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Local democracy in the Republic of Malta

Monitoring Committee

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Recommendation 400 (2017)	2
Explanatory memorandum	5

Summary

This report is prepared following the third monitoring visit to the Republic of Malta since the ratification of the European Charter of Local Self-Government in 1993.

The report expresses satisfaction with the implementation of certain amendments to primary and secondary legislation, as well as the issuance of regulations, all of which improved the status of local self-government in the Republic of Malta. It notes however that there are areas of concern which need to be addressed by the Republic of Malta, notably the inability of the local councils to regulate and manage a substantial share of the public affairs, the unavailability of adequate financial resources to local councils, the lack of formal consultation mechanisms with the local authorities and the financial dependency of local councils on the central government. Simultaneously, the report notes the maintenance of the non-ratification of Article 9, paragraph 3 of the Charter to the Republic of Malta.

The Congress recommends a series of measures to the Republic of Malta, the most important of which is the need to increase the local government grants and the share of public affairs received and regulated by local councils respectively. It also draws attention to the importance of ensuring the freedom of local councils to select or remove their executive secretary without the need for approval by the central government. Furthermore, the report recommends the extension of the list of functions permitted or available to local councils under the Local Councils Act and the provision of greater freedom and flexibility to local councils to manage their own financial affairs, set their own expenditure priorities, allow them greater access to additional funding by way of loans and enable them to impose and collect taxes.

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

RECOMMENDATION 400 (2017)²

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:
 - a. Article 2, paragraph 1.b of Statutory Resolution CM/Res(2015)9 relating to the Congress, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy;”
 - b. Article 2, paragraph 3 of 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. Congress Resolution 395(2015) on the Rules and Procedures of the Congress and in particular, Chapter XVII on the organisation of the monitoring procedures;
 - d. Congress Recommendation 305 (2011) on local democracy in Malta;
 - e. Congress Recommendation 219 (2007) on the status of capital cities;
 - f. The appended explanatory memorandum on local democracy in Malta.
2. The Congress notes that:
 - a. Malta became a member of the Council of Europe on 29 April 1965 and ratified the European Charter of Local Self-Government on 6 September 1993. It did not ratify Article 9.3 of the Charter;
 - b. the Monitoring Committee of the Congress of Local and Regional Authorities of the Council of Europe appointed the co-rapporteurs on local democracy Mr Stewart Dickson (United Kingdom, ILDG) and Mr Risto Rautava (Finland, EPP/CCE) to prepare and submit to the Congress a report on local democracy in the Republic of Malta³;
 - c. the monitoring visit took place from 22 to 24 November 2016. During the visit, the Congress delegation met with representatives of State institutions (Parliament, Parliamentary Secretariat for Local Government, National Audit Office), Constitutional Court of Malta, Ombudsman, local authorities (Valletta City, Żebbug and Mosta local councils, Gozo Regional Committee, Gharb and Senglea local councils). The delegation met as well with representatives from the Congress delegation and the associations. The detailed programme of the visit is appended to the report;
 - d. the delegation wishes to thank the Permanent Representation of Malta to the Council of Europe and the Maltese authorities at national and local levels, the Maltese Local Councils Association and the experts who met with the delegation for their open and constructive discussions.
3. The Congress notes with satisfaction that since the last official monitoring visit to Malta in 2010, the Republic of Malta adopted certain amendments to primary and secondary legislation, as well as the issuance of regulations, all of which improved the status of local self-government in Malta.
4. The Congress expresses its concern with regard to:
 - a. the absence of the explicit or direct recognition of the principle of local self-government either in the applicable domestic legislation or in the Constitution of Malta (Article 2);

2 Discussed and approved by the Chamber of Local Authorities on 29 March 2017, and adopted by the Congress on 30 March 2017, 3rd sitting (see Document [CPL32\(2017\)02](#), explanatory memorandum), co-rapporteurs: Risto RAUTAVA, Finland (L, EPP/CCE) and Stewart DICKSON, United Kingdom (R, ILDG).

3 The co-rapporteurs were assisted by Mr George COUCOUNIS, Member of the Group of Independent Experts on the European Charter of Local Self-Government and by the Congress Secretariat.

- b. the inadequate and undiversified financial resources of local councils to execute their functions fully and effectively (Article 9.1, 9.4), their limited own income in the framework of their competences (Article 9.2) and overwhelming financial dependency on the allocation of the annual government grants;
- c. the fact that the local councils are still not responsible for a “substantial share of public affairs” as required by Article 3.1) of the Charter. The list of functions permitted or available to local councils under the Local Councils Act remains excessively limited contrary to the principle of subsidiarity (Article 4.3);
- d. the absence of full discretion of local councils to exercise their initiatives with regard to matters included in their competence (Article 4.2) due, *inter alia*, to their lack of financial autonomy, excessive involvement of the central government in the local affairs in practice (Article 4.4) and disproportional supervision powers of the central authorities (Article 8.3);
- e. the lack of formal consultation mechanisms between the central government and the local authorities (Article 4.6);
- f. the inappropriate financial compensation of local elected representatives for the proper exercise of their duties (Article 7.2);
- g. the excessive power of central government as regards the procedure of appointment, removal and transfer of executive secretaries of local councils (Article 3.2);
- h. the absence of special status for the city of Valetta as capital city;
- i. the conditionality of the access to the national capital market on the approval of the central government (Article 9.8).

5. The Congress asks the Committee of Ministers to invite the Maltese authorities to:

- a. amend Article 115A of the Maltese Constitution to clearly define the principle of local self-government and provide for a clear recognition of this principle;
- b. provide for greater freedom and flexibility to local councils to manage their own financial affairs and set their own expenditure priorities as well as increase the annual grant allocated to local councils for the execution of their functions;
- c. extend the list of functions of local councils under the Local Councils Act to increase the share of public affairs under their own responsibility on the basis of the principle of subsidiarity;
- d. review the current tight system of financial monitoring, supervision and control, and limit it to ensuring the legality of the operations of the local councils in order to decrease the involvement of the central government in local affairs;
- e. set up a formal consultation mechanism to ensure that in practice local authorities are effectively consulted, in due time and in an appropriate way, on all matters that concern them directly in conformity with Article 4.6 of the Charter;
- f. increase the allowance payable to councillors and provide for adequate compensation for loss of earnings, remuneration for work done, reimbursement for reasonable expenses incurred in the execution of their duties and corresponding welfare protection;
- g. revise legal provisions concerning executive secretaries so as to ensure the freedom of local councils to select or remove their executive secretary without the approval by the central government;
- h. to confer a special status for Valetta as capital city in the light of Congress Recommendation 219 (2007) on the status of capital cities;

- i.* abolish the system of requirement of the approval of the central government prior to obtaining any loan;
 - j.* consider the ratification of Article 9, paragraph 3 of the Charter;
 - 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);
 - l.* introduce measures in co-ordination with local authorities to encourage and enable women's access to local political office according to the principle of gender equality.
6. The Congress invites the Committee of Ministers of the Council of Europe to take into consideration the present recommendation on local democracy in Malta, as well as the explanatory memorandum, in its activities related to this member State.

EXPLANATORY MEMORANDUM**Table of contents**

1. Introduction	6
2. Background information	7
3. Constitutional and legislative framework	7
4. Administrative and territorial structure	8
5. Functions and competences of local councils	9
6. Recent legislative developments in local self-government	11
7. Compliance with the Charter	12
8. General conclusions on compliance with the Charter.....	32
9. Recommendations and proposals	33
Appendix – Programme of the Congress Monitoring visit to Malta.....	35

1. INTRODUCTION

1. The Congress of Local and Regional Authorities of the Council of Europe, hereinafter referred to as the “Congress”, as the consultative organ representing local and regional authorities aims at ensuring the participation of local and regional authorities in the implementation of the ideal of European unity, submit proposals in order to promote local and regional self-government, promote co-operation between local and regional authorities, maintain within its sphere of responsibilities contact with international organisations and work in close-cooperation with the national, democratic associations of local and regional authorities and with European organisations representing local and regional authorities of the member States of the Council of Europe.

2. In the execution of its aforesaid functions and pursuant to Article 2(3) of the Statutory Resolution CM/Res(2015)9, the Congress prepares 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 ensures, in particular, that the principles of the European Charter of Local Self-Government, hereinafter referred to as the “Charter”, are implemented.

3. The countries which have ratified the Charter are bound by its provisions. The Charter requires compliance with a minimum number of rights, which form the bedrock of European local self-government. The Congress makes sure that these principles are observed.

4. The Congress performs monitoring visits to Council of Europe member States, which have signed and ratified the Charter, for the purpose of monitoring the commitments and compliance of such member states with the articles of the Charter. The monitoring visits are performed by a monitoring delegation comprised and operating as per the Rules and Procedures of the Congress.

5. Malta ratified the Charter in 1993, except from Article 9(3) of the Charter.

6. The first monitoring visit to Malta was undertaken in March 2002, as a result of which the Congress adopted Recommendation 122(2002) during the 9th Congress Session, accompanied by the Explanatory Memorandum CPL (9)7 dated 14th November 2002, both collectively hereinafter referred to as the “2002 Monitoring Report”.

7. The monitoring visit upon which this explanatory report was prepared constitutes the third monitoring of Malta’s compliance with the commitments undertaken through the ratification of the Charter. The delegation formed for the purposes of the monitoring visit comprise of Co-rapporteurs on local and regional democracy Mr Stewart Dickson (United Kingdom, ILDG) and Mr Risto Rautava (Finland, EPP/CCE), assisted by Mr George Coucounis, Member of the Group of Independent Experts on the European Charter of Local Self-Government, representing Cyprus and the secretariat of the Monitoring Committee of the Congress.

8. The purpose of the delegation was to examine the situation on local democracy in light of the provisions of the Charter and focus on the developments in the field of local democracy occurred since the last Congress monitoring visit in June 2010. The third monitoring visit took place on 22-24 November 2016 and full details of the delegation’s programme appear on the programme attached as Appendix A to this Explanatory Report.

9. The rapporteurs would like to thank all the interlocutors they met in Malta for the open and informative dialogue as well as the Permanent Representation of Malta to the Council of Europe for all the help in preparing the programme of the visit.

10. During the monitoring visit, as well as by other means, legal and other documents have been provided by Maltese authorities or collected from other sources. In addition to the discussions held during the monitoring visit, the report reflects such written sources as well.

2. BACKGROUND INFORMATION

11. The Republic of Malta is a unitary State with no federal structure, located in the Mediterranean Sea, south of Italy and north of Libya. It covers an area of only 316 km² approximately, being one of the smallest Member States of the Council of Europe. Geographically, it consists mainly of the islands of Malta and Gozo, of which the former is by far the biggest and the most populated.

12. The country's population is just under 445,426 according to the population estimates for each locality made public by the Minister of Finance on 31st of March 2014 for the purpose of article 73 of the Local Councils Act, Cap.363.

13. The capital of the Republic of Malta is the city of Valetta, which is territorially the smallest national capital in the European Union.

14. Under Article 5(2) of the Maltese Constitution, the Republic of Malta has two official languages, namely Maltese and English, the latter being one of the residues of more than 150 years of British colonial rule, including a short period of elected local administration under British sovereignty.

15. Malta gained its independence in 1964 upon the enactment of the Malta Independence Act by the British Parliament. Nevertheless, the Republic of Malta as a sovereign country outside the Commonwealth realm was established 10 years later, in 1974.

16. Local self-government in Malta is exercised through a system of democratically elected local councils adopted under Article 115A of the Constitution for the administration of localities.

3. CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK

17. The first and main piece of legislation regarding the establishment, operation and organisation of local self-government in the Republic of Malta is the Local Councils Act, Cap.363, enacted by virtue of Act XV of 1993, hereinafter referred to as the "Local Councils Act". This piece of legislation established local councils as statutory local government authorities having a distinct legal personality, provides an exhaustive list of their functions and the powers of the central government to carry out supervision and control over them, makes reference to the institutionalisation of the Office of the Mayor and prescribes the main procedural framework for the conduct of the local councils' meetings. The Local Councils Act is supported by eleven (11) Schedules, in which further details are provided as to a wide range of procedural and other issues of administrative nature.

