowledge the results achieved and the efforts made, in increasing the efficiency of the Congress in recent years despite a reduced budgetary allocation and significant restrictions in the human resources made available to it;

b. ensure, through its regular political dialogue with the Congress, consistency between the priorities identified by the Congress and its budgetary allocations in order to achieve critical mass and a real impact;

c. in light of the role and institutional position of the Congress within the Council of Europe, and taking due account of its continuous efforts (including its reforms of 2010, 2015 and 2018 and the introduction of a new language regime in 2019), decide to allocate an operational budget and human resources to the Congress for the next biennium 2020-2021 commensurate with and in acknowledgement of the requirements of its institutional functioning as well as of its statutory, institutional, monitoring, thematic and advisory tasks;

d. consider the Congress as a monitoring body, in view of the importance of local and regional authorities in contributing to the implementation of the values of the Council of Europe, and to reverse the downward trend, gradually returning to a share of 3% of the Ordinary Budget without which the Congress can simply not deliver what is expected of it;

e. consider how best to focus and concentrate all activities of the Council of Europe targeting local and regional authorities and their political representatives taking into account the political and operational capacities of the Congress and its secretariat;

f. invite the Secretary General of the Council of Europe to include in the draft programme and budget for the next biennium (2020-2021) a budget envelope for the Congress which will fully recognise its contribution to the Council of Europe priorities as a monitoring body and the pan-European promoter of territorial democracy, that encourages devolution and debates and exchanges of good practices among local and regional elected peers on our societies’ major topical issues.

APPENDIX

2018-2019 budgets

1. The 2018 Congress budget was implemented up to 97.33%, showing that the financial resources allocated to the Congress are necessary and fully used. The scope for covering additional unforeseen activities or responding to political emergencies is very limited.

Budget outlook for 2020-2021 and beyond

2. The annual budget allocated to the Congress by the Committee of Ministers for 2018 was € 6,201,500 of which € 3,815,700 was for staff costs and € 2,385,800 for operational costs. The Congress budget, as a percentage of the total ordinary budget of the Council of Europe, decreased from 2.92% in 2010 to 2.54% in 2018 (see table below).

Evolution of human resources within the Congress Secretariat

YEAR	2010	2011	2012	2013	2014	2015	2016	2017	2018
POSTS	42	41	39	37	37	37	37	37	37 ⁽¹⁾
POSITIONS	5	5	5	5	5	4	2	2	1
TOTAL	47	46	44	42	42	41	39	39	38

(1) of which 2 posts frozen.

Compared Evolution of the Congress and the Council of Europe Budget

YEAR	2012	2013	2014	2015	2016	2017	2018 ⁽¹⁾	2019
CoE BUDGET	240 016 900	243 970 300	244 095 200	245 067 600	259 915 400	260 090 500	244 477 300	245 336 400
CONGRESS BUDGET	6 996 900	6 726 100	6 696 500	6 891 400	7 126 400	7 113 300	6 201 500	6 201 900
%	2,92	2,76	2,74	2,81	2,74	2,73	2,54	2,53

(1) Adjusted budget as a result of the cessation of Turkey's major contributor status.

36th SESSION

Local and regional democracy in Poland

Recommendation 431 (2019)¹

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 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 2, paragraph 3, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “The 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, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

c. Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

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

e. 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;

f. the appended explanatory memorandum on local and regional democracy in Poland.

2. The Congress points out that:

a. Poland joined the Council of Europe on 26 November 1991, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 19 February 1993 and ratified it in full on 22 November 1993. The Charter entered into force on 1 March 1994;

b. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) decided to examine the situation of local and regional democracy in Poland. It instructed Mr David BARO RIBA, Andorra (L, NI-NR) and Mr Pascal MANGIN, France (R, EPP/CCE), with the task of preparing and submitting to the Congress a report on local and regional democracy in Poland. The delegation was assisted by Prof. Tania GROPPPI, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

c. The monitoring visit took place from 5 to 7 of June 2018. 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 this document;

d. The co-rapporteurs wish to thank the Permanent Representation of Poland to the Council of Europe and all those whom they met during the visit.

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document CG36(2019)13, explanatory memorandum), co-rapporteurs: David BARO RIBA, Andorra (L, NR) and Pascal MANGIN, France (R, EPP/CCE).

3. The Congress notes with satisfaction that in Poland:

- a. the principle of local self-government is expressly recognised by the Constitution;
- b. the Charter benefits from a quasi-constitutional status;
- c. local authorities enjoy freedom of association to defend their interests;
- d. the capital city has a special status.

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

- a. the level of autonomy of local authorities is being eroded by the re-centralisation of several competences previously transferred to them (Articles 3.1, 4.2-4.5);
- b. the numerous interferences by State authorities within the local independent functions undermine the assignment to local authorities of full and exclusive powers (Article 4.4);
- c. local authorities do not have discretion in the exercise of delegated functions, as a consequence of the detailed State regulation of delegated tasks (Article 4.5);
- d. although the Joint Committee represents an adequate legal framework for consultation, the recent tendency is to bypass this mechanism, making it ineffective (Article 4.6, 9.6);
- e. the supervision on local authorities, carried out by government representatives, is increasingly overused and cannot be considered proportional to the relevance of the interests that it is intended to protect (Article 8.3);
- f. in spite of remarkable economic growth, the financial resources that local authorities can freely dispose of are neither adequate nor commensurate with their responsibilities and the tendency towards transferring the responsibilities to local authorities without transferring adequate financial resources is increasing (Article 9.1,9.2);
- g. local authorities lack sufficient financial resources from local taxes and charges of which they have the possibility to determine the rate (Article 9.3, 9.4);
- h. lowering the scale of financial compensation to local elected representatives worsens the conditions under which responsibilities at local level are exercised;
- i. an increasing number of acts of the State imposes a rigid internal organisational structure on local authorities thus limiting their ability to take account of local circumstances and administrative efficiency in organising their own administrative services;
- j. local authorities' level of trust in courts for the legal protection of their autonomy is declining, thus restricting genuine enjoyment by local authorities of the right to recourse to a judicial remedy.

