

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 417 (2018)<sup>1</sup> Local democracy in Monaco

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 of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, which provides that one of the aims of the Congress is to “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, 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.* the explanatory memorandum on local democracy in Monaco (see footnote).

2. With regard to Monaco:

*a.* it became a member of the Council of Europe on 5 October 2004. It signed and ratified the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 10 January 2013, which came into force on 1 May 2013;

*b.* pursuant to Article 12, paragraph 2, of the Charter, Monaco declared that it considered itself bound by Articles 2; 3, paragraph 2; 4, paragraphs 1, 2, 4, 5 and 6; 5; 6, paragraphs 1 and 2; 7, paragraphs 1 and 3; 8, paragraphs 1 and 2; 9, paragraphs 5, 6 and 7; 10, paragraphs 1 and 3; and 11 of the Charter;

*c.* Monaco adopted a “Declaration of interpretation by the Principality of Monaco concerning Article 3”, stating that: “The Princely Government recalls that the territory of the Principality, with a surface area of approximately 2 km<sup>2</sup>, constitutes only one municipality which is an autonomous institution established by the Constitution, endowed with legal personality and governed by public law. Therefore, the concept of local self-government as stipulated in Article 3 of this Charter applies there, in Monaco, in light of the specific institutional and geographical characteristics of the country, within the framework defined by Title IX of the Constitution and by Law No. 959 of 24 July 1974”;

*d.* Monaco 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);

*e.* the Monitoring Committee decided to examine the situation of local democracy in Monaco in the light of the Charter. It entrusted Michalis ANGELOPOULOS, Greece (L, EPP/CCE) and Marianne HOLLINGER, Switzerland (L, ILDG), with the task of preparing and submitting to the Congress a report on local democracy in Monaco. The delegation was assisted by Tania GROPPPI, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

*f.* the monitoring visit took place on 16 and 17 May 2017. During the visit, the Congress delegation met the representatives of various institutions. The detailed programme of the visit is set out in the appendix to the explanatory memorandum;

*g.* the delegation would like to thank the Permanent Delegation of Monaco to the Council of Europe and the interlocutors it met during the visit for their assistance, their availability and the information they provided.

3. The Congress, given the specific features of Monaco, notes with satisfaction that:

*a.* the level of local self-government is generally satisfactory in Monaco;

*b.* relations between central government and the municipality of Monaco, which are facilitated by the small size of the country, are good;

*c.* the law provides mechanisms for consulting the municipality in several fields;

*d.* the municipality has adequate administrative structures and resources;

*e.* administrative controls are aimed at ensuring compliance with the law;

*f.* the municipality of Monaco has more than adequate financial resources.

4. The Congress notes that the following points call for special attention:

*a.* the political responsibility of the mayor and his deputies whose status, although they are elected by the communal council, cannot be called into question (Article 3, paragraph 2);

*b.* the municipality is not consulted in an appropriate manner on the annual lump-sum appropriations allocated to it (Article 9, paragraph 6);

*c.* the municipality does not have the right to judicial remedy to challenge a law that is found to be non-compliant with Title IX of the constitution or with the Charter (Article 11);

*d.* Monaco has not ratified several provisions of the Charter, although it does in fact comply fully with several of these, namely Article 8, paragraph 3, Article 9, paragraph 2, and Article 10, paragraph 2.

5. In view of the above, the Congress asks the Committee of Ministers to invite the Monegasque authorities to:

*a.* introduce mechanisms to ensure that the municipal executive is politically accountable to the Municipal Council;

*b.* put in place a mechanism for consulting the municipality on the annual lump-sum appropriation to be allocated to it;

*c.* acknowledge the municipality's right to challenge the constitutionality of laws on grounds of violation of Title IX of the constitution and its right to question whether the laws in question are compatible with the Charter;

*d.* consider the possibility of ratifying Article 8, paragraph 3, Article 9, paragraph 2, and Article 10, paragraph 2, that are respected *de facto*;

*e.* consider the possibility of 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.

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1. Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)16](#), explanatory memorandum), co-rapporteurs: Michalis ANGELOPOULOS, Greece (L, EPP/CCE) and Marianne HOLLINGER, Switzerland (L, ILDG).