18. The institution of local self-government was rendered part of the Maltese Constitution eight (8) years after the enactment of the Local Councils Act, through a constitutional amendment in 2001 implemented through the enactment of Act No. XIII of 2001. Through the enactment of the said Act, a new chapter was added to the Maltese Constitution, namely Chapter XA.

19. The new Chapter, which comprises of Article 115A, provides that the State shall adopt a system of local government whereby the territory of Malta shall be divided into such number of localities as may by law be from time to time determined. Each locality is administered by a local council elected by the residents of the locality and it is established and operates in terms of such law as may from time to time be in force.

20. Apart from the aforesaid primary legislation, a number of Regulations and orders have been issued to date in order to deal mainly with procedural and administrative issues, such as the Local Councils (Association) Regulations, the Local Councils (Financial) Regulations, the Local Councils (Procedures) Regulations, the Private Guards and Local Wardens Acts, the Local Councils (Delegation Function) (Police Licences) Order and the Local Councils (Twinning) Regulations.

21. The Local Councils Act constitutes the single piece of primary legislation through which the compliance of the Republic of Malta with the Articles of the Charter may be examined.

22. Following the adoption of the Local Councils Act, the Cabinet decided to sign and later ratify the Charter. The signature took place on the 13th of July 1993 and the Charter was ratified on the 6th of September of the same year. Since 1993, the Local Councils Act has been amended a considerable amount of times, as further explained hereunder.

23. The Republic of Malta declared itself to be bound by Article 2, Article 3, paragraphs 1-2, Article 4, paragraphs 1-6, Article 5, Article 6, paragraphs 1-2, Article 7, paragraphs 1 and 3, Article 8, paragraphs 1-3, Article 9, paragraphs 1, 2, 7 and 8, Article 10, paragraphs 1-3 and Article 11 of the Charter. Shortly after the 2010 monitoring visit, the Government of Malta notified the Secretary General of the Council of Europe of its decision to ratify Article 7, paragraph 2 and Article 9 paragraphs 4-6 of the Charter. Hence, the only remaining reservation to the applicability of the Charter to the Republic of Malta comprises of Article 9, paragraph 3, relating to the inability of local councils to impose and collect local taxes and charges.

24. From a strictly legal point of view, a Member State could not be criticized for not complying with provisions by which it is not bound. However, it is the task of the Rapporteurs to study the state of local democracy in light of both, particular provisions but also the general principles and standards enshrined in the Charter.

4. ADMINISTRATIVE AND TERRITORIAL STRUCTURE

25. The Republic of Malta is territorially and administratively divided into 68 (sixty eight) localities.

26. As can be deduced from the population estimates for each locality, prepared and published by the Minister of Finance on the 31st of March 2014 for the purposes of Article 73 of Part VII of the Local Councils Act, the average population is 6.550 persons per locality. According to the same statistics, the least populous locality is that of L-Imdina having 292 residents, whereas the most populous locality is Birkirkara having 22,247 residents.

27. Each locality is administered by a local council, as per Article 115A of the Constitution and Article 3(1) of the Local Councils Act. Each Local Council has and exercises a list of functions and powers provided under the Local Councils Act and it constitutes the core organ of local self-government in the Republic of Malta, presided by the Mayor as the representative of the Council for all effects under Article 26(1) of the Local Councils Act.

28. Nevertheless, apart from the local councils, the Local Councils Act provides for the institution and operation of a number of other assemblies or bodies, with very limited functions and responsibilities, namely the Local Councils Association, Regions and Communities.

29. The Local Councils Association was established pursuant to Article 37(3) of the Local Councils Act and it constitutes the association in which all the local councils participate for the purpose of protecting and promoting their common interests.

30. Apart from the Local Councils Association, each local council participates in one of the five Regions established under Article 37A of the Local Councils Act, as prescribed in the Eleventh Schedule of same. These five Regions, namely the Gozo Region, the Northern Region, the Central Region, the South Eastern Region and the Southern Region constitute groups of localities assembled on the basis of their geographical location. A Regional Committee is formed from representatives of the Local Council of each locality forming each Region and it is chaired by a Chairman who is elected by the Councillors of the said localities. The functions of Regional Committees are limited and the funds allocated to them by the central government are inadequate, preventing them from performing any meaningful functions. According to the Local Councils Act, the functions of the Regional Committees are laid down by the Minister responsible for Local Government through regulations issued following consultation with the Local Councils Association.

31. Except from associations larger than the local councils, the Local Councils Act also provides for the establishment of Communities, also known as "hamlets", being villages within local councils which are defined in the Ninth Schedule of the Act. According to Article 47A of the Local Councils Act, Communities are managed by Administrative Committees elected in an election held for this purpose

among the residents registered in that Community composing of five persons serving for a period of five years. Part of the grant allocated to each Local Council, is provided to the Communities operating in the said locality, if any.

32. The capital city of the Republic of Malta is the city of Valletta, which is the administrative and commercial heart of the island, as well as the political, economic and cultural center of the country. The city constitutes a favourable tourist destination, attracting visitors from all over the world. Valletta has been selected as the European Capital of Culture of 2018 and in this respect, various projects have been planned. Despite the previous recommendation of the Congress, the city of Valletta does not enjoy a special constitutional or legal status. During the monitoring visit, the delegation was made aware of the willingness and desire of the Local Council of Valletta to acquire special status. Such a status could acknowledge the unique characteristics and different needs of the city as the capital city of the country and grant the Local Council of Valletta the ability to enact regulations for the purpose of regulating specific aspects of the locality's affairs, limiting at the same time its financial, regulatory and administrative dependence on the central government.

5. FUNCTIONS AND COMPETENCES OF LOCAL COUNCILS

33. Before embarking in an analysis as to the compliance of the Maltese legislation with the Charter, it is crucial to take into consideration the exhaustive list of functions of local councils provided under Part IV of the Local Councils Act. The extent of the functions of local councils gives an indication of the development and operation of the system of local self-government in the Republic of Malta. As can be deduced from the following summary of the functions of local councils prescribed by the Local Councils Act, the functions and powers of local councils are limited.

34. According to Article 33(1) of the Local Councils Act, the functions of local councils are, among others, the following:

- Provide for the upkeep and maintenance of, or improvements in, any street or footpath, not being privately owned, including patching or resurfacing but not its reconstruction;
- Provide for the collection and removal of all refuse, the maintenance of cleanliness and the upkeep and maintenance of all public conveniences, dustbins and other receptacles for the temporary deposit and collection of waste;
- Provide for the establishment, upkeep and maintenance of children's playgrounds, public gardens and sport, cultural or other leisure centers and administer local libraries;
- Provide and maintain proper road signs and road markings, provide for the installation and maintenance of bus shelters, establish and maintain pedestrian and parking areas and provide for the protection of school children in the vicinity of schools;
- Propose to and be consulted by any competent authority prior to any changes in traffic schemes directly affecting the locality;
- Make recommendations to any competent authority for or in relation to any planning or building scheme;
- Issue guidelines regarding the upkeep, restoration, design or alteration of the façade of buildings;
- Assist citizens by providing information relating to their rights;
- Advise and, where applicable, be consulted by, any authority empowered to take any decisions directly or indirectly affecting the Council and the residents it is responsible for;
- Provide for the establishment of Child Care Centers, kindergartens and other educational services or buildings;
- Provide for the establishment, upkeep, and maintenance of health and rehabilitation centers, government dispensaries, health district offices and Homes for Senior Citizens, Day Centers for Senior Citizens and night Care Centers;
- Propose to the Minister responsible for education, persons to be appointed as presidents of primary school councils;
- Promote social policy initiatives within their locality;
- Safeguard local identity and for this purpose take the necessary initiatives to safeguard the local historical and cultural heritage, traditions and folklore;
- Extend assistance to artists, musicians and sports persons from their locality in order that they may develop their talents;

- Organize cultural activities;
- Protect the natural and urban environment of the locality and take all necessary measures to ensure the more efficient use of energy, good waste management and climate change initiatives;
- In agreement with the education authorities to make the best use of facilities already existing in schools in the locality after normal school hours such as sports facilities, school halls, information technology laboratories and other public facilities in the locality;
- Organize sports activities for all residents of all ages;
- Ensure to give effect to the concept of lifelong learning with all residents;
- Provide and maintain the service of a local library;
- Promote an entrepreneurial policy whereby the interests of shop owners and the needs of the residents and the consumer in the community are catered for;
- Enter into agreements with any public body or government department for the delegation to the Council of any of the functions of that public body or department;
- Perform any other function which shall be delegated to it by the government through the Minister by means of an order published in the Government Gazette;
- Provide for all such other works, things, matters and services which are not excluded from a Council's competence by any law for the time being in force nor assigned to any other authority.

35. Article 33(2) of the Local Councils Act provides that a number of functions are excluded from the competence of local councils. Specifically, arterial and distributor roads determined by the Structure Plan, national monuments, national parks or gardens, industrial estates, ports, airports and other national territories, establishments, buildings and the items specified in the Fourth Schedule of the Local Councils Act are the responsibility of the central government and they are totally excluded from the competence of the local councils.

36. Furthermore, under the provisions of the Local Councils Act, local councils do not have the power to enter into any form of commercial partnership or delegate any functions in a manner other than that established by or under the Local Councils Act or even borrow or lend any money except with the written authority of the Minister responsible for Local Government in writing. A local council may enter into public private partnerships both with the private sector or with non-governmental organisations, following approval by the Department for Local Government which shall grant such approval only if it is satisfied that such partnership would benefit the residents of the locality, and after having obtained the approval of the Minister of Finance and the Minister responsible for Local Government.

37. Devolution of any functions by the government to the local councils may be made by virtue of Article 33(3) of the Local Councils Act when the government will be convinced that local councils are prepared to take on such responsibility and indeed gradually, i.e. initially to a small number of local councils on a test basis.

38. Under the provisions of Article 39 of the Local Councils Act, local councils may make arrangements with any other public body, government department or other local councils for 3-month periods only (non-renewable), for the supply of goods, the provision of administrative, professional or technical services, the use of vehicles/plants/apparatus and related services, and the provision or maintenance of works, facilities, amenities, equipment or things for which the other entity is responsible to provide or maintain.

39. There is no reference in the Act allowing for the collection of taxes by the local council and to this end the Republic of Malta still maintains a reservation in the applicability of Article 9, paragraph 3 of the Charter. The income of local councils mainly comes from the allocation of the annual grant to each local council by the Minister of Finance under the Appropriation Act, which serves for the exercise of the functions of local councils which are provided under the local councils and are calculated on the basis of the formula prescribed in the Eighth Schedule of the said Act.

40. As to the employment of personnel, local councils may employ personnel and an executive secretary, albeit under the restrictions provided under the Act, i.e. the executive secretary is appointed by the Minister from a pool mainly composed of public service officials and the number of employees is restricted to 1 person per 2.500 residents, or in the event that the population is less than 2.500, then one employee on a part-time basis plus another one.

41. As can be deduced from the above, the functions of the local councils are limited to the provision of basic social services to the residents of the localities, the organization of activities and the performance of administrative tasks, having as a result for the local councils to regulate only a small share of the public affairs in each locality. The overwhelming desire and willingness of local councils and the Local Councils Association for the endowment of local councils with more functions was communicated to the delegation.

6. RECENT LEGISLATIVE DEVELOPMENTS IN LOCAL SELF-GOVERNMENT

42. Since the 2011 Monitoring Report and thereafter until the preparation of the present report, the Republic of Malta has effected a number of legislative amendments to the Local Councils Act and the Prime Minister exercising the powers conferred to him under the Local Councils Act has issued a number of Regulations by way of Legal Notices.

43. In 2011 the Local Councils Act was amended through the enactment of Act No. V of 2011, according to which Article 37A was inserted for the purpose of providing for the establishment of Regions and the operation of Regional Committees. This legislative amendment was accompanied by the issuance of Legal Notices No. 231 and 313 of 2011, which effected changes to the Fourth, the Tenth and the Eleventh Schedule of the Act.