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

- a. get back on the path to decentralisation and reverse the trend towards the re-allocation to the State of local and regional competences which limits the local authority's scope of action and runs contrary to the Polish constitutional democratic tradition;
- b. ensure that the subsidiarity principle is applied in practice, by recognising to the local authorities full and exclusive powers and by reducing the level of interference by State authorities with municipal independent functions;
- c. avoid overregulation of delegated tasks and thus allow local authorities to have more discretion in adapting their exercise to local conditions;

- d.* reinstate a fair consultation process with local authorities, especially by submitting all the draft bills and draft regulation to the Joint Committee and taking into consideration the remarks of the component representing local governments within the Joint Committee;
- e.* make sure that the supervision over the acts of local authorities is proportional to the importance of the interests that it is intended to protect;
- f.* allocate sufficient financial resources to local authorities, thereby respecting the principle that the resources should match the functions and ensure that the transfer of delegated competences to subnational level is accompanied by concomitant finances;
- g.* enable local authorities to establish local taxes and to determine their rate to increase fiscal capacity of local authorities;
- h.* ensure that the adoption of any measures impacting upon the conditions of office of local elected representatives, including their financial remuneration, does not negatively affect their ability to freely exercise their functions;
- i.* refrain from adopting numerous regulations at the central level that would unnecessarily rigidify local internal administrative structures and make them less adjustable to local conditions;
- j.* in order to guarantee to local authorities the right of recourse to an effective remedy and to restore their trust in the national judicial system, follow the recommendations of the Venice Commission, contained in its opinions on the judiciary in Poland;
- k.* consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No 207).

36th SESSION

Elections of the Cantonal Assemblies in the Federation of Bosnia and Herzegovina (7 October 2018)

Recommendation 432 (2019) ¹

1. Following the invitation from the President of the Central Election Commission of Bosnia and Herzegovina, Ms Irena HADZIABDIC, dated 15 May 2018, to observe the elections for the ten Cantonal Assemblies of the Federation of Bosnia and Herzegovina held on 7 October 2018, the Congress of Local and Regional Authorities refers to:

a. Article 2, paragraph 4 of the Committee of Ministers' Statutory Resolution CM/Res(2015)9 on the Congress of Local and Regional Authorities of the Council of Europe;

b. the principles laid down in the European Charter of Local Self-Government (ETS No. 122) which was ratified by Bosnia and Herzegovina on 12 July 2002;

c. the Chapter XVIII of the Rules and Procedures on the practical organisation of election observation missions;²

2. It reiterates the fact that genuinely democratic local and regional elections are part of a process to establish and maintain democratic governance and that observation of grassroots elections is a key element in the Congress' role as guardian of democracy at local and regional level.

3. Against the backdrop of a challenging economic situation and an increasing disillusion of the people with the political stalemate and the political class that is divided along ethnical lines, important international and national highest courts' decisions are still awaiting implementation with consequences for the candidatures in certain elections at the State and entity level.

4. The Congress welcomes the fact that polling day, by and large, was orderly and well-managed (despite some procedural inconsistencies and irregularities, particularly regarding the secrecy of the vote), and it was preceded by a competitive campaign which, however, did not provide a level playing field to all candidates.

5. At the same time, the authorities undertook efforts to improve certain aspects of the electoral legislation (cf. gender quota and balance on electoral commissions, campaign finance regulations) and the practical electoral process (cf. systematic training for the leadership of Municipal Elections Commissions and Polling Station Commissions) which is recognised by the Congress.

¹ Debated by the Chamber of Regions on 3 April 2019 and adopted by the Congress on 4 April 2019, 3rd sitting (see Document, [CPR36\(2019\)02](#), explanatory memorandum), rapporteur: Stewart DICKSON, United Kingdom (R, ILDG).

² <https://rm.coe.int/20181218-en-ruled-and-procedures-of-the-congress-of-local-and-regional/1680902fd7>

6. However, other areas for improvement, such as the prevention of misuse of administrative resources³ and regulations for the voting at territorial level regarding voters residing *de facto* abroad, remain to be addressed.

7. In addition, despite legal provisions, there is still concern regarding electoral fraud, including instances of vote-buying and reports about falsification of ID-documents for postal voting.

8. In light of the above, the Congress invites the authorities of Bosnia and Herzegovina, in particular, to:

a. step-up the effectiveness of legal provisions on the prevention of misuse of administrative resources;

b. revise the provisions for the assignment of members of Polling Station Commissions in order to avoid their late replacement without justification thus preventing the possibility of trading positions on commissions and politically influencing their work;

c. pay further attention to the accuracy of voters' lists in line with Congress Resolution 378(2015);

d. improve the practical organisation of polling, notably with regard to the secrecy of the vote, abolish the practice of loud reading of names of voters by members of the Polling Station Commissions and tighten control of the requests for assisted voting for voters with certain disabilities to avoid undue influence on their choice.

9. Finally, given the importance of the Cantons in the Federation of Bosnia and Herzegovina and their role in the complicated structure of institutions at State level, the elections of the Cantonal Assemblies should be held together with the local elections

³ Congress Checklist for compliance with international standards and good practices preventing misuse of administrative resources during electoral processes at local and regional level (CG32(2017)12) <https://rm.coe.int/16807000d1>

36th SESSION

Social rights of young people: the role of local and regional authorities

Recommendation 433 (2019)¹

1. The fundamental social rights of the citizens of the member States of the Council of Europe are guaranteed by the European Social Charter (ETS No.163, hereafter the “Social Charter”) which was opened to the signature of member States in 1961, subsequently coming into force in 1965, and was then revised in 1996.
2. The Social Charter is an essential guiding document, setting the ground rules on fundamental social and economic rights at the pan-European level. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare. It explicitly refers to young people as being entitled to social rights in terms of education and labour market integration, or benefits for the newly married.
3. In order to develop concrete guidelines to facilitate the implementation of the rights set out in the Social Charter, in particular with regard to young people, a series of texts were adopted by the Council of Europe during the last decade, which highlighted public authorities’ responsibility in facilitating young people’s access to fundamental rights.
4. The Committee of Ministers’ Recommendation CM/Rec(2016)7 on “Young People’s Access to Rights” adopted on 28 September 2016, as well as the recommendations of the Parliamentary Assembly of the Council of Europe on “Young people’s access to fundamental rights” (2015(2013)), and “Towards a European framework convention on youth rights” (1978(2011)),² were occasions to underline that rather than adopting a specific treaty on the rights of young people, the aim should be to take measures in order to capitalise on the binding instruments, as enshrined in the European Convention on Human Rights and the revised Social Charter.
5. The implementation of the Social Charter and the case law of the European Committee of Social Rights provide a wide range of good practices concerning access to, and exercise of, young people’s social rights and, consequently, constitute a source of inspiration for local and regional actions in this field.
6. Local and regional authorities, along with the social partners and civil society organisations, play a key part both in disseminating the Social Charter and in implementing it, with regards to young people’s access and enjoyment of the social rights enshrined in it. This crucial role of local and regional authorities in making the Social Charter effective in legal terms (in line with the “social” responsibilities that form part of the core of each government level’s respective autonomy) should be supported by national, European and international action plans and programmes.

