

# The Charter

## of Local Self-Government

*The benchmark treaty for local communities in Europe*

### International recognition for local self-government



*Italian Minister of the Interior Oscar-Luigi Scalfaro signs the Charter, on 15 October 1985, in Strasbourg, France.*

All European citizens, whether they live in a monarchy or a republic, whether their state has a federal or a unitary structure, are governed in the first instance by a local authority they elect.

The spectacular advance of local and regional democracy was the landmark of the 20th century democratic development. Today, we are committed to building a Europe of territorial communities, a Europe which enables citizens to take control of their destiny in the cities and regions that they inhabit. The European Charter of Local Self-Government,

ratified by 45 countries by the 1st November 2011, is the first international binding treaty that guarantees the rights of communities and their elected authorities. It is thus a unique legal tool to defend the autonomy and independence of territorial communities in Europe and constitutes the basis for further developments of grassroots democracy.

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## Cities and regions, vanguard of democracy

The recognition of local democracy by the Council of Europe member states led in 1985 to the adoption of the European Charter of Local Self-Government. This text affirms the role of communities as the first level for the exercise of democracy. It has become the benchmark international treaty in this area.



City Hall in Vaduz, during a local democracy monitoring mission in Liechtenstein.

### Excerpt from the Preamble of the Charter

"[...] Local authorities are one of the main foundations of any democratic regime. The right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe [and] it is at local level that this right can be most directly exercised [...] The existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen.

The safeguarding and reinforcement of local self-government [...] entails the existence of local authorities endowed with

democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfilment."

*"The autonomy of local authorities [...] is the most genuine social expression of the freedom of the individual who belongs as of right to the community."*

*Oscar Luigi Scalfaro,  
Italian Minister of the Interior,  
15 October 1985*

### The Charter, a cornerstone of the democratic edifice

The European Charter of Local Self-Government lays down standards for protecting the rights of local authorities and requires states which have ratified it to comply with a number of conditions, principles and practices. The Charter was opened for signature on 15 October 1985 and came into force on 1 September 1988; to date, in 2011, it was ratified by 45 of the 47 Council of Europe member states.

## Rights of communities enshrined in law

The Charter requires that the principle of local self-government be embedded in domestic law and if possible in the Constitution in order to guarantee its effective implementation. It also lays down the principles of democratic functioning of communities.



The original Charter kept by the Council of Europe Treaty Office.

### Right to manage local affairs...

"The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution." (Article 2)

"Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population." (Article 3)

### Responsibility of elected bodies...

"This right shall be exercised by councils or assemblies composed of members freely

elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them." (Article 3)

### Decision-making level closest to citizens...

"Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority

should weigh up the extent and nature of the task and requirements of efficiency and economy [...]

The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law." (Article 4)

### A Charter to be applied also to regional authorities...

"The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter [...]" (Article 13)

*"Increased local autonomy [...] is one of the promising paths towards the necessary revitalisation of democracy."*

*Jean-Claude Juncker, Prime Minister of Luxembourg,  
Report "Council of Europe - European Union:  
"A sole ambition for the European continent",  
11 April 2006*

## Guaranteeing the independence of elected representatives

The conditions of office of local elected representatives must ensure that they are able to exercise their functions freely within the limits of local self-government. They must be able to determine their own administrative structures and recruit competent staff.

### Free exercise of duties...

"The conditions of office of local elected representatives shall provide for free exercise of their functions.

They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.

Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles." (Article 7)

### Right to determine internal structures...

"[...] Local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure



*The free exercise of the functions of elected representatives is also expressed in their vote.*

effective management.

The conditions of service of local government employees shall be such as to permit the recruitment of high quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided."

(Article 6)

## Communities protected from interference

"Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law [...]

"Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly."

(Article 4)

## Resources to match the tasks of communities

The Charter is the first treaty to lay down the principle of the transfer of competences to local communities, which must be accompanied by a transfer of financial resources. This principle, known as the principle of subsidiarity, allows for the decentralisation of power towards the level closest to the citizen.

### Local finances, a matter of national interest...

"Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.

Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.

The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the

real evolution of the cost of carrying out their tasks." (Article 9)

### Raising own funds...

"Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate."

(Article 9)

### ...and helping the weak

"The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of

finance and of the financial burden they must support." (Article 9)

*"The two major concerns common to all local administrators are, firstly, local self-government and local freedoms, and secondly the financial possibilities that command and too often restrict the projects envisaged."*

*Jacques Chaban-Delmas,  
President of the European  
Conference of Local Authorities,  
12 January 1957*

### Independent financial management...

"As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction."

(Article 9)



Financial resources of a local community must enable it, for example, to carry out spatial development works.

## The Charter, a framework to protect local communities

The Charter establishes a number of safeguards to protect the rights of local communities. For instance, the boundaries cannot be changed without agreement of the community and the supervision of the activities of local authorities must be defined by law, with the possibility of recourse to a court.