44. In 2012, the Prime Minister issued the Local Councils Act (Substitution of Seventh Schedule) Regulations 2012, through which the Seventh Schedule to the Local Councils Act was substituted by a new Schedule. The new Schedule lays down the voting procedure for the election of the Mayor and the Deputy Mayor both, in the event of the existence of absolute majority of seats in the local council and where no such majority is achieved.

45. In 2013, the issuance of the Local Councils (Elections) (Amendment) Regulations 2013 by the Prime Minister through the Legal Notice No. 36 of 2013 enabled the provision of mixed polling places in retirement homes and hospitals, allowing the elderly and patients in hospitals greater access to the elections procedure.

46. In 2014, Article 12(h) of the Local Councils Act, which refers to persons who do not qualify to either stand for election as members of Local Councils or remain as members of same, was amended so that the imposition of a suspended prison sentence no more constitutes a bar to standing for election to a Local Council. A few months later, Article 5 of the Local Councils Act referring to the persons entitled to vote was also amended. According to the new Article 5 of the Local Councils Act, every citizen of Malta who attains the age of sixteen and has not been convicted of any offence connected with the election of members of local councils or members of the Administrative Committee is entitled to vote in elections of local councils and of Administrative Committees.

47. More importantly, according to the new Article 5, provision was made for the right and ability of EU nationals to vote in the local councils' elections. More specifically, nationals of EU Member States who attain the age of sixteen and have not been convicted of any offence connected with the election of members of local councils or Administrative Committees are entitled to vote in elections of the local councils and of Administrative Committees. Nevertheless, no person under the age of eighteen is able to carry out any other function in the electoral process, whether or not he/she is a Maltese national or a national of any other Member State of the European Union.

48. In the same year, 2014, the issuance of the Local Councils (Elections) (Amendment) Regulations 2014 through the Legal Notice 157 of 2014, changes effected changes to the election procedure and voting in hospitals and retirement homes.

49. The following year, the Act No. XXIV of 2015 placed a cap on each candidate's campaign expenditure, according to which no sum shall be paid and no expense shall be incurred by a candidate at an election, whether before, during or after an election on account of or in respect of the conduct or management of such election in excess of five thousand Euro.

50. Lastly, a second legislative amendment in 2015 brought about through the enactment of Act No. XL of 2015 effected further changes to the Local Councils Act directed for the purpose of allowing for the elections of Local Councils to be held at the same time as the elections of the European Parliament. Firstly, the term of the Councillors in Local Councils was extended from four to five years and the elections of Local Councils were henceforth held every five years instead of every four years. Furthermore, a reservation was included in the Local Councils Act according to which the first elections after 2015 are going to be held in 2019 on the same day as the election of the members of the European Parliament and all Councillors who are or shall be in office immediately after the publication of the result of the elections of Councillors held on the 11th of April 2015 shall remain in office until the holding of the next elections. The same provisions apply *mutatis mutandis* to Administrative Committees. The aforesaid Act also grants the power to the Prime Minister to postpone the election of Local Councils or the elections of Councillors to be held following the dissolution of a Local Council by a period of not more than one year for the sole purpose of holding the Local Councils elections on the same day as the election for the European Parliament or the General Election.

51. Additionally, the Act No. XL of 2015 amended the Local Councils Act in order to provide for the live-streaming of Local Councils' meetings through the internet in an audiovisual form on each Local Council's website, allowing the public greater access to such meetings.

52. It should be mentioned that according to the information provided by the Ministry of Justice, Culture and Local Government during the consultation process, a number of initiatives have recently been undertaken to strengthen and improve good governance, such as restructuring the Department responsible for local government, increasing the supporting role of a new Department for Local Government Monitoring and Support to local authorities, including on financial matters, as well as providing enhanced training for local government officials under the European Social Fund.

7. COMPLIANCE WITH THE CHARTER

53. This section of the report lays out the findings of the Congress delegation as to the compliance of the Republic of Malta with the Charter on an Article-by-Article basis.

Article 2 – Constitutional and legal foundation for local self-government

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

54. There is no explicit reference or recognition of local self-government either in the Maltese Constitution or in the Local Councils Act, which constitutes the core piece of legislation regarding local self-government in the Republic of Malta.

55. Instead of making reference and recognizing the principle of "local self-government", Article 115A of the Constitution provides for the adoption of a system of "local government", omitting or not including the word "self". Hence, there is no reference to the principle of "local self-government" per se either in the Constitution or in the Local Councils Act.

56. It may be argued that the reference in Article 115A of the Constitution to a system of local government and the administration of localities by local councils elected by the residents of the locality may be understood as a reference to local self-government. Moreover, one may argue that whether or not the principle of local self-government in Malta is endorsed or recognized in the Maltese legislation does not depend solely on the making of express reference to the term per se, but also on the existence of such legislative provisions which essentially apply this principle in practice.

57. From the text of the Local Councils Act and the observations made to the delegation during the monitoring visit, it is evident that the share of the public affairs regulated by the local councils is limited. The main reason behind this seems to be the financial dependence of local councils on the annual grant allotted to them by the central government through the Appropriation Act and the preparation of the Annual Budget. Furthermore, the National Audit Office, a fully autonomous entity, is responsible for the annual auditing of all local councils whilst the central government through the Ministers of Local Government and Finance, are granted extensive powers and rights to be involved in the conduct of the local affairs, limiting the scope of the local councils' competences, powers and legal authority to conduct the affairs of their localities themselves. Consequently, the omission of the word "self", as a component of the concept of local self-government, seems to reflect the local authorities' lack of autonomy in practice, their dependence on the central government and their inability to regulate and manage a substantial share of the public affairs.

58. In light of the above, the rapporteurs consider that Malta is not in conformity with Article 2 of the Charter.

Article 3 - Concept of local self-government

- 1 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.
- 2 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. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

59. Article 3, paragraph 1 of the Charter deals with the very notion of local self-government and touches upon the principle of subsidiarity, indicating that each local authority must have the ability, 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. The principle of subsidiarity is enshrined in Article 4, paragraph 3 of the Charter and hence, these two sub-Articles are usually examined together.

60. Historically, there were concerns that the share of public affairs regulated by local councils in the Republic of Malta was limited. This was partly attributed to the fact that the Republic of Malta was recently established and the Local Councils Act was only enacted in 1993. During the first Monitoring visit in 2002 it was observed that the local councils in Malta had been endowed with functions in a progressive but quite cautious manner. Many of the steps were rather small, and were hardly impressive either in number or in importance when compared to the state of local self-government in a number of other Member States.

61. Nine years later, the 2011 Monitoring Report acknowledged the extension of the functions of local councils. Despite this, the scope of functions of the central government had developed as well, having as a result for the overall assessment to remain the same. Furthermore, reference was made to the fact that the local councils' spending, which depends mainly on the annual grant, as compared to central government spending in Malta, was very little, i.e. then projected to reach 1,28% in 2010. As a result, the limited share of the public affairs regulated by the local councils was reflected in the small size of the local councils' spending as compared to the central government's spending.

62. The current functions of local councils and their extent are provided in Section 5 herein above and as can be deduced from the immediately preceding Section 6 describing the recent legislative amendments since the 2011 Monitoring Report, nothing has changed since then; the functions and competences of the local councils have remained the same.

63. Despite being separate legal entities, local councils do not have the power either to impose local taxes or to borrow money, having as a result for their income to depend on government grants and their financial dependence on the central government to be maintained. The financial dependence of the local councils on government grants affects their ability to regulate and manage effectively the share of the public affairs being under their own responsibility according to the Local Councils Act. Any expenditure is essentially regulated and approved by the central government and the House of Representatives through the introduction of an allocation provision in the Annual Budget.

64. The allocation of funds to local councils has witnessed a steady increase since 2009, reaching approximately thirty seven million Euros per year in 2016. Nevertheless, when compared to the total central government expenditure, the expenditure of local councils is still kept at very low levels, as the statistics of the same source suggest.

65. It is clear from the above that the role of the local councils in the overall running of the Republic of Malta is minor and limited. The Republic of Malta has to proceed with amendments to the Local Councils Act in order to afford the local councils with wider powers for the purpose of enabling them to regulate a larger share of the localities' public affairs.

66. The functions, competences and powers provided to local councils according to the Local Councils Act relate to the maintenance and upkeep of existing establishments, roads and facilities, as opposed to the building or the creation of new ones. The remaining functions relate to the provision of services and the organization of activities. Local councils do not have the power or the autonomy, legal and financial, to initiate infrastructure projects for the public benefit, which require significant amounts of public money. The inexistence of such a power or authority is incidental to the restrictions imposed on local councils when borrowing capital, the inability of local councils to impose local taxes and the limited financial resources available to local councils as a result of the above.

67. The functions excluded from the competence of local councils relate mainly to the use and administration of parks, gardens, monuments, airports, ports, industrial estates and other establishments or attractions which could have been exploited by the local councils to collect money, fees, duties and other kinds of taxes or income. The administration of these attractions and establishments is now being carried out by the central government, who receives the proceeds therefrom, when in fact such powers could be gradually devolved to local councils in order to enable them to secure their own funding, at least partly. The same applies to other services and functions which are now performed by the central government, such as the provision of building and town planning permits.

68. Compared to the local self-government systems of other Member States, local councils lack significant functions such as the administration and operation of sewerage and drainage systems, the operation and management of waste disposal facilities and the issuance of permits, such as the building and town planning permits which bring considerable income to the local authorities.

69. The impression received by the Congress delegation during the Monitoring visit was that local councils are eager to acquire more functions in order to regulate a greater share of the public affairs in their localities, provide better and more comprehensive services to the residents, undertake infrastructure and long-term projects, as well as be afforded with the power to impose and collect taxes to increase their financial autonomy and sustainability.

70. In light of the above, the Republic of Malta is not in compliance with Article 3, paragraph 1 of the Charter and the extent of the share of the public affairs under the local councils' responsibility is by no means substantial, as required under Article 3, paragraph 1 of the Charter. Instead, the share of the public affairs regulated by local councils is restricted to the narrowly defined and limited functions of local councils prescribed in the Local Councils Act.

71. Article 3, paragraph 2 of the Charter provides that the right of local authorities to regulate and manage a substantial share of the public affairs must be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, which may possess executive organs responsible to them. This provision does not affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

72. Article 115A of the Constitution secures that Councillors shall be elected by the residents of each locality, including citizens of other Member States of the European Union residing in the locality as per Article 5 of the Local Councils Act. To this extent the requirements of Article 3, paragraph 2 of the Charter are complied with.

73. Nevertheless, apart from the right of the residents of each locality to elect their representatives in the local council, the main issues calling for consideration are the following:

- Whether or not the local council as a body has the power to regulate and manage a substantial share of the public affairs, as well as whether or not such powers are exercised in practice by the Councillors or the executive organs of the local councils, and
- Whether or not sufficient accountability mechanisms are in place in order to keep such executive organs accountable to the local councils.

74. According to Articles 26 and 27 of the Local Councils Act, the two executive organs of each Local Council is the Mayor and the executive secretary. The Mayor is the representative of the Council for all purposes under the Local Councils Act, he presides over all the meetings of the Local Council and supervises all the functions of the local council. Furthermore, under Article 27 of the Local Councils Act, the Mayor has the legal and judicial representation of the Local Council together with the executive secretary.

75. The Local Councils Act provides an accountability mechanism for the Mayor. Article 29(1) of the Local Councils Act states that the Mayor or the Deputy Mayor shall cease to hold office in the event that a vote of no confidence is delivered by a majority of the Councillors in office. The remaining sub-paragraphs of the Article describe the mechanism through which such a vote may be passed. Hence, the Mayor and the Deputy Mayor are answerable and accountable to the local council, as a body, and they may be removed from office in the event that they don't enjoy the approval or confidence of the majority of the Councillors in office.