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)12](#), explanatory memorandum), co-rapporteurs: Liisa ANSALA, Finland (L, ILDG) and Piero FASSINO, Italy (L, SOC).

² Parliamentary Assembly Recommendation 1978 (2011), “Towards a European framework convention on youth rights”, served as an opportunity to confirm that it is not necessary to adopt a specific treaty on the rights of young people, but that we should instead capitalise on the binding instruments which already exist in the Organisation: its Principle 7.1 invites member states “to take measures to facilitate young people’s access to fundamental rights as enshrined in the European Convention on Human Rights and the revised European Social Charter”.

7. The Congress of Local and Regional Authorities of the Council of Europe (hereafter "the Congress") – having drawn up resolutions and other instruments to strengthen the integration, participation and commitment of young people at local and regional levels – intends to focus on the social rights of young people guaranteed by the Social Charter in order to ensure its implementation, and to give concrete expression to the rights of young people.

8. In light of the above, member States are recommended to:

a. sign and ratify the revised European Social Charter (ETS No. 163), for those Member States that have not yet done so, and to accept, in the spirit of the 'Turin process', the collective complaints procedure, as the implementation of the Charter and the case law of the European Committee of Social Rights offer a wide range of good practices concerning access to, and exercise of, the social rights of young people and, consequently, constitute a significant source of inspiration for local and regional actions in this field;

b. involve local and regional authorities in the preparation of annual national reports or in the preparation of observations on possible collective complaints that are submitted to the European Committee of Social Rights by the Governments of the States' Parties, as well as in the follow up given to the committee's conclusions and decisions. This involvement remains consistent with Article 4(6) of the European Charter of Local Self-Government, which provides consultation for local authorities "during the planning and decision-making processes for all matters of direct concern to them". Indeed, the Social Charter, as the Council of Europe's "flagship" treaty in the field of social rights, is also the driving force behind social inclusion and the active participation of young people in the life of the community;

c. develop national action plans for raising awareness of young people's social rights in co-ordination with local and regional authorities, and in co-operation with youth leaders, the latter being voluntary or professional persons involved in work or action with and for young people in different contexts, for the dissemination of good practices at all levels of responsibility.

36th SESSION

Financial compensation of local and regional elected representatives in the exercise of their office

Recommendation 434 (2019)¹

1. To ensure the effectiveness of local and regional governance and to minimise the risk of corruption, it is vital that local and regional representatives receive appropriate and adequate compensation for their work. Article 7 of the European Charter of Local Self-Government sets an important European standard in this respect and deserves to be applied more thoroughly.
2. Financial compensation for local and regional elected representatives needs to be sufficient to enable them to carry out their duties properly. This could take the form of salary scales for heads of local and regional authorities and those with executive functions, setting out minimum and also maximum thresholds of remuneration, at the national or regional level, as appropriate.
3. It may be appropriate to apply equalisation measures with regard to financial compensation, so that local and regional representatives carrying out comparable duties are compensated in line with the national framework and not with reference to the relative wealth of the region in which they are holding office.
4. Financial compensation needs to be tailored to the needs and individual circumstances of local and regional representatives. Representatives with a higher workload should receive greater compensation as a matter of course but also with a view to reducing the risk of corruption. It is acceptable to link financial compensation to the actual time spent on duties related to an elected office, including as travel and attendance at meetings.
5. As social welfare protection for local and regional representatives in member States tends to reflect the development of social welfare protection in general in a country, special consideration may need to be given to the circumstances of local and regional representatives if they are not adequately covered by the general social welfare protection. For example, single parents or disabled persons should be offered adequate compensation in all member States to enable them to fulfil the duties of elected office.
6. Corruption in all its forms is a destructive threat to the efficiency and quality of good governance at both local and regional level. For this reason, not only should the financial compensation of local and regional representatives be appropriate and adequate, it should also be publicly transparent. Applying such transparency at the local and regional level will contribute to instilling trust in local and regional governments. The means, levels and sources of financial compensation for local and regional representatives should be made clear and accessible.
7. Reliance on systems of local and regional elected representation which are voluntary and non-remunerated representation can result in certain socioeconomic groups of the population dominating elected positions. Only in the smallest councils, where duties are light, should it be considered acceptable for elected representatives to be voluntary or unrecompensed.

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)10](#), explanatory memorandum), co-rapporteurs: Marta CAMPANARI-TALABER, Hungary (L, EPP/CCE) and Robert GRUMAN, Romania (R, EPP/CCE).

8. Since all member States of the Council of Europe now have some form of financial compensation in place for local and regional elected representatives, it is to be regretted that 13 member States have yet to ratify Article 7.2, whereas recent monitoring missions of the Congress have established that several of these member States have seen their national legislations evolve to a point where they can be considered to be in compliance with this article.

9. It is a cause for concern that over half of the member States that responded to the 2016 NALAS survey do not provide financial compensation for loss of earnings in the exercise of elected office, despite the explicit reference to such compensation in Article 7.2.

10. In the light of the above considerations, the Congress, bearing in mind:

- a. Recommendation 385 (2015) on the Congress on Conditions of office of elected representatives;
- b. The Council of European Municipalities and Regions (CEMR) report on the Status of local elected representatives in Europe (2010);

11. Invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:

- a. ratify Article 7.2 as soon as possible, if they have not yet done so;
- b. consider adopting salary scales, at the national or regional level, as appropriate, setting minimum and maximum remuneration levels for heads of local and regional authorities, and those with executive functions;
- c. ensure that such pay scales and other forms of compensation for local and regional representatives are transparent and open to public scrutiny;
- d. ensure that financial compensation takes into account individual needs, such as dependent relatives;
- e. ensure that local and regional representatives are compensated for loss of earnings;
- f. phase out the practice of non-remunerated or voluntary representation, where it exists, except in the smallest councils, where elected office can be shown not to significantly hinder other professional activities.