### Inviolability of borders...

"Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute."  
(Article 5)

### Limited supervision...

"Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.

Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher level authorities in respect of tasks the execution of which is delegated to local authorities.

Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the



*Monitoring reports are debated and adopted during Plenary Sessions of the Congress.*

controlling authority is kept in proportion to the importance of the interests which it is intended to protect."

(Article 8)

### Right of recourse to a court...

"Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation."

(Article 11)

*"Effective democracy and good governance at all levels are essential for creating sustainable communities where people want to live and work, now and in the future."*

*John Prescott,  
Deputy Prime Minister  
of the United Kingdom,  
Warsaw Summit,  
16 May 2005*

## The Congress, watchdog of the rights set out in the Charter

The countries which have ratified the Charter have to comply with a minimum number of rights that form a European foundation of local democracy. The Congress makes sure that these principles are observed through systematic monitoring and regular dialogue with the governments of the Council of Europe member states. This dialogue is crucial to assess the impact and the implementation of the European Charter of Local Self-Government.

### Monitoring the Charter's application...

As the voice of Europe's municipalities and regions, the Council of Europe's Congress of Local and Regional Authori-

parliaments, local elected representatives, associations and the media about the situation of local and regional democracy in specific countries and the application of the Charter.

### A regular dialogue with governments...

The Congress holds regular exchanges of views with Ministers and national authorities on the follow-up to its recommendations. This open and constructive dialogue is based on a close cooperation through impartial and independent co-rapporteurs appointed by the Congress in accordance with objective criteria.

In June 2010, the monitoring process was consolidated with the adoption of Resolution 307, through more regular visits in each member state, a reinforced political dialogue, and a post-monitoring assistance.

*"The Congress monitoring system of local self-government is an important guide for each member state for further activities at the national level."*

*Zlata Plostajner,  
Slovenian Minister for Local Self-Government and Regional Development,  
10 June 2009*

ties is the only European body responsible for monitoring the implementation of the Charter of Local Self-Government and thus the state of territorial democracy and the development of local and regional self-government throughout Europe.

The Congress undertakes regular general country by country monitoring; it can also carry out fact-finding missions to look into cases of concern.

The adopted reports, recommendations and resolutions provide information to governments,

Numerous legislative reforms have been set in motion by member states on the basis of the findings of these monitoring activities and the recommendations of the Congress.



*A ballot box in a prison in Chisinau (Moldova). Respect for civic rights, even in prison, is a sign of the quality of local democracy in a country.*

### Associations of local authorities, partners of the Congress...

In its monitoring activities, the Congress relies on the support of national associations of local authorities which serve as an early-warning system in member states. The right of local authorities to form associations is guaranteed by the Charter.

## A core of basic principles

States undertake to respect a core of basic principles to which no reservation is possible – such as the right of citizens to participate in managing public affairs, the key rights of communities to enjoy autonomy and self-government, elect their local bodies and to have their own competences, administrative structures and financial resources, or the right of recourse to a court in case of interference from other levels. Through these core principles, the Charter seeks to ensure the compatibility of the diverse structures of local communities in the Council of Europe member states. However, the final aim remains the respect of all of the Charter's provisions.

### Countries which have ratified the Charter (date of ratification)

Albania (4.4.2000)	Germany (17.5.1988)	Portugal (18.12.1990)
Andorra (23.3.2011)	Greece (6.9.1989)	Romania (28.1.1998)
Armenia (25.1.2002)	Hungary (21.3.1994)	Russian Federation (5.5.1998)
Austria (23.9.1987)	Iceland (25.3.1991)	Serbia (6.9.2007)
Azerbaijan (15.4.2002)	Ireland (14.5.2002)	Slovakia (1.2.2000)
Belgium (25.8.2004)	Italy (11.5.1990)	Slovenia (15.11.1996)
Bosnia and Herzegovina (12.7.2002)	Latvia (5.12.1996)	Spain (8.11.1988)
Bulgaria (10.5.1995)	Liechtenstein (11.5.1988)	Sweden (29.8.1989)
Croatia (11.10.1997)	Lithuania (22.6.1999)	Switzerland (17.2.2005)
Cyprus (16.5.1988)	Luxembourg (15.5.1987)	“the former Yugoslav Republic of Macedonia” (6.6.1997)
Czech Republic (7.5.1999)	Malta (6.9.1993)	Turkey (9.12.1992)
Denmark (3.2.1988)	Moldova (2.10.1997)	Ukraine (11.9.1997)
Estonia (16.12.1994)	Montenegro (12.09.2008)	United Kingdom (24.4.1998)
Finland (3.6.1991)	Netherlands (20.3.1991)	
France (17.1.2007)	Poland (22.11.1993)	
Georgia (8.12.2004)	Norway (26.5.1989)	

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