76. The executive secretary is a public officer who is appointed by the local council upon the approval of the Minister responsible for Local Government. According to Article 52(1) of the Local Councils Act, the executive secretary is the executive administrative and financial head of the local council, having the power and the competence to issue all notices, prepare the agenda in consultation with the Mayor, attend all meetings of the local council, draw up and sign the minutes of the local council and the committee meetings, submit detailed annual administrative reports to the Mayor, cause to be submitted to the local council estimates of the income and expenditure of the local council during the following financial year, carry out any other administrative duties as may be detailed by the Mayor, issue all orders bearing an expense as approved by the local council, execute legitimate decisions of the local council and stop any activity or initiative planned by the local council which is in breach of the law, regulations, national or local strategies or policies, or any activity or initiative which has not been approved by a local council decision.

77. An accountability mechanism is also provided under the Local Councils Act as to the executive secretary. According to Articles 49(5) and 49(6) of the Local Councils Act, the executive secretary may be removed by the Minister responsible for Local Government at the request of the local council upon approval of a motion put forward before the local council stating the reasons for his removal. Furthermore, the Minister responsible for Local Government has the power to transfer the executive secretary to another local council. The wording of the aforesaid Articles of the Local Councils Act gives discretion to the Minister responsible for Local Government to decide as to whether or not to remove the executive secretary. In the event that the local council disagrees with the decision of the Minister responsible for Local Government, then the local council may seek to challenge the said decision through judicial recourse, whereas the executive secretary seems to be able to seek judicial redress under labour and/or administrative law.

78. Both, the wording of the Local Councils Act and the impression obtained by the Congress delegation during the Monitoring visit in the Republic of Malta were that the running and operation of the local council and the execution of its functions are essentially carried out by the executive secretary of each local council, leaving only a limited number of decisions to be taken by the Councillors. In other words, the role and competences of the executive secretary, who is appointed by the central government, are so wide that limit the power of the Council, as the democratically elected body, to regulate a substantial share of the public affairs or at least those functions granted to each local council by the Local Councils Act.

79. The appointment and removal procedure of the executive secretary, as well as the role of the executive secretary have attracted considerable concern and criticism.

80. Drawing up a pool of candidates for the position of the executive secretary essentially means that the Local Council's freedom to choose their own secretary depends on the size and composition of the pool of potential executive secretaries.

81. The Minister's power to appoint, transfer or remove the executive secretary and his involvement in the local council's affairs through the approval or disapproval of the choice of the executive secretary, including his power to remove or transfer the executive secretary to another local council, attracts considerable criticism as a type of unnecessary intervention of the central government in the local affairs.

82. Given the organic nature of the executive secretary's position in the operation and administration of the local council, the decision for the appointment of the executive secretary should be borne and taken exclusively by the local council, without any interference or approval or involvement of the Minister responsible for Local Government or the central government. Instead of requiring the approval of the Minister responsible for Local Government, provision could be made for mere notification of the said Minister after the appointment of the executive secretary, without any veto power or right on the Minister's behalf.

83. As to the power of the Minister responsible for Local Government to remove the executive secretary, despite the fact that such a removal shall be made after the recommendation or motion and approval of the council, still it may be argued that the Minister's power to remove the executive secretary is incompatible with the aim of the Charter to afford local councils with the ability and power to regulate a substantial share of the local affairs, as well as choose their employees as autonomous organs of local self-government. The requirement of the Minister responsible for Local Government to approve the appointment and removal of the executive secretary of the local council should be abandoned and the local councils should be afforded the freedom to decide on the issue without the interference of the central government or any government actor.

84. In light of the increased executive and administrative role of the executive secretary, the power of the Minister responsible for Local Government to remove or transfer him/her to another local council and the requirement for the approval of his/her appointment by the Minister responsible for Local Government, there is limited compliance with Article 3, paragraph 2 of the Charter and the aforesaid issues need to be addressed by the Republic of Malta.

Article 4 - Scope of local self-government

- 1 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.
- 2 Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
- 3 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.
- 4 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.
- 5 Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
- 6 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.

85. The Constitution of the Republic of Malta is silent on the aforesaid issue and the functions of local councils are prescribed in Article 33 of the Local Councils Act. Specifically, Article 33 of the said Act provides an exhaustive list of the functions of local councils as well as their excluded functions and allows for more functions to be delegated to local councils by the central government.

86. Furthermore, by virtue of Article 3(2) of the Local Councils Act, the local councils do not have the power to engage in specific acts which are mentioned therein without the prior authority of the central government, as outlined in detail in Section 5 above.

87. Functions may be delegated by the central government to local councils through the Minister responsible for Local Government by means of an order published in the Government Gazette and by virtue of Article 33(1)(a)-(x) of the Local Councils Act, the local councils have the ability to provide for all such other works, things, matters and services which are not excluded from a Council's competence by law or assigned to any other authority.

88. In light of the above, the Republic of Malta complies with Article 4, paragraph 1 of the Charter and there is no violation of the said Article. Nevertheless, as mentioned above, the number and extent of functions assigned to local councils is very limited and more powers, functions and responsibilities could be delegated to local councils in accordance with the Act by means of Ministerial orders published in the Government Gazette.

89. Furthermore, the Local Councils Act does not impose on the Minister responsible for Local Government the obligation to consult with the local councils before the delegation of any functions to the local councils, allowing in this way the said Minister to delegate powers and responsibilities to local councils unilaterally. The delegation was informed during the monitoring visit that in practice there is lack of formal consultation on behalf of the Minister responsible for Local Government with the Local Councils Association and the local councils. Both, the Local Councils Association and the local councils expressed the view that the central government, through the Minister responsible for Local Government, should increase the frequency and extent of consultation with them both, regarding the delegation of functions to them as well as in order to address problems faced by the local councils.

90. Moreover, it has to be taken into consideration that the Maltese localities differ in size and population with the smallest localities, having some hundreds of residents whereas the largest may extent to more than twenty thousand residents. The issuance of universal one-size-fits-all Ministerial orders for all councils does not accommodate the needs of all local councils. Large local councils may have greater needs than smaller local councils and consequently the powers granted to all the local councils through universally applicable Ministerial orders may not be fit for them, whereas smaller local councils may not be able to cope with wider responsibilities granted to larger local councils. However, there seems to be no evidence or previous experience of arbitrary issuance of orders and the imposition of responsibilities or obligations with which the local councils could not cope, or the granting of powers which are wider than necessary.

91. At this point it should be noted that the combined reading of the initial paragraph of Article 33(1) and of Article 33(1)(x) of the Local Councils Act leads to the conclusion that the functions of "each" local council shall be, amongst others, to perform any other function which shall be delegated to "it" by the central government through the aforesaid Ministerial Orders. Hence, it may be argued that the Minister responsible for Local Government may issue orders for specific local councils only, on top of general Orders providing for the delegation of powers and responsibilities to all local councils, accommodating the increased needs of large localities and refraining from imposing heavy responsibilities to smaller local councils. Such an arrangement may be made for the capital city of Valetta, for which the Congress has repeatedly called Malta to make special arrangements.

92. According to Article 4, paragraph 2 of the Charter, local authorities must have full discretion, within the limits of the law, to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.

93. Apart from the inability of local councils to impose and collect taxes, as well as secure their own financial resources, which essentially affects the local councils' ability to exercise their initiative effectively with regard to matters which are included in their competence, the wording of the Local

Councils Act does not restrict local councils from undertaking initiatives when performing their functions or for the purpose of executing their functions. Nevertheless, during the monitoring visit the delegation was informed that partially due to the local councils' financial dependence on the government and partially due to the fact that prior to undertaking any initiative local councils seek government approval, it seems that in practice local councils do not exercise full discretion in undertaking initiatives nearly of any nature, even for small tasks within their sphere of competence. Instead, the prior approval or notification of the central government or the competent national authorities is sought.

94. Hence, despite the wording of the Local Councils Act and the inexistence of legislative impediments limiting local councils' discretion to exercise their initiatives, the practice followed by the local councils suggests that the local councils do not actually have full discretion to exercise their initiative with regard to matters which are not excluded from their competence nor assigned to any other authority. Consequently, the Republic of Malta is not in conformity with Article 4, paragraph 2 of the Charter.

95. Article 4, paragraph 3 of the Charter enshrines the principle of subsidiarity, according to which public responsibilities have to be exercised, in preference, by those authorities which are closest to the citizen and allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.

96. As mentioned above, this Article of the Charter is closely related to Article 3, paragraph 1 and hence, the aforesaid remarks stated under Article 3, paragraph 1 above apply to Article 4, paragraph 3 too.

97. The existing functions and responsibilities of local councils are narrow and limited. The most significant functions, powers and public responsibilities regarding the public affairs, the construction of roads and infrastructure projects, the issuance of permits, the operation and management of public benefit establishments, installations and infrastructure projects are all exercised by the central government, when in fact they should be exercised preferably by the local councils, which constitute the authorities closest to the citizens.

98. The text of the Local Councils Act implies a degree of reluctance on behalf of the Legislature to grant extensive responsibilities to local councils, which is evident by the fact that the central government is granted the discretion to delegate or devolve such powers or responsibilities to local councils when they deem this necessary or even when the central government considers that the local councils are ready to exercise such powers or responsibilities. During the monitoring visit, the delegation was made aware of the willingness and eagerness of the local councils to be granted more powers, functions and competences in order to be enabled to regulate and manage a larger share of the public affairs, engage in infrastructure projects, resolve local problems, undertake initiatives for the benefit of the localities' residents and execute meaningful tasks in their localities. The amendment of the Local Councils Act and the extension of the list of functions permitted to local councils under the law requires significant political decisions, which the political actors are not willing or ready to take at the time being.

99. Furthermore, the execution of the already narrow list of functions permitted to local councils under the Local Councils Act is even more restricted given the fact that the grants provided to the local councils every year are earmarked for the execution of specific functions and the practice of notifying the central government or obtaining its approval prior to undertaking any kind of initiative. Hence, the performance of the limited scope of public responsibilities allowed to local councils is not exclusively or fully performed by the latter, but instead, the central government maintains a determinative role as to the selection of the functions which will be executed and the resources which will be used by the local councils in the performance of their functions.

100. In light of the above, it seems very likely to the delegation that Malta does not conform with the obligations arising from the ratification of Article 4, paragraph 3 of the Charter. Local councils should be endowed with greater trust, capital-raising capacity and extended list of functions to enable them to exercise more public responsibilities, regulate a greater share of the public affairs and embark in infrastructure projects and services, where necessary, for the benefit of the residents. Additionally, more discretion should be allowed to local councils to perform their functions in practice and the

involvement of the central government should be reduced, while at the same time abandon the current practice of obtaining prior approval or notifying the central government before embarking in new initiatives or executing their functions. Moreover, more freedom should be allowed to local councils to decide how to use their monetary resources and consequently which public responsibilities to perform and to what extent.

101. Under Article 4, paragraph 4 of the Charter, powers given to local authorities must normally be full and exclusive, and they may not be undermined or limited by another, central or regional, authority except as provided for by the law.

102. Despite the fact that there are no provisions in the Maltese Constitution or the Local Councils Act expressly restricting the exercise of the functions permitted to local councils by the central government, the exercise of the local councils' functions necessarily depends on the annual grant, which is calculated and allocated on the basis of the formula laid down under the Local Councils Act. Since the extent of the financial and monetary resources available to the local councils to perform their functions is pre-determined and the local councils have no tax-collecting capacity, this necessarily means that the discretion and ability of the local councils to exercise their permitted functions is by no means full or exclusive. Instead, whether or not a local council will perform its functions permitted under the Local Councils Act and indeed to what extent, this will essentially depend on the size of the annual grant and the part of the grant earmarked to the performance of each function. Consequently, the power of the Local Councils to exercise their functions is not full or exclusive, contrary to the requirements of Article 4, paragraph 4 of the Charter.

103. Moreover, the submission of annual budgets to the central government and the practice of informing the national authorities or obtaining their approval prior to performing tasks or undertaking initiatives is not in line with Article 4, paragraph 4 of the Charter, which calls essentially for the lack of any restrictions or limitations on the local councils' power and discretion to perform their permitted functions under the Local Councils Act.