36th SESSION

The protection of whistleblowers Challenges and opportunities for local and regional government

Recommendation 435 (2019)¹

1. Effective whistle-blower protection is one of the key areas that the Congress of Local and Regional Authorities agreed to work on in its roadmap of activities to fight corruption, adopted at its 31st session (October 2016), convinced that corruption poses a threat to good governance at local and regional levels and undermines fundamental democratic values.
2. As whistleblowers often have access to information which sometimes cannot be detected by other integrity mechanisms and institutions, they constitute a unique added value to institutional safeguards, and can make a vital contribution to the fight against corruption, by promoting greater transparency and accountability in local and regional authorities.
3. Local and regional authorities, responsible for delivering public services across many sectors, can be at greater risk of corruption, as there are often fewer safeguards in place than at the national level. Bringing to light activities that are not in the public interest, by means of reporting, is an important weapon in the fight against corruption at this level, which needs to be encouraged through appropriate policies and legal instruments.
4. While legislation on whistle-blower protection is now in place in many member States, it has not always been matched with effective measures for the management of whistleblowing, or adequate measures to protect individuals who decide to report cases of misconduct or wrongdoing.
5. At the same time, legitimate public concern at the manipulation of public opinion in the media through so-called “fake news”, can make it easier for those accused of misconduct to dismiss those criticisms as being false.
6. Public attitudes to reporting tend to change more slowly than the legislation. Raising awareness of whistle-blower protection can lead to an increase in cases of reporting and in consequence be a valuable tool in the fight against corruption.
7. In the light of the above considerations, the Congress, bearing in mind:
 - a. the Council of Europe’s Programme of Action Against Corruption, the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) and the Council of Europe Civil Law Convention on Corruption (ETS No. 174);
 - b. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles for the fight against corruption;

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)14](#), explanatory memorandum), rapporteur: Josan MEIJERS, Netherlands (R, SOC).

c. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;

8. invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:

a. ensure that national legislation provides for the protection of whistleblowers at the local and regional levels, and in particular:

i. applies not only to suspected cases of wrongdoing related to corruption, but also to broader public interest issues, such as risks to public health or the environment;

ii. includes the possibility for anonymous reporting or grants 'pre-emptive protection' in order to protect individuals exposed to retaliation;

iii. ensures post-reporting follow-up of disclosures that are in the public interest;

b. establish agencies at the national level to monitor the implementation and effectiveness of whistleblowing legislation and to ensure professional training for public officials;

c. ensure that whistle-blower protection also covers individuals whose employment has already ended, as well as those who disclose information acquired during the recruitment process and who have yet to begin their employment;

d. extends whistle-blower protection to individuals working in the private sector, who are involved in the provision of local and regional public services, and encourage their employers to introduce internal reporting procedures;

e. introduce national whistleblowing campaigns to promote its unique added value in the fight against corruption and raise awareness of the issue and challenge social attitudes, which in some countries discourage individuals from reporting public interest concerns;

f. encourages initiatives that offer additional reporting channels and support for whistleblowers;

g. ensure that any measures put in place to target those who peddle falsehoods or "fake news" do not inadvertently silence people who wish to raise genuine concerns, and are not used as tools to retaliate against them;

h. guarantee access to information and confidential advice to individuals considering disclosing information in the public interest;

i. introduce periodic assessments of the effectiveness of the national framework to monitor the implementation of the rules and regulations on whistle-blower protection;

j. support national associations of local and regional authorities in their work to co-ordinate and harmonise whistle-blower protection among the authorities that they represent

36th SESSION

Local and regional democracy in the Republic of Moldova

Recommendation 436 (2019)¹

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 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 2, paragraph 3, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “The 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, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

c. Chapter XVII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;

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

e. 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;

f. Congress Resolution 420 (2017) on “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the mayor of Chişinău” and Recommendation 411 (2018) on “the situation of local elected representatives in the Republic of Moldova”

g. The appended explanatory memorandum on local and regional democracy in the Republic of Moldova.

2. The Congress points out that:

a. The Republic of Moldova acceded to the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 2 May 1996 and ratified it on 2 October 1997 in full. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

b. The Republic of Moldova has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

c. The Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) decided to examine the situation of local and regional democracy in the Republic of Moldova. It instructed the co-rapporteurs on local and regional democracy Gunn Marit HELGESEN (Norway, R, EPP/CCE) and Marc COOLS (Belgium, L, ILDG), with the task of preparing and submitting to the Congress a report on local and regional democracy in the Republic of Moldova. The delegation was assisted by Prof. Angel MORENO MOLINA, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

¹ Debated and adopted by the Congress on 4 April 2019, 3rd sitting (see Document CG36(2019)15, explanatory memorandum), co-rapporteurs: Marc COOLS, Belgium (L, ILDG) and Gunn Marit HELGESEN, Norway (R, EPP/CCE).

d. The monitoring visit took place from 12 to 15 of June 2018. 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 this document;

e. The co-rapporteurs wish to thank the Permanent Representation of the Republic of Moldova to the Council of Europe and all those whom they met during the visit.

3. The Congress notes with satisfaction that in the Republic of Moldova:

a. The principle of local self-government is explicitly recognised in the Constitution and in relevant legislation;

b. efforts have been made towards the full ratification of the Charter as well as a comprehensive change of the domestic legal order aimed at the inception of an autonomous local level of government;

c. the Charter is considered as a binding and operational set of rules, and the case law of the Constitutional Court ensures its applicability. Moreover, since 2016 every local authority has had the right to litigate in the Constitutional Court to protect local autonomy;

d. the present arrangements for the Autonomous Territorial Unit (ATU) of Gagauzia represent a workable political compromise between Chişinău and Comrat that is working well in general terms despite some points of tension and reconciles the unitary nature of the country with the aspirations for autonomy, devolution and self-determination of the Gagauzian people.

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

a. The National Strategy of Decentralisation, and the Roadmap for implementation of Recommendation 322 (2012) co-signed by the Congress of the Council of Europe and the Government of the Republic of Moldova, has been implemented only to a minor extent and the level of local autonomy seems to be eroded by a trend towards re-centralisation; furthermore Congress Recommendations 179 (2005), 322 (2012) and 411 (2018) have not been fully implemented;

b. Local authorities' financial autonomy is very limited and their finances are extremely poor both in terms of the proportion of own revenues in local budgets and of the share of local spending in total public sector expenditure. Local authorities clearly depend on State transfers and subsidies;

c. The local fiscal system is very weak. The lack of appropriate delimitation of municipal land from private or state property makes it impossible to evaluate the land units for tax purposes and causes a loss of potential local revenues;

d. In many cases, the law attributes new competences to local authorities without providing for new and adequate financial resources;

e. Local authorities do not enjoy full discretion to exercise their actions with regard to any matter which is neither excluded from their competences nor assigned to any other authority;

f. The lack of precision of the grounds to activate the mechanism of recall referendum deteriorates the conditions of office of local elected representatives and entails a serious dysfunction of local democracy as mayors work under the permanent threat of a revocation referendum;

g. Local authorities are not autonomous in the management of their human resources; they cannot recruit high-quality staff and provide for adequate training opportunities, salaries or career prospects;

h. The remuneration of mayors is far from being decent or sufficient which deters young and qualified people from engaging in local politics;

i. The State intervenes in local affairs through a supervision of local authorities which seems to be very invasive, frequent and much more discretionary than the law would normally allow for;

j. There are no fruitful and transparent consultation mechanisms no dialogue between the central government and the local authorities either on financial issues or on any other matter which is of interest to the latter;

k. The situation with the position of the Mayor of Chişinău is unsatisfactory: since May 2017 the capital city has been run by acting mayors and the mayoral elections carried out on 3 June 2018 have been declared null on unclear and controversial grounds, despite an overall positive assessment of the said elections by international observers. The elected candidate has thus been prevented from starting his mandate;

l. The political context for the exercise of mayoral functions is negatively affected by the intensive practice of bringing criminal prosecutions against mayors and other local representatives (*dossar penale*). Some of these criminal charges seem to be brought for unreasonable or insignificant reasons, which sometimes are connected with the lack of resources for local authorities to discharge their competences.

5. In light of the above, the Congress requests that the Committee of Ministers invite the authorities of the Republic of Moldova to:

a. get back on the path to decentralisation through appropriate and full implementation of all previous Congress recommendations: 179 (2005), 322 (2012) and 411 (2018) as well as through the devolution of competences to the local level and speed up the process of meeting the objectives approved in the National Strategy of Decentralisation and other relevant policies;

b. allocate sufficient financial resources to local authorities, in line with the principle that the resources should match the functions;

c. increase fiscal capacity of local authorities by enabling them to establish local taxes and to determine their rate and by clarifying the delimitation of municipal lands to allow their re-evaluation for tax purposes;

d. revise and clarify the system of local competences, in order, *inter alia*, to avoid situations of overlap between local and central competences, and to ensure concomitant finances to local authorities;

e. allow local authorities to have more discretion in adapting the exercise of their tasks to local conditions;

f. adopt the necessary legal and regulatory arrangements to avoid the possible distorting consequences of the application of local recall referendums in local political life; and in the meantime, revise the legal provisions regulating the grounds for calling a local recall referendum (Article 177.2 of the Electoral Code), in order to provide for more legal certainty and to reduce the scope of discretionary decisions in triggering such popular consultations;

g. increase the managerial capacity of local authorities, by giving them more freedom and flexibility in the management of their human resources, so that the local authorities could offer training opportunities and adapt and upgrade the remunerations of their own staff members, as well as their career prospects;

h. raise the wages of mayors and district council presidents in order to offer a set of remunerations which are in proportion with the importance of their responsibilities;

i. make sure that the supervision over the acts of local authorities is proportional to the importance of the interests that it is intended to protect and is limited to controls of legality and refrain from the expediency controls over the local authorities' actions in the field of their own competences;

j. reinstate a fair consultation process with local authorities and political dialogue, in order to come to an agreement on the planned measures which may affect the interests of local authorities;

k. remedy in the shortest possible time the situation of the governance of the capital city of Chişinău in order to ensure the stability of the mayoral office in between the local elections and prevent such cases where non-elected acting mayors are appointed;

l. find a more appropriate balance between the fight against corruption and the requirements of local democracy, so that the bringing of criminal charges against local elected representatives does not disrupt local political life, and refrain from exercising any type of pressure against local elected representatives;

m. consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) in the near future.

36th SESSION

Verification of new members' credentials and new official procedures for appointing national delegations to the Congress

Resolution 439 (2019)¹

1. In compliance with the Congress' Charter and *Rules and Procedures*, the countries listed hereafter have changed the composition of their delegation due to either the loss of mandate or the resignation of some members of the delegations of: Czech Republic, Germany, Iceland, Ireland, Italy, Russian Federation, Serbia and Spain.
2. At present there are 4 representative seats and 16 substitute seats vacant out of a total of 648 seats. The countries concerned – Belgium, Bosnia and Herzegovina, France, Ireland, Italy, Netherlands, Poland, Portugal, Romania, Spain, Switzerland and the United Kingdom – are invited to complete their delegation.
3. The rapporteurs on the verification of credentials propose that the Congress approve the credentials of the members of the national delegations appended² to this resolution and the new appointment procedure of Turkey.

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)02](#)), o-rapporteurs: Michail ANGELOPOULOS, Greece (L, EPP/CCE) and Johan VAN DEN HOUT, Netherlands (R, SOC).

² Due to its size, the appendix to this resolution is not reproduced here. It is available online.

36th SESSION

Request for Partner for Local Democracy status submitted by the Kingdom of Morocco

Resolution 440 (2019)¹

The Congress:

1. Recalling its [Resolution 376\(2014\)](#) on the creation of the Partner for Local Democracy status in order to formalise relations between the Congress and the political authorities in the neighbouring countries, including the local and regional authorities and their representative associations;
2. Considering:
 - a. the formal request for the status of Partner for Local Democracy, addressed on 30 May 2018 to the President of the Congress by the Minister of the Interior of Morocco, the President of the AMPCC (Moroccan Association of Chairs of Municipal Councils) and the President of the ARM (Association of Regions of Morocco), in accordance with the procedure referred to in Rule 68 of the [Rules and Procedures of the Congress](#);
 - b. the participation of Morocco in co-operation activities with the Council of Europe in the framework of the Neighbourhood Partnership since 2012;
 - c. the participation of Morocco in several Council of Europe conventions and partial agreements;
 - d. the granting of Partner for Democracy status to the Parliament of Morocco by the Parliamentary Assembly of the Council of Europe in 2011;
3. Decides:
 - a. to grant the Kingdom of Morocco the status of Partner for Local Democracy in accordance with the forms and conditions of participation referred to in Rule 68.9 of the Rules and Procedures of the Congress;
 - b. to allocate 6 representative and 6 substitute seats to the delegation from Morocco;
 - c. to invite Morocco to appoint a Partner for Local Democracy delegation to be composed in accordance with Rule 68.8 of the Rules and Procedures of the Congress;
 - d. that the provisions of this resolution shall come into force with immediate effect.