104. In light of the above, the Republic of Malta is not in conformity with Article 4, paragraph 4 of the Charter.

105. As to Article 4, paragraph 5 of the Charter, which calls for local councils, insofar as possible, to be allowed discretion in adapting the exercise of powers delegated to them by a central or regional authority to local conditions, it is evident from all the above that the Republic of Malta is not in conformity with this paragraph of the Charter. As can be deduced from the list of permitted functions stated in Section 5 of this report, the range of the local councils' functions is limited. Their execution essentially depends on the formula laid down under the Local Councils Act for the calculation of the grant allocated to each local council, since the latter neither have tax-collecting capacity nor do they have any other economic resources which may be considered adequate to finance the execution of their functions. The expenditure of the local council for each permitted function is pre-determined and it is factored into the grant allocated to the local councils as a lump sum, having as a result for the local councils to have no room for discretion for the application of such funds. Taking into consideration the strict administrative supervision undertaken by the central government, the practice of obtaining prior approval or notifying the central government before undertaking any initiative and the lack of income-raising capacity, the local councils do not have the discretion to adapt the exercise of the functions to local conditions. The impression of the delegation is that local councils lack the ability or discretion to set or follow priorities in the execution of their functions depending on the needs of their locality. Consequently, there is non-conformity with Article 4, paragraph 5 of the Charter.

106. According to Article 4, paragraph 6 of the Charter, local authorities have to 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.

107. The Local Councils Act contains a number of provisions under which the central government has to consult with the local councils or the Local Councils Association prior to taking any decisions or actions for any matters concerning the local councils.

108. Under Article 3(2A) of the Local Councils Act, prior to drawing a written policy regarding Local Government, the Minister must agree with the Local Councils Association.

109. Article 3(3) of the said Act provides that the local councils have to be consulted before any changes are effected to the boundaries of localities.

110. According to Article 37A(4) of the Local Councils Act, any change/transfer of a locality from one region to another may be made by the Minister responsible for Local Government after consultation with the Local Councils Association, whereas under Article 37A(5) of the Act, the functions of Regional Committees shall be those established by the Minister responsible for Local Government by regulations made following consultation with the Local Councils Association.

111. According to Article 47A(3) of the Local Councils Act, after consultation with the local council of a locality, the Minister responsible for Local Government may from time to time declare an area within the locality as a Community for the purposes of the law.

112. Lastly, during the consultation process the Ministry of Justice, Culture and Local Government informed the rapporteurs about recent setting up under the Chairmanship of the Director General (Local Government) of a Local Government Good Governance Working Group (LGGG) with a view to serving as a consultative forum and making recommendations to strengthen good governance practices at local level. The LGGG comprises representatives from the Local Councils Association, the Association of Maltese Local Council executive secretaries, the Office of the Auditor General and the Department of Local Government Monitoring and Support.

113. Nevertheless, during the monitoring visit the delegation was made aware of the fact that there is lack of formal consultation on behalf of the central government with the Local Councils Association and the local councils. Complaints were voiced to the delegation as to the inexistence of established formal consultation mechanisms and the delegation is left with the impression that consultation mechanisms should be laid down under the law and followed in practice, ensuring that local authorities' opinion, views and needs are both, heard and taken seriously into consideration, prior to taking or implementing any decision which affects either them or the residents of their localities.

114. In light of the above, the rapporteurs conclude that the Republic of Malta is not in conformity with Article 4, paragraph 6 of the Charter.

Article 5 – Protection of local authority boundaries

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.

115. According to Article 3(3) of the Local Councils Act, changes in the boundaries of localities may be made only in exceptional circumstances and only by the Electoral Commission, after consultation with the Minister, the local councils concerned, and, wherever possible, with the Local residents. The Electoral Commission shall effect such changes through a legal notice in the Gazette.

116. The Electoral Commission is established under Article 60 of the Constitution and consists of a Chairman, serving as Chief Electoral Commissioner, who is appointed to that office from the public service, and such number of members not being less than four as may be prescribed by any relevant law. The members of the Electoral Commission are appointed by the President acting in accordance with the advice of the Prime Minister, which is given after consultation with the Leader of the Opposition.

117. Malta complies and copes well with the requirements of Article 5 of the Charter, since the right of the Maltese Local Authorities affected to be consulted prior to changes to their boundaries is secured and safeguarded under Article 3(3) of the Act.

Article 6 - Appropriate administrative structures and resources for the tasks of local authorities

- 1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- 2 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

118. The internal administrative structure of the local council consists of the executive secretary and the employees of the local councils.

119. The provisions of the Local Councils Act regarding the appointment, removal, transfer and functions of the executive secretary are stated in detail herein above. Additionally, it is noted that the obligation under Article 49(1) of the Local Councils Act to have an executive secretary is not in itself in breach of the Charter and comparable provisions are not uncommon in other Member States, aiming to ensure some permanence in the running of the local council and to maintain some distinction between “political” functions, which are carried out by the Council and the Mayor, and “administrative” functions which are meant permanently to be carried out by the executive secretary.

120. As to the employees of each local council, Article 53(1)(a) of the Local Councils Act provides that each local council may appoint such employees as it thinks necessary for the efficient discharge of its functions, but it may not employ more than one person per 2.500 residents. Where the population of the locality is less than 2.500 residents, the local council may employ one person on a part-time or full-time basis, plus another one if they wish to do so.

121. The employees of each local council are appointed for a period of three years and their contract may be renewed for successive three year periods under such terms and conditions as may be prescribed by regulations issued by the Minister responsible for Local Government.

122. Clerical services may not be purchased by the local councils, as per Article 53(1)(c) of the Local Councils Act, but instead, according to Article 53(1)(b) of the said Act, the Department for Local Government may authorize a local council to employ clerical personnel in excess of the limit established by law, upon receiving a relevant justified request by the Local Council and obtaining the approval of the Minister responsible for Local Government.

123. The Minister responsible for Local Government may prescribe the qualifications to be possessed by, the remuneration payable to and the technical, administrative and office procedures to be followed by the employees of the local council.

124. The removal from office, suspension or re-instatement or any withholding of remuneration of the executive secretary and of any employees of the local council for whom qualifications are prescribed under Article 53(2) of Act, are subject to the approval of the Minister responsible for Local Government.

125. As it is evident from the above, the maximum number of employees which may be employed by each local council is based on its population, each local council generally having the ability to employ one employee per 2.500 residents.

126. The population of a locality is indeed an indication of the needs of each local council. Nevertheless, it may be argued that this is not the only indicator of the extent and nature of the locality’s needs for employed personnel. Despite the above, since the local councils do not have the power to engage in infrastructure projects and other ventures which require both, considerable expenditure and a great number of technical, supervisory and administrative personnel, it may be argued that the existing mechanism for calculating the maximum number of local councils’ employees may not be unsatisfactory.

127. In order to get an idea of the number of personnel employed by the local councils, one has to look at the population of the Localities. According to the Electoral Commission (Department of Social Security and Department for Citizenship and Expatriate Affairs), the general population estimate in March 2013, as prepared by the Ministry of Finance for the purpose of Article 73 of the

Act, was 446,547. It arises from the aforesaid statistics that the average population per locality in 2013 was 6.567 citizens, and 14 out of the total of 68 localities, i.e. 20% of the localities, had less than 2.500 citizens.

128. According to the Local Councils Act, localities with less than 2.500 residents may employ up to two (2) employees. The Act is not clear as to the factors that should be taken into consideration in order to decide on what grounds such local councils may employ the second employee. Hence, it may be argued that the Legislature left this decision to the discretion of the local councils. The said Act clarifies that the executive secretary is not included in the maximum number of employees who may be employed by the local councils.

129. Determining the maximum number of employees of a local council on the basis of the population of each locality may be argued not to identify and cater efficiently for the needs of the local councils, the localities and their population, while the local councils could come together (as they indeed do) to create synergies and economies of scale in order to provide higher quality services to the residents at a reduced cost, and the employees of local councils in more populous localities could undertake some of the functions of the less-populous ones and vice versa, as may be necessary on a case-by-case basis.

130. The Legislature's choice to determine the maximum number of the local council's employees on the basis of its population creates paradoxes. For example, according to the aforesaid statistics of 2013, the locality of L-Imdina had 294 residents. Hence, the local council of L-Imdina has the ability to employ up to two (2) employees, plus the executive secretary of the local council. The L-Imdina locality shares borders, among others, with the localities of Rabat, with a population of 6,911 residents, and Attard with 10,502 residents, as well as L-Imtarfa which has a population of 2,569 residents.

131. L-Imdina and L-Imtarfa may employ up to 2 employees each. Nevertheless, the same applies for Rabat whose size is much bigger than the L-Imdina and L-Imtarfa. Rabat covers an area of 26.6 sq. km, which is more than 16 times bigger than the combined area covered by L-Imtarfa, which extends at an area of 0,7 sq. km, and L-Imdina, whose area covers 0.9 sq. km.

132. Another example would be Sliema locality that has a population of 16,854 residents (2014) within a small area of 130ha and which can benefit from a larger portion of employees, whilst Valetta, being the capital city and therefore with particular needs, has a small population of 5,723 residents (2013) and thus restricted manpower.

133. Servicing and reaching residents in an area which is greater in size requires more personnel than performing functions in a smaller area, and the population of each locality is not accurately distributed per square kilometer in the Republic of Malta. Hence, it may be argued that the choice of setting the maximum number of each local council's employees on the basis of the locality's population requires reconsideration.

134. Nevertheless, apart from the determination of the maximum number of employees by the Act, the local councils do indeed have the ability to employ administrative and other personnel. The choice of the persons to be employed and the tasks to be performed by them is left by the Local Councils Act to the local councils, allowing them to determine their own internal administrative structure, albeit with some limitations, as mentioned above.

135. The above are not the only limitations provided under the Local Councils Act. Under Article 53(2) of the said Act, the Minister responsible for Local Government may, by regulations, prescribe the qualifications possessed by, the remuneration payable to and the technical, administrative and office procedures followed by any person appointed to the office of the executive secretary or Deputy executive secretary of a council.

136. In light of all the above, it seems that there is partial conformity of the Republic of Malta with Article 6, paragraph 1 of the Charter. The rapporteurs consider that the Maltese authorities should revise the system of determination of local councils' internal administrative structures in order to improve it, including the legislative provisions and practice followed as to the approval of the executive

secretary by the central government and the method of determining the maximum number of employees of each local council, which are both not in line with the spirit and aims of the Charter.

137. According to Article 6, paragraph 2 of the Charter, 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 and to this end, adequate training opportunities, remuneration and career prospects have to be provided.

138. There is no legislative provision in the Local Councils Act dealing expressly with this requirement. Nevertheless, as regards the position of the executive secretary, prior to his/her appointment such a person has to successfully complete a training course for executive secretaries. This constitutes a mechanism for ensuring that the persons employed as executive secretaries have the required training, skills and competence to discharge their responsibilities.

139. Apart from the aforesaid practice which regards only the position of the executive secretary, there seems to be no other known practice to date for a similar system as to the recruitment of employees. The law gives the ability to the local councils to assess the candidates' skills, competence and ability to perform the duties and responsibilities accompanying the vacant position, and employ the most suitable person for the vacancy.

140. There seems to be no violation of Article 6, paragraph 2 of the Charter.

Article 7 – Conditions under which responsibilities at local level are exercised

- 1 The conditions of office of local elected representatives shall provide for free exercise of their functions.
- 2 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.
- 3 Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

141. There is no provision in the Local Councils Act pointing to anything contrary to the obligations imposed under Article 7, paragraph 1 of the Charter. Instead, the Local Councils Act provides immunity to Councillors from legal proceedings in certain cases. Article 21 of the Local Councils Act gives immunity to Councillors in the event that the statements, copies of the agenda, particulars and copies of other documents given by them to the media contain defamatory statements, provided that this is not done with malice.

142. Furthermore, Article 13(1) of the Local Councils Act prohibits the central government from transferring a Councillor without his/her consent to an office or position which disqualifies him/her from being a Councillor.

143. Apart from the aforesaid provided to the Councillors, the Local Councils Act obliges the Councillors to disclose any pecuniary interest in any matter discussed during the meetings of the local council and refrain from taking part in any meeting of the local council during which such an issue will be discussed. Furthermore, Article 20 of the Local Councils Act imposes the obligation on every Councillor to disclose to the local council in writing any relevant family relationship known to him/her to exist between himself and any person who he/she knows that either holds, or is a candidate for appointment to, any office in the local council. These obligations safeguard the local councils, requiring every Councillor to abide by his/her duty of disclosure. In other words, the free and uninfluenced exercise of a Councillor's functions constitutes both, a right and an obligation.

144. In light of the above, there is no violation of Article 7, paragraph 1 of the Charter.

145. Article 7, paragraph 2 of the Charter provides that appropriate financial compensation should be allowed for expenses in the exercise of the office in question as well as appropriate compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.

146. This requirement of the Charter is partly addressed by Article 32 of the Local Councils Act, which provides for the payment of an honorarium to the Mayor and the allowance payable to the Councillors of each locality.

147. As regards the honorarium payable to Mayors, in localities with less than 5.000 residents, this honorarium amounts to 1/3 of the honorarium payable to a member of Parliament. In localities having less than 15.000 residents, the honorarium is equal to ½ of the honorarium payable to a member of Parliament and in all localities having more than 15.000 residents, the honorarium shall be 2/3 of the honorarium payable to a member of Parliament. The delegation was informed that the honorarium of Mayors ranges from €300 up to €1.000 per month depending on the population of each locality. The Local Councils Act indicates that the said honorarium may, at the choice of the Mayor, be deemed as income for the purposes of the Social Security Act.

148. As regards the allowance payable to Councillors, Article 32(2) of the Local Councils Act provides that the Minister responsible for Local Government may by regulations establish the allowance payable to Councillors. Such an allowance has to be proportionate to the number of meetings attended by each Councillor and no payments for reimbursement of expenses may be allowed.

149. As can be deduced from the above, the Councillors and the Mayor of each locality are indeed provided with an allowance for their service in office. Nevertheless, what the Congress delegation observed during the meetings with local councils and the Local Councils Association is that the allowance payable to Councillors and the honorarium payable to Mayors are by no means adequate. The insufficiency of the Councillors' allowance is further aggravated by the inexistence of a provision in the Local Councils Act for the payment for loss of earnings or remuneration for work done and corresponding welfare protection to Councillors and the Mayor, despite the express wording of Article 7, paragraph 2 of the Charter. Hence, accommodation and travel expenses for trips to other States, as well as other expenses incurred in the execution of the Councillors' duties are not reimbursed and this is an issue that should be revisited by the Republic of Malta. Simultaneously, the current transportation, telephone and internet reimbursements included in the allowance payable to Councillors are deemed insufficient.

150. The sum of €300 up to €1,000 per month payable to Mayors and the allowance of €100 per month payable to Councillors needs to be increased. Service at the positions of Mayor and Councillor is seen as almost voluntary, since the honorarium/allowance payable is not even enough to cover their expenses and the value of the time spent in the execution of their duties. Local authorities suggested that the system for the payment of honorariums and allowances should be revisited and reformed in order to ensure that Mayors and Councillors receive adequate remuneration and compensation for their service. At the same time during their meetings, the rapporteurs were told that the service of the Mayor should become a full time profession, for which the person elected should be adequately remunerated and reimbursed in order to perform his/her duties and obligations. Reform of the current system of Mayors' and Councillors' remuneration and reimbursement is expected to encourage greater public interest in the local elections, increased participation on behalf of the residents in the local affairs and higher levels of devotion demonstrated by Mayors and Councillors in the execution of their duties and responsibilities.

151. In light of the above, there is part conformity of the Republic of Malta with the requirements of Article 7, paragraph 2 of the Charter and non-compliance with the requirement of the said Article for appropriate compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.

152. Furthermore, it should also be stressed that during the monitoring visit the delegation was informed that out of the 68 mayors of local councils in Malta only 8 of them are women and the participation of women in local councils as Councillors is limited.

153. Article 7, paragraph 3 of the Charter prescribes that any functions and activities which are deemed to be incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

154. The aforesaid requirement of the Charter is fully complied with according to Article 12 of the Local Councils Act, which provides that no person shall be qualified to stand for election as a member of a local council or to continue holding office as a Councillor in the event of being:

- A member of the House of Representatives or any similar institution in another Member State or the EU, or
- A member of the European Parliament, or
- A member of a disciplined force as defined in Article 47(1) of the Constitution of Malta, or
- An employee of the local council for which elections are to be held or an executive secretary in any one of the local councils, or
- A person who holds any office the functions of which involve any responsibility for or in connection with the conduct of any election of members of the Council or the compilation of or revision of any electoral register, or
- He/she is an undischarged bankrupt having been adjudged or otherwise declared bankrupt or for prodigality by a Court in Malta, or is otherwise determined to be of unsound mind, or
- He/she is serving a sentence of imprisonment exceeding 12 months, imposed on him/her by any Court in Malta, or
- He/she is a member of the judiciary, or
- He/she is disqualified from membership to the Local Council by or under the Act or any other law for the time being in force in the Republic of Malta.

155. Hence, the Republic of Malta complies with the requirements of Article 7, paragraph 3 of the Charter.

Article 8 – Administrative supervision of local authorities' activities

- 1 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.
- 2 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.
- 3 Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

156. The Local Councils Act provides for various kinds of financial oversight, namely through the appointment of Local Government Auditors, Ministerial measurement of performance, the Ministerial power to request books and accounts from the executive secretary and the preparation of a Business and Financial plan.

157. Under Article 65 of the Local Councils Act, the Auditor General appoints persons known as "local government auditors", who may be either individuals or partnerships, to audit the accounts of every local council, including those of the Local Councils Association and the Regional Committees, subject to such conditions as deemed fit to ensure the required level of quality and assurance. Such an appointment is for a period of 1 (one) year renewable each year, for a total period of not more than 5 (five) consecutive years. In the case of appointment of individual local government auditors, they must neither be Councillors of the locality whose books they are auditing, nor be in the employment of the Council of the said locality or be related by consanguinity or affinity in the direct line or up to the 3rd degree in the collateral line, to any Councillor of that locality. According to Article 65(3) of the Act, in the exercise of their duties, local government auditors have access to all books, records, returns and other documents relating to the accounts of local councils and may require any person holding or accountable for any such books or documents to appear before them at the audit. Furthermore, under Article 66(2) of the Act, the local government auditors are required to satisfy themselves that local councils have made arrangements for securing economy, efficiency and effectiveness.

158. The second kind of administrative supervision mentioned above is undertaken by the Minister responsible for Local Government and the Minister of Finance. According to Article 66 of the Local Councils Act, the Minister responsible for Local Government after consultation with the Minister of Finance prescribes indicators to measure the performance of local council services, such indicators directed towards facilitating comparisons of cost, economy, efficiency and effectiveness between local councils over time. Performance Indicators for local councils are established by the Minister responsible for Local Government and regular appraisals on the basis of such indicators are made and then published.

159. Thirdly, according to Article 64 of the Local Councils Act, the Minister responsible for Local Government may, either of his own accord or at the request of the Minister of Finance, by notice in writing require the executive secretary to produce such books or accounts, records and any other documents as may appear to him/her to be necessary without giving any reason for such demand.

160. Finally, local councils have the obligation to prepare, discuss, approve and send to the Minister responsible for Local Government and the Minister of Finance 3-year business and financial plans, which are revised or confirmed annually.

161. Further to the above, the central government exercises indirect supervision over local councils through the allocation of annual grants upon taking into consideration based on the formulae prescribed under or on the basis of the Local Councils Act and the budget prepared by each Local Council.

162. The aforesaid provisions of the Local Councils Act and the tight supervisory powers of the central government over the financial management and expenditure of local councils indicates that the system insists much more on preventive or even day-to-day control than on verifying in the aftermath whether wrongdoings have been committed, suggesting that this is due to the young age of the local governance system in Malta and the existence of an element of distrust towards the local councils. The latter aspect is dealt with by the National Audit Office, through its ex post financial and compliance audits, the Office identifies any possible shortcomings committed during the previous financial year and puts forward relevant recommendations to address such issues. Furthermore, when combined with the extended intervention powers of the central government in the local affairs and the execution of functions that should normally be undertaken by local councils, this kind and extent of administrative supervision of local councils by the central government limits the autonomy of local councils even further, compromising the aim of self-governance pursued by the Charter.

163. Concern was already voiced in the 2011 Monitoring Report as to the tightness of the administrative monitoring observed over the local authorities by the central government. Nevertheless, no legislative amendment was pursued or effected to date in order to address such concerns.

164. In light of the above, the Republic of Malta is not in conformity with Article 8 of the Charter.

Article 9 – Financial resources of local authorities

- 1 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.
- 2 Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
- 3 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.
- 4 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.
- 5 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. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.

- 6 Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
- 7 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.
- 8 For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

165. According to Article 55(1) of the Local Councils Act, each year the Minister of Finance allocates a provision under the Appropriation Act which serves for the exercise of the functions of the Councils. The amount appropriated has to be allocated by the Minister responsible for Local Government to each Council on the basis of the formula determined in the Eighth Schedule to the Local Councils Act. These allocations are made available to the local councils by the Minister after a written request by the executive secretary.

166. According to the Eighth Schedule of the Local Councils Act, the financial allocation to local councils covers landscaping and maintenance of parks and gardens, roads maintenance and roads fixtures, waste management and administration. A grant is allocated to each of the aforesaid categories and then it is distributed to local councils on the basis of the formula provided under the Eighth Schedule of the Local Councils Act. The amount of the grant allocated to each local council constitutes a proportion of the total grant allocated to all local councils for the said category, which is equal to the area in the said locality covered by the establishments for which the grant is given, divided by the total area of such establishments in Malta.

167. For example, the grant given to each local council for landscaping and maintenance of parks and gardens equals to the area covered by parks, gardens, soft areas and verges in each locality in proportion to the total area of parks, gardens, soft areas and verges of all the localities in Malta, multiplied by the total apportionment allocated by government for the maintenance of parks, gardens, soft areas and verges.

168. Apart from the annual grant, the central government may allocate or provide for additional grants by way of special funds, schemes to raise additional funds and supplementary funds.

169. According to Article 58 of the Local Councils Act, the Minister responsible for Local Government may, after the approval of the Minister of Finance, establish special funds and make such funds available to local councils. These funds are distributed by means of regulations made by the Minister.

170. Furthermore, according to Article 60 of the Local Councils Act, each local council has the power to raise funds by means of any scheme designed to provide additional funds to those allocated to it under Article 55 of the same Act.

171. During the consultation process, the Ministry of Justice, Culture and Local Government highlighted a total increase in €3.956 million in financial allocation to local councils in 2017 compared to the previous year (€2 million in direct funds to be distributed in terms of the Funding Formula in the Eighth Schedule of Local Councils Act and €1.956 million for special initiatives).

172. Nevertheless, by virtue of Article 61, the Local Councils Act expressly prohibits the local councils from authorising any works, the value of which exceeds the annual provision allotted to it for that financial year taking into consideration the amount forecast for payment of acts of ordinary administration, except upon obtaining the approval of the Minister responsible for Local Government and the Minister of Finance after a written request by the executive secretary indicating the amount of net surplus funds resulting from previous years. If the amount appropriated by the local council under the Appropriation Act is deemed insufficient, the Minister of Finance and the Minister responsible for Local Government may approve the grant of a supplementary sum to the local council.

173. Moreover, the local councils do not have the power to hold or invest in commercial undertakings any money received by way of grant by the central government without the written approval of the Minister responsible for Local Government.

174. According to Article 55(3) of the Local Councils Act, in allocating the appropriate amount to a Local Council, the Minister may retain any portion of such amount if he/she deems it to be necessary to either ensure redress of any negative balance, the production of copies of minutes of the Local Council and the Finance Committee within 3 (three) working days after their approval, the production of copies of any financial statement or document the submission of which is determined by the Act and the production at all times of the documents that may be demanded under the Act, or the payment by the local councils of any penalties imposed for failure to submit the financial declarations or other documents to the central government promptly. Such an amount may not exceed 1% of the financial allocation at any given year.