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)07](#)), Congress Spokesperson on the South-Mediterranean Partnership: Piero FASSINO, Italy (L, SOC)

36th SESSION

Fighting nepotism within local and regional authorities

Resolution 441 (2019)¹

1. Human resources lie at the heart of local and regional government and constitute its main asset. For local and regional governments to function effectively, they need good quality and highly motivated staff. The existence of merit-based recruitment and promotion systems are a precondition for ensuring the impartiality and quality of public service delivery. At the same time, the high degree of autonomy of local and regional authorities in recruiting and dismissing staff has been recognised as one of their main corruption risks.
2. Recognising that corruption in all its forms is a major threat to good governance at local and regional level, the Congress, as part of its roadmap of activities to fight corruption, adopted in October 2016 at its 31st session, agreed to prepare a report on nepotism, to identify preventive measures and good practices in the fight against this form of corruption.
3. Local and regional authorities are especially vulnerable to nepotism, and other forms of favouritism, due to their size, autonomy and proximity with citizens. As nepotism practices in these circumstances can be more visible to the general public, they have greater potential to damage the public trust. The establishment of sound human resources management practices is therefore of utmost importance for underpinning public trust and fighting corruption.
4. Problems of low team spirit, absenteeism, decreasing commitment, respect and trust in the leadership can pose particular challenges at the local level. Given the importance of employee confidence and satisfaction in the work place, the establishment of effective and responsible human resources management practices is essential.
5. Nepotism cannot be prevented by rules and regulations alone, there also needs to be change in social attitudes and administrative culture, which need to evolve to become less tolerant of such practices and to embrace an ethics-based approach. The general public has a role to play and needs to be made more aware of the dangers and damaging consequences of nepotism in government.
6. As attitudes to and tolerance of nepotism vary across Council of Europe member States, according to their administrative cultures, the approach to combating such practices needs to be tailored to the specific context.
7. In the light of above, the Congress, bearing in mind:
 - a. the Council of Europe Programme of Action Against Corruption (1996);
 - b. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles;
 - c. the Criminal Law Convention on Corruption (ETS No. 173);
 - d. the Civil Law Convention on Corruption (ETS No. 174);

¹ Debated and adopted by the Congress on 2 April 2019, 1st sitting (see Document [CG36\(2019\)16](#), explanatory memorandum), rapporteur: Wilma DELISSEN VAN TONGERLO, Netherlands (L, ILDG).

- e. the Council of Europe Model Code of Conduct for Public Officials (2000);
- f. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;
8. Calls upon local and regional authorities of the member States of the Council of Europe to:
- a. Enhance transparency in their recruitment and promotion processes, by establishing clear and comprehensive procedures, that can be easily understood and accessed by applicants and staff;
 - b. Guarantee equality and fairness in the recruitment and promotion processes, by taking account of the knowledge, experience, skills and ethical behaviour of the candidates, establishing a common set of rules and applying the principles of merit-based recruitment;
 - c. Carry out ethics or anticorruption audits, with particular attention to human resource management practices, to identify nepotism risks and propose appropriate counter-measures;
 - d. Introduce reporting channels in order to identify potential occurrences of favouritism or conflict of interests in the recruitment or selection process;
 - e. Introduce integrity management structures, such as an 'Integrity Bureaux', composed of integrity councillors, to investigate suspected cases of misconduct in this area;
 - f. Ensure that any breaches of integrity, misconduct or withholding of information on a potential conflict of interest in staff matters result in appropriate and deterrent disciplinary actions;
 - g. Ensure the prohibition of public officials from being involved in any recruitment and selection procedures that may question their impartiality.
9. Calls on national associations of local and regional authorities to:
- a. Organise educational activities in public institutions such as seminars, workshops, in-service training events to raise awareness of the risks of nepotism, or any form of favouritism;
 - b. Promote co-operation and collaboration with other municipalities, such as the establishment of regional networks, to exchange experience and knowledge in dealing with nepotism in staff recruitment;
 - c. Respond promptly to complaints and recommendations by citizens, in order to increase public trust in local and regional governance.

36th SESSION

Social rights of young people: the role of local and regional authorities

Resolution 442 (2019)¹

1. The fundamental social rights of the citizens of the member States of the Council of Europe are guaranteed by the European Social Charter (ETS No.163, hereafter the "Social Charter") which was opened to the signature of member States in 1961, subsequently coming into force in 1965, and was then revised in 1996.
2. It is an essential guiding document, setting the ground rules on fundamental social and economic rights at the pan-European level. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare. The Social Charter explicitly refers to young people as being entitled to social rights in terms of education and labour market integration, or benefits for the newly married.
3. In order to develop concrete guidelines to facilitate the implementation of the rights set out in the Social Charter, in particular with regard to young people, a series of texts were adopted by the Council of Europe during the last decade which highlighted public authorities' responsibility in facilitating young people's access to fundamental rights.
4. The recommendations of the Parliamentary Assembly of the Council of Europe on "Young people's access to fundamental rights" (2015(2013)) and "Towards a European framework convention on youth rights" (1978(2011)),² as well as the Committee of Ministers' Recommendation CM/Rec(2016)7 on young people's access to rights, were occasions to underline that, rather than adopting a specific treaty on the rights of young people, the aim should be to take measures in order to capitalise on the binding instruments, as enshrined in the European Convention on Human Rights (hereafter "ECHR") and the revised Social Charter.
5. The Council of Europe Youth Department elaborates guidelines, programmes and legal instruments for the development of coherent and effective youth policies, as well as concrete tools such as the "Self-assessment for youth policy", for the use of member States. Following the Committee of Ministers' Recommendation CM/Rec(2015)3 on the access of young people from disadvantaged neighbourhoods to social rights, regular surveys will be carried out to look at the measures taken by member States, but also the projects and initiatives implemented by youth organisations and local and regional authorities.