175. Furthermore, under Article 55(3) of the Local Councils Act the Ministry of Finance may allocate a fund each year to compensate for the co-financing of European Union projects.

176. The expenditure of each local council is monitored and controlled by the central government through the provision of annual budgets. According to Article 56(1) of the Local Councils Act, each local council shall no later than 2 (two) months after its first election and, subsequently once during the month of January in each financial year or within 15 days from the date the council is notified of its allocation whichever is the later cause to be submitted to it estimates of the income and expenditure of the council during the following financial year. Prior to their transmission to the central government, these estimates are approved by each local council and then they are forwarded to the Minister responsible for Local Government within the time limits specified under the Act.

177. Donations of any kind to local councils are prohibited by the Act under Article 63A of the Local Councils Act.

178. For the purposes of acquiring additional funding, the ability of local councils to borrow capital from non-governmental actors is limited. According to Article 3(2)(a) of the Local Councils Act, local councils do not have the power to borrow or lend any monies except with the authority of the Minister responsible for Local Government in writing, with the concurrence of the Minister of Finance. In the event that the loan proposed to be undertaken for the finance of a project is repayable within a period longer than 8 (eight) years, such a proposal has to be submitted to the residents of the locality for approval in a referendum pursuant to Article 3, paragraph 6 of the Charter. Article 63 of the Local Councils Act prohibits local councils from investing in any commercial undertakings unless authorized to do so in writing by the Minister responsible for Local Government and according to Article 61 of the same Act, the local councils cannot authorize any works the value of which exceeds the annual provision allocated to it for that financial year taking into consideration the amount forecast for payment of acts of ordinary administration.

179. As it is evident from the above, the provisions of the Local Councils Act dealing with the allocation of government grants to local councils are extensive and quite restrictive to local councils. The local councils are entirely financially dependent on the central government grants allocated to them annually and any supplementary or special funds are only provided to the local councils upon the written authorisation and approval of the central government through the Minister responsible for Local Government and the Minister of Finance.

180. During the consultation process, the Ombudsman stressed to the rapporteurs that the funds allocated by the central government to the local councils were inadequate and as a consequence the councils experienced financial difficulties preventing them from effectively performing and accomplishing their functions under the Local Councils Act. For instance, the Office of Ombudsman repeatedly received complaints against local councils from individuals seeking to recover the costs of repairing damage caused to vehicles as a result of bad maintenance of the roads which falls within the responsibility of the local councils. According to Ombudsman maintenance of the roads, streets, pavements and passageways in proper conditions can only be achieved if the councils, that are not economically independent and depend on the grant annually allocated to them by the central government, receive sufficient funds to, inter alia, implement roadwork projects for the benefit of the residents and visitors.

181. It is worth noting that there is no provision in the Act allowing local councils to raise money through taxes, contrary to Article 9, paragraph 3 of the Charter, which has not yet been ratified by the Republic of Malta. This maintains the financial dependence of local councils on the central government and prevents the local councils from regulating their affairs independently, contrary to the pursuit of the Charter for the creation of self-governed local authorities. Without financial independence to determine their expenditure and raise revenues through local taxes, Local Councils may not be considered entirely self-governed.

182. Furthermore, the grants allocated to local councils are provided to them for specific purposes only, as the categories mentioned above indicate, being in this way earmarked for specific purposes. This is inter-connected with the restrictive but detailed list of functions provided to the local councils under the Article 33 of the Local Councils Act. Consequently, it may be argued that the local councils are not able to dispose of their financial resources freely. Instead, the grants provided to them are directed towards covering specific categories of expenditure and the local councils do not have the ability or financial capacity to engage in the execution of non-mandatory tasks.

183. As to the adequacy of the grants allocated to them, one has to examine the size of the sums provided to local councils. The statistics mentioned above indicate that the size of the local councils' resources have been kept at the same level for years and the expenditure on local councils as a proportion of the total annual government expenditure is miniscule, being approximately 1%. Nevertheless, this may be incidental and inter-connected with the fact that the Legislature has not provided a wide array of functions and responsibilities to the local councils. Since the functions of the local councils are limited and the expenditure of the local councils are pre-estimated through the annual budgets, approved by the House of Representatives and executed by the central government by way of allocation of grants, the maintenance of the said grants in low levels does not seem to come as a surprise.

184. In the event that local councils wish to embark in new projects or extend their expenditure in ways which are inconsistent within the narrow ambit of the Local Councils Act, they have to request additional funding, either by the central government directly or by obtaining a loan upon securing the consent of the central government. Such a task is reserved for the central government. Furthermore, during the monitoring visit the delegation was informed that obtaining additional funds for the execution of tasks not included under the Local Councils Act or the execution of infrastructure projects or even for the more effective performance of the local councils' responsibilities is by no means an easy task and such a process is time consuming. Furthermore, the restrictive list of functions provided under the Local Councils Act does not leave much room to local councils to engage in larger and costlier projects for the benefit of the citizens.

185. The delegation was informed that local councils experience financial difficulties which prevent them from performing their functions fully and effectively. It was emphasized to the delegation that the amount of the grant allocated to local councils every year is inadequate. Taking into consideration that local councils have no tax-collecting capacity and that their remaining income and monetary resources are severely limited, it is evident that the local councils experience considerable difficulty in executing their functions.

186. Apart from the above, consideration has to be given to the fact that part of the financial resources allocated to some local councils are used by Communities, established and operating within some of the localities, hence limiting the available sum of the grant allocated to each of these local councils.

187. In light of the above, the Republic of Malta is in violation of Article 9, paragraph 1 of the Charter, since the grants allocated to local councils for the execution of their functions are inadequate and they are unable to perform their functions effectively or at all, by reason of lack of economic resources.

188. Malta is also not in conformity with Article 9, paragraph 2 of the Charter since the local council's financial resources are not commensurate with their functions, as mentioned above.

189. The Republic of Malta has not yet ratified Article 9, paragraph 3 of the Charter. Local councils are unable to impose and collect taxes and charges and despite the recommendations of the 2011 Monitoring Report, no change has been undertaken for this purpose to date.

190. Furthermore, Malta is not in conformity with Article 9, paragraph 4 of the Charter, since the formula set out in the Eighth Schedule of the Act, as well as the overall system for the provision of grants is not of a sufficiently diversified and buoyant nature and in light of the inadequacy of the financial resources available to the local councils, the latter find it difficult to cope with the real evolution of the cost of carrying out their tasks and permitted functions.

191. Nevertheless, there seems to be compliance with the equalization provisions of Article 9(5) of the Local Councils Act, since according to the formula laid down under the Local Councils Act, the size of the grant allocated to each locality equals to a proportion of the total government expenditure on the categories stated therein, taking into consideration the figures for each locality separately and ensuring a uniform approach to spreading the available grants to the localities.

192. As to Article 9, paragraph 6 of the Charter, as mentioned above there is lack of formal consultation on behalf of the central government with the local authorities and as a result, the requirement of the said paragraph of the Charter for the existence of adequate consultation procedures is not observed. Malta is not in conformity with Article 9, paragraph 6 of the Charter.

193. The use of the grants allocation formula laid down in the Eighth Schedule of the local councils Act deprives the Republic of Malta from compliance with Article 9, paragraph 7 of the Charter and there is non-conformity with the said paragraph of the Charter. The funds allocated to each local council by way of grants are provided for specific purposes only and local councils cannot dispose them freely in the exercise of their functions or choose to cut expenditure on one function in order to spend more money on another function at any given year. The ability and discretion of local councils to use their financial resources freely is open to serious doubt in light of their financial dependency on the central government grants and the mechanism/formula for their distribution to each local council.

194. The ability of local councils to have access to national markets for the purpose of borrowing for capital investment pursuant to Article 9, paragraph 8 of the Charter is restricted and depends on obtaining the approval of the Minister responsible for government in advance. A holistic view of the provisions of the Local Councils Act regarding the acquisition of loans gives the impression that such a right is severely restricted by the Act both, by reason of the existence of the requirement for securing the consent of the central government through the Minister responsible for Local Government and because of the need to secure a positive outcome to a referendum in the event that the period of repayment of such a loan will last for more than 8 years. It may be argued that the recent economic crisis and the practices used by financial and credit institutions require and necessitate the approval of the central government since the latter may be required by financiers to guarantee such obligations. Nevertheless, local councils' access to the national capital market is severely restricted and no investment in any commercial undertaking may be made without the consent of the central government.

195. Hence, compliance with Article 9, paragraph 8 of the Charter is limited. Despite the fact that local councils do have access to the national capital market under the Local Councils Act, the restrictions imposed and the conditions in place under the said Act compromise the aim of Article 9, paragraph 8 of the Charter for access to the national capital market.

Article 10 – Local authorities' right to associate

- 1 Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
- 2 The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
- 3 Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

196. According to Article 37(1) of the Local Councils Act two or more local councils may discharge their functions jointly and they may also arrange for the discharge of these functions by a joint committee of theirs or by an officer of one of them. Furthermore, under Article 37(2) of the Act, local councils having such an arrangement may meet in joint session to discuss the discharge of the functions to which the arrangement relates and all Councillors shall be entitled to participate and vote where required unless the arrangement otherwise provides.

197. Malta seems to comply fully with this provision of the Charter. Local councils have made use of the aforesaid rights quite extensively in the recently devolved fields of local enforcement, street lighting etc.

198. According to article 10, paragraph 2 of the Charter imposes the obligation on signatory States to recognise the entitlement of local authorities to belong to an association for the protection and the promotion of their common interests and to belong to an international association of local authorities has to be recognized in each State.

199. According to Article 37(2) of the Local Councils Act, local councils shall form part of an association recognised as such by the government for the protections and promotion of their common interests as well as belong to international associations of local government authorities.

200. Malta complies fully with this requirement of the Charter and Article 37, paragraph 2 of the Charter essentially mirrors the wording of Article 10, paragraph 2 of the Charter. The Association mentioned in Article 10(2) of the Act is the Local Councils Association which is quite active notwithstanding its limited clerical and other resources.

201. Article 10, paragraph 3 of the Charter provides that local authorities must be entitled to co-operate with their counterparts in other States.

202. Article 79(1) of the Local Councils Act enables a Local Council to make twinning arrangements with any city, town, village or other locality in any other country, provided that the approval of the Minister responsible for Local Government is obtained, upon the latter taking into consideration the opinion of the Local Councils Association on such proposed twinning.

203. Furthermore, under Article 79(2) of the Local Councils Act, the Minister responsible for Local Government may issue regulations to regulate the twinning agreements between local councils. To this end, Subsidiary Legislation was passed on 12.5.2009 regulating the entering into and operation of twinning agreements between local councils and other local councils in Malta or other communities, local authorities or local councils in another country.

204. According to the Local Councils (Twinning) Regulations, Subsidiary Legislation 363.141, dated 12.5.2009, a twinning is defined as a friendship agreement, co-operation or association between two communities in different countries or a friendship agreement, co-operation or association between Maltese local councils, even though this agreement is not expressly called a twinning. Regulation 3 enables a local council to make twinning arrangements with another Local Council or with another community, local authority or another Local Council, in another country upon taking into consideration that, as much as possible the country chosen shall be a member of the European Union, or a candidate to join the European Union, or a candidate to join the European Union, by which the arrangements the Local Council shall be in a position to benefit from the European Union.

However, under Regulation 4, before initiating a twinning process, the Council shall submit a report in writing to the Director responsible for local councils, including the objects and reasons of the proposed twinning, an estimate of the expenses related to the proposed twinning, the name of the Councillor in charge of the twinning process, a declaration by the executive secretary that this report has been discussed and approved by the Council and a Twinning Work Plan.

205. The Director responsible for local councils gives his recommendations to the Minister responsible for Local Government, and the said Minister has the power to either approve the proposed twinning arrangement or dismiss the proposal, giving reasons supporting his decision not to approve it.

206. The aforesaid Regulations are quite narrow and they even prescribe the form of the Twinning Agreement which will be signed. Furthermore, the Twinning Regulations include detailed provisions as to the expenses incurred for the purpose of entering into, signing and operation of the twinning arrangement, even prescribing that in the event that the twinning agreement is with a community of another country, the travel tickets should be economy/tourist class, not business class, and that the expenses should be kept as low as possible.

207. Local councils resolving to make twinning arrangements and local councils already having entered into twinning arrangements have the obligation to prepare a budget for twinning purposes, which shall not exceed €3.500 or 0,5% of the financial allocation for that year, whichever is higher.

208. The aforesaid provisions are clearly in conformity with Article 10, paragraph 3 of the Charter.

Article 11 – Legal protection of local self-government

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.

209. Article 11 of the Charter prescribes that local authorities shall have the right of recourse to judicial remedies 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.

210. Under Article 38 of the Local Councils Act, local councils have the right to challenge in Court any decision in any way which interferes with the free exercise of their powers granted by the said Act.

211. Hence, the Republic of Malta fully complies with Article 11 of the Charter and the wording of Article 38 of the Local Councils Act is similar to the Article 11 of the Charter.

8. GENERAL CONCLUSIONS ON COMPLIANCE WITH THE CHARTER

212. As can be deduced from the above, the degree of compliance of the Republic of Malta with the Charter needs to be improved.

213. With no significant amendments to the national primary and secondary legislation since the last Monitoring Report and Recommendation of the Congress in 2011 to address the concerns, remarks and recommendations mentioned therein, the Republic of Malta has neither yet ratified nor considered itself bound by Article 9, paragraph 3 of the Charter and there are deviations from the principles enshrined in the Charter which need to be revisited.

214. The Republic of Malta is not in compliance with the objective of the Charter for local authorities to regulate a substantial share of the public affairs, by reason of the limited functions permitted to Local Councils by the Local Councils Act.

215. Furthermore, the role of the executive secretary and the involvement of the central government through the Minister responsible for Local Government in the appointment, removal and transfer of the said official continues to cause concern.

216. There is lack of formal consultation procedures or established consultation mechanisms on behalf of the central government with the local councils and the Local Councils Association. During the monitoring visit, the delegation became aware of significant dissatisfaction on behalf of local authorities with this issue and measures need to be implemented in order to correct this actual non-conformity with the provisions of the Charter.

217. The allowance and honorariums payable to the Councillors and Mayors respectively are also maintained at very low levels and there are no provisions in the Local Councils Act allowing for the payment of appropriate financial compensation for expenses incurred in the exercise of their duties, loss of earnings, remuneration for work done and corresponding social welfare protection.

218. More significantly, local councils are still dependent at an overwhelming degree on the central government and the allocation of the annual grants through the Appropriation Act and the Annual Budget. The funds provided to local councils are inadequate and earmarked for specific expenditure. Considering the type, nature and extent of the grants provided to local councils in combination with the limited functions of local councils and their inability to impose taxes or charges, it is evident that local councils are financially dependent on the central government and they are unable to apply the grants allocated to them in their discretion for the performance of their functions or to embark in long-term projects for the benefit of the residents of their localities. Obtaining loans from the national capital market or any other sources is also difficult, since this requires the consent of the central government and in the event that the repayment period of any such loan will last for more than 8 years, then a positive vote in a referendum is a necessary pre-condition.

9. RECOMMENDATIONS AND PROPOSALS

219. When assessing the degree of compliance with the Articles of the Charter and the prospects for reform, one has to take into consideration the progress that the Member State has achieved since the introduction of the system of local government.

220. As mentioned above, the Local Councils Act was enacted relatively recently as compared with other Member States and it has been amended a considerable amount of times since then. Nevertheless, the overall impression is that the steps undertaken to ensure compliance with the Charter remain small and their accumulated importance limited. Local councils are still far from enjoying the right to regulate a substantial share of public affairs as required by the Charter and the objective of establishing a system of local self-government has not yet been achieved. These observations are further aggravated by the inability of local councils to raise capital through the imposition and collection of taxes or charges, as well as the financial dependence of local councils on the annual government grants which could be argued to maintain local councils in a relationship of financial dependency to the central government.

221. The current state of affairs in the local self-government legislation in the Republic of Malta needs to be revisited for the purpose of implementing effective reforms and ensuring compliance with the Charter.

222. As a priority, local councils should be endowed with further functions, responsibilities and rights in order to enable them to regulate a more substantial share of the public affairs in their localities, while at the same time ensuring that local councils have adequate financial resources to execute their functions effectively and efficiently.

223. The exclusions to the functions of local councils provided under the Local Councils Act should, insofar as possible, be abolished and these functions should be brought within the competence of the local councils. The administration, use and management of parks, gardens, monuments, industrial estates and the collection of fairs, duties and other kinds of taxes or proceeds should be carried out by the local councils, providing them in this way with further functions, while at the same time more impose on them additional responsibilities and the potential to exploit them pursuant to increasing their own income generating capacity.

224. The annual grant allocated to local councils should be increased and the funds provided to them should not be earmarked for specific functions. Instead, the local councils should be given the ability

to use the grant allocated to them in their discretion, pursuant to satisfying their own priorities and goals, both short-term and long-term. Simultaneously, the method for the calculation of the annual grant should provide certainty and allow local councils to engage in costlier and larger projects for the benefit of the public.

225. Article 9, paragraph 3 of the Charter should be ratified and local councils should be granted the power and the right to impose and collect local taxes and charges, enabling them in this way to raise more revenues. This will also be a step forward towards achieving the objective of self-governance and it will give the ability to local councils to make future plans with certainty for the upgrade of their localities and the enhancement of the services provided to their residents. As a first step, the Republic of Malta should inquire into the possibility of transferring to local councils the responsibility and the right to impose and collect some taxes, which are currently imposed and collected by the central government.

226. The condition of securing the approval of the central government prior to obtaining loans or having access to the national capital market should be abolished.

227. The involvement of the central government through the Minister responsible for Local Government and the Minister of Finance in the local affairs should be reduced and limited to the degree of ensuring the legality of the operations of the local councils, while at the same time allowing local councils to perform their administrative and regulatory functions themselves without the control and scrutiny of the central government.

228. The requirement for the approval and consent of the Minister responsible for Local Government prior to the appointment or removal of executive secretaries, as well as the power of the Minister responsible for Local Government to transfer an executive secretary from one local council to another should be abolished. The involvement of the central government should be restricted to the notification of the Minister responsible for Local Government after the appointment or the removal of the executive secretary. The right of the Minister of Finance to transfer an executive secretary from one local council to another should be abolished.

229. The method for the calculation of the maximum number of employees who may be appointed in any local council should be revisited and revised. The number of employees working at each local council should be determined individually by each local council on the basis of its needs, individual characteristics, revenues, functions and expenditure, rather than setting a maximum number of employees on the basis of each locality's population only.

230. The Republic of Malta should ensure that adequate consultation mechanisms are in place between the central government and both, the local councils and the Local Councils Association prior to making any decisions or effecting any legislative amendments, which may affect their functions, powers, rights and responsibilities.

231. The honorarium and allowance payable to Mayors and Councillors should be increased and provisions should be inserted in the Local Councils Act in order to ensure that Mayors and Councillors receive adequate compensation for loss of earnings or remuneration for work done and corresponding welfare protection, as well as reimbursement for any other reasonable expenses incurred in the execution of their duties.

232. The city of Valetta should receive a special legal status, recognizing its importance and particular responsibilities in the country, both as the capital and a city where its population triples during the day in comparison to the night.

233. The Republic of Malta should also introduce measures, in co-ordination with local authorities to encourage and enable women's access to local political office pursuant to ensuring a more balanced representation.

APPENDIX – Programme of the Congress Monitoring visit to Malta

**CONGRESS MONITORING VISIT TO MALTA
Valletta, Żebbug, Mosta, Gharb and Senglea (22 - 24 November 2016)**

DRAFT PROGRAMME

Congress delegation:

Rapporteurs:

Mr Risto RAUTAVA

Rapporteur on local democracy
Chamber of local authorities (EPP/CCE)
Member of the Helsinki City Council
Finland

Mr Stewart DICKSON

Rapporteur on regional democracy
Chamber of regional (ILDG)
Member of the Northern Ireland Legislative Assembly
United Kingdom

Congress Secretariat:

Ms Stéphanie POIREL

Secretary to the Monitoring Committee

Expert:

Mr George COUCOUNIS

Member of the Group of Independent Experts on the
European Charter of Local Self-Government (Cyprus)

Interpreters:

Ms Annette SCERRI
Ms Fiona NAVARRO

The working language of the meeting will be Maltese and interpretation from and into English will be provided.

**Monday 21 November 2016
Valletta**

Arrival of the Congress Delegation

**Tuesday 22 November 2016
Valletta, Żebbug and Mosta**

Joint meeting with the Maltese Delegation to the Congress, the representatives of the Local Councils' Association and the independent experts

- **Maltese Delegation to the Congress:**
 - **Mr Mario FAVA**, Head of Delegation, Councillor of Swieqi
 - **Mr Mario GAUCI**, Deputy Head of Delegation, Deputy Mayor of Gharghur
 - **Ms Josianne CUTAJAR**, Full member, Councillor of Nadur
 - **Mr Jean-Pierre ATTARD**, Alternate member, Councillor of Zurrieq
 - **Ms Amanda ABELA**, Alternate member, Councillor of Zejtun
 - **Mr Byron CAMILLERI**, Alternate member, Councillor of Fgura

- **Local Councils' Association**
 - **Mr Marc SANT**, President of the Local Councils' Association and Councillor of Lija,
 - **Mr Paul FARRUGIA**, Vice President for National Affairs of the Local Councils' Association, Mayor of Tarxien and Regional President of the South East Region Committee
 - **Mr Samuel AZZOPARDI**, Vice President for International Affairs of the Local Councils' Association, Mayor of Victoria (Rabat), Regional President of Gozo Region Committee

Valletta City Hall:

- **Mr Alexiei DINGLI**, Mayor

Constitutional Court of Malta:

- **Hon. Mr Silvio CAMILLERI**, Chief Justice
- **Hon. Mr Giannino Caruana DEMAJO**, *Senior Administrative Judge and Vice-Chairman, Judicial Studies Committee*
- **Hon. Mr Noel CUSCHIERI**, *President of the Family Section of the Civil Court*

Żebbug Local Council:

- **Ms Sarah AGIUS**, Mayor

Mosta Local Council:

- **Mr Edwin VASSALLO**, Mayor

**Wednesday 23 November 2016
Valletta and Għasri**

Parliament :

- **Hon Anġlu FARRUGIA**, Speaker of the House of Representatives
- **Hon Michael FALZON**, M.P. (Government Parliamentary Group)
- **Hon Karl GOUDER**, M.P. (Opposition Parliamentary Group)
- **Mr John VELLA**, Clerk Assistant, House of Representatives

Ombudsman:

- **Mr Anthony C. MIFSUD**, Parliamentary Ombudsman
- **Mr Perit David PACE**, Commissioner for Environment and Planning
- **Dr Monica Borg GALEA**, Head of Investigations

National Audit Office:

- **Mr Charles DEGUARA**, Auditor General
- **Mr Brian VELLA**, Assistant Auditor General
- **Ms Tanya MERCIECA**, Assistant Auditor General
- **Ms Maria FERRIGI**, Principal Auditor

Parliamentary Secretariat for Local Government:

- **Hon. Stefan BUONTEMPO**, Parliamentary Secretary for Local Government
- **Mr Adrian MIFSUD**, Director, Department for Local Government
- **Mr Natalino ATTARD**, Director General
- **Mr Perit John Baptist FARRUGIA**, Advisor

Gozo Regional Committee:

- **Mr Joseph CORDINA**, Mayor
- **Mr George REFALO**, Executive Secretary

Għarb Local Council (Gozo Island):

- **Mr David APAP**, Mayor

Meeting with Mr Ian MICALLEF, Full member of the Group of Independent Experts on the European Charter of Local Self-Government

**Thursday 24 November 2016
Senglea**

Senglea Local Council:

- **Mr Joseph CASHA**, Mayor

Departure of the Congress Monitoring delegation