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)12](#), explanatory memorandum), co-rapporteurs: Liisa ANSALA, Finland (L, ILDG) and Piero FASSINO, Italy (L, SOC).

² Parliamentary Assembly Recommendation 1978 (2011), Towards a European framework convention on youth rights, served as an opportunity to confirm that it is not necessary to adopt a specific treaty on the rights of young people, but that we should instead capitalise on the binding instruments which already exist in the Organisation: its Principle 7.1 invites member states "to take measures to facilitate young people's access to fundamental rights as enshrined in the European Convention on Human Rights and the revised European Social Charter".

6. The implementation of the Social Charter, and the case law of the European Committee of Social Rights, provide a wide range of good practices concerning access to, and exercise of, young people's social rights. They consequently constitute a source of inspiration for local and regional actions in this field.

7. Local and regional authorities, along with social partners and civil society organisations, play a key part both in disseminating the Social Charter and in implementing it, with regards to young people's access and enjoyment of the social rights enshrined in it. This crucial role of local and regional authorities in making the Social Charter effective in legal terms, (in line with the "social" responsibilities that form part of the core of each government level's respective autonomy), should be supported by national, European and international action plans and programmes.

8. The Congress of Local and Regional Authorities of the Council of Europe (hereafter "the Congress") – having drawn up resolutions and other instruments to strengthen the integration, participation and commitment of young people at local and regional levels – intends to focus on the social rights of young people guaranteed by the Social Charter, in order to ensure its implementation and to give concrete expression to the rights of young people.

9. Since 2014, the Congress has involved youth delegates in its own work, inviting young people from different backgrounds to participate in its sessions, to give their views during debates and to have exchanges with Congress members. In 2015, the youth delegates presented a motion at the 29th Session of the Congress on the resolution entitled "Local and regional authorities for the promotion of young people's access to social rights",³ drawing attention to the fact that access to quality education, secure employment, decent living conditions, transport, healthcare, technologies and opportunities for social, cultural and economic participation are prerequisites for the inclusion and active citizenship of all young people. They noted that creating a toolkit for local authorities to facilitate young people's access to their rights, providing good practices and an overview of relevant policy instruments, would be useful.

10. In light of the above, and following the work of the Congress on human rights at the local level, the debate organised by the Chamber of Regions on the implementation of social rights at the regional level (2016), as well as the proposals of the youth delegates, the Congress invites local and regional authorities, and the associations that represent them (within the framework of the competences conferred on them), to:

a. put pressure on the national authorities of those member States which have not yet done so, to sign and ratify the revised European Social Charter (ETS No. 163), and to accept, in the spirit of the "Turin process", the collective complaints procedure, so that the Social Charter and its complaints mechanism are perceived as awareness-raising spaces, where not only public authorities (e.g. social services) but, above all, young people themselves can show greater solidarity and involvement in the defence of their social rights (in particular with regard to young people in a more vulnerable situation: the unemployed, migrants, people with disabilities, etc.);

b. disseminate the text of the European Social Charter on the website of each local or regional authority, and to design a "user-friendly" version (accessible online) entitled, for example: "Social Charter explained to young people" (or "The place of young people in the European Social Charter") through competitions, such as for the drafting and illustration of the user-friendly version organised at the local and/or regional level (this version would also serve as a guide for action (normative, political and financial) by local and regional elected officials);

c. consider social rights of young people a priority for their policies, and develop concrete actions relating to the exercise of certain social rights by young people (active employment support measures, health education measures, prevention of gender violence among young people, etc.), which could be disseminated and promoted via social networks. Such dissemination and promotion (online and potentially face-to-face) would likely stimulate young people's participation and commitment to social rights;

³ CG/2015(29)23

d. invest in improving public access to information technologies through existing public services (youth centres, public libraries, media libraries, youth information and guidance centres, etc.), in the spirit of the Committee of Ministers' Recommendation CM/Rec(2015)3 on access to social rights for young people in disadvantaged areas;

e. raise awareness of the social rights of young people through initiatives such as the celebration, in each local and regional community, of the International Youth Day (12 August) or the European Social Charter Day (18 October);

f. take part in the review that the Council of Europe Youth Department will carry out in 2019, which will be based upon the Committee of Ministers' Recommendation CM/Rec(2015)3 on the access of young people from disadvantaged neighbourhoods to social rights, looking *inter alia* at projects and initiatives implemented by local and regional authorities.

11. Taking into account previous work, the Congress recommends that local and regional authorities implement the recommendations contained in Resolution 414 (2017), 386 (2015), 346 (2012), 319 (2010) and 259 (2008).⁴

⁴ Resolution 414 (2017) "Forever young? The role of youth policies and youth work at local and regional levels in supporting young people's transition to autonomy and working life"; Resolution 386 (2015) "Bringing down barriers to youth participation: adopting a lingua franca for local and regional authorities and young people"; Resolution 346 (2012) "Youth and democracy: the changing face of youth political engagement"; Resolution 319 (2010) "Integration of young people from disadvantaged neighbourhoods"; Resolution 259 (2008) "Integration and participation of young people at local and regional level".

36th SESSION

Financial compensation of local and regional elected representatives in the exercise of their office

Resolution 443 (2019)¹

1. The right and ability of all citizens to stand for elected office is a fundamental principle of local democracy, established in Article 7 of the European Charter of Local Self-Government. Material concerns should not prevent any citizen from standing for office. Article 7.2 of the Charter aims to ensure that local elected representatives receive sufficient allowances, salaries or other forms of compensation for their duties.
2. It follows that local and regional elected representatives need to receive adequate and appropriate financial compensation in order to carry out their duties effectively. As demands on local and regional politicians become more complex, financial compensation packages need to be adjusted accordingly.
3. The diversity of compensation packages and arrangements available for local and regional representatives in Europe, which mirrors the rich spectrum of forms and structures of subnational government in Europe, must not conceal the fact that the principle of adequate compensation is valid for all. While this principle needs to be applied flexibly, it nevertheless needs to enable citizens to consider standing for office whatever their socioeconomic status.
4. Inappropriate and inadequate levels of compensation can and do discourage many suitable candidates from running for elected office. Any deterioration in the quality of candidates is harmful to the overall quality of governance of local and regional authorities. Dissatisfaction in the levels of compensation can also harm the effectiveness of elected candidates and increase the risk of corruption and illegitimate practices.
5. Since all member States of the Council of Europe now have some form of financial compensation in place for local and regional elected representatives, it is to be regretted that 13 member States have yet to ratify Article 7.2, whereas recent monitoring missions of the Congress have established that several of these member States have seen their national legislations evolve to a point where they can be considered to be in compliance with this article.
6. Recommendation 385 (2015) of the Congress on Conditions of office of elected representatives set out several principles for member States on how best to apply Article 7.2.
7. In the light of the above, the Congress, bearing in mind:
 - a. Recommendation 385 (2015) of the Congress on Conditions of office of elected representatives;
 - b. The Council of European Municipalities and Regions (CEMR) report on the Status of local elected representatives in Europe (2010);

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)10](#), explanatory memorandum), co-rapporteurs: Marta CAMPANARI-TALABER, Hungary (L, EPP/CCE) and Robert GRUMAN, Romania (R, EPP/CCE).

8. Calls upon local and regional authorities of the member States of the Council of Europe to:

- a. ensure that forms of financial compensation are commensurate with the needs and responsibilities of local and regional representatives;
- b. engage with their national authorities on how best to apply the provisions of Recommendation 385 (2015) pertaining to Article 7.2;
- c. carry out regular, independent audits on the forms and levels of compensation and the satisfaction of local and regional representatives with these arrangements;
- d. assess on a regular basis the appropriateness and adequacy of different forms of financial compensation for local and regional representatives, proposing adjustments as appropriate, in view of the evolving tasks and duties of representatives.

9. Calls on national associations of local and regional authorities to:

- a. report on any instances of backsliding or potential backsliding with regard to the application of Article 7.2;
- b. where Article 7.2 has not been ratified, or national legislation with regard to the remuneration of local and regional representatives is inexistent, lobby government to ratify or introduce such legislation;
- c. consult with local and regional representatives, to gauge remuneration satisfaction and develop a greater picture of what constitutes appropriate and adequate financial compensation for their respective duties.

10. Resolves to prepare reports at regular intervals on the evolution of the situation regarding the financial compensation of local and regional elected representatives in member States.

36th SESSION

The protection of whistleblowers Challenges and opportunities for local and regional government

Resolution 444 (2019)¹

1. Aware of the corrosive effect that corruption can have on public trust and the quality and efficiency of government, the Congress adopted a roadmap of activities, at its 31st session in October 2016 to fight corruption and decided to prepare reports on several themes, including the protection of whistleblowers.
2. While there have recently been substantial legislative developments on protecting whistleblowers, most of these are limited in scope to the national level, leaving local and regional authorities with few mechanisms for reporting suspected illegal actions.
3. Whistleblowers have a unique role to play in local and regional governance. At the subnational level, the one closest to the citizens, it is easier to detect alleged violations of law than at the national level. This also means that local and regional authorities are especially vulnerable to various types of corruption, given their responsibility for public service provision, which is increasingly based on public-private partnerships, accompanied by the transfer of public resources to the private sector.
4. The issues of anonymity and confidentiality can pose particular challenges at the local level. The small size of many local authorities limits the choice of reporting channels that an individual would choose to communicate suspected illegal actions. However due to the limited scope of legislation, which often does not recognise anonymous reporting, individuals in possession of information that could be considered as threatening or harmful to the public interest, often decide not to disclose it, fearing negative personal consequences and possible retaliation at the work place.
5. With regard to the confidentiality issue, local and regional authorities should consider external reporting as a last resort, which can reduce the chances of the identity of a whistle-blower being disclosed.
6. Whistle-blower protection is not just a matter of legislation, there also needs to be a change in social attitudes to the disclosure of information, which often discourage individuals from reporting crucial information, afraid of potential negative consequences that could ensue. Action needs to be taken to make the public aware of the important role of whistleblowers in the fight against corruption.
7. In the light of the above, the Congress, bearing in mind:
 - a. the Council of Europe's Programme of Action Against Corruption, the Council of Europe Criminal Law Convention on Corruption (ETS No. 173) and the Council of Europe Civil Law Convention on Corruption (ETS No. 174);

¹ Debated and adopted by the Congress on 3 April 2019, 2nd sitting (see Document [CG36\(2019\)14](#), explanatory memorandum), rapporteur: Josan MEIJERS, Netherlands (R, SOC).

b. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles for the fight against corruption;

c. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;

8. Calls upon local and regional authorities of the Council of Europe member States to:

a. establish and disseminate a whistleblowing policy, respecting the 20 principles set out in the aforementioned Recommendation CM/Rec(2014)7;

b. guarantee the establishment of appropriate internal reporting channels and the possibility for employees to consult confidential advisors within their organisation;

c. ensure that independent designated institutions, such as local and regional ombudsmen, exist to oversee and process the disclosure of information, and to act as a place of reporting of last resort, if local and regional employees feel unable to raise their concerns internally;

d. ensure that individuals who wish to report cases of misconduct or wrongdoing have access to reporting channels which would allow them to remain anonymous or offer a 'pre-emptive protection' option in case of retaliation;

e. provide information:

i. on the circumstances under which a suspicion of wrongdoing can be reported inside and outside the organisation;

ii. on the legal protection for whistleblowers;

f. ensure that reporting channels, such as information hotlines, also exist for individuals working in the private sector, who are involved in the provision of local and regional public services;

g. ensure that individuals disclosing information in the public interest are informed in a timely manner about the follow-up made in response to their reports;

h. encourage positive attitudes towards whistleblowing among citizens by promoting whistleblowing policies and publicising post-reporting follow-up;

i. ensure that individuals considering reporting suspected cases of wrongdoing have access to advice that is confidential and free of charge, from external bodies such as NGOs and national associations;

j. introduce periodic assessments of the effectiveness of rules and regulations on the protection of whistleblowers.

9. Calls on national associations of local and regional authorities to:

a. guide and assist local and regional authorities in introducing and implementing whistleblowing policies;

b. assist local and regional authorities in designing and implementing training programmes for officials and employees to raise awareness of the existing rules and procedures and the role of whistleblowing in the fight against corruption;

c. liaise with central anti-corruption agencies to ensure the maximum harmonisation of whistle-blower policies.