

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 401 (2017)¹ Local democracy in Estonia

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 of Local and Regional Authorities of the Council of Europe and the revised Charter appended thereto, which provides that one of the aims of the Congress 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 referred to above, stipulating that “[t]he 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. Resolution 307 (2010) REV2 on procedures for monitoring the obligations and commitments entered into by the Council of Europe member States in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122);

d. the appended explanatory memorandum on local democracy in Estonia.

2. The Congress notes that:

a. Estonia became a member of the Council of Europe on 14 May 1993. It signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 4 November 1993 and ratified it on 16 December 1994. The Charter entered into force with respect to Estonia on 1 April 1995. Estonia made no reservations or declarations with respect to the Charter;

b. Estonia ratified 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) on 20 April 2011, with entry into force on 1 June 2012;

c. the Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) decided to review the situation of local democracy in Estonia in the light of the Charter. It appointed Mr Henrik Hammar, Sweden (L, EPP/CCE) and Mr Leendert Verbeek, Netherlands (R, SOC) as co-rapporteurs. They were instructed by the Monitoring Committee to prepare and submit to the Congress a report on local democracy in Estonia;

d. the monitoring visit took place from 6 to 8 September 2016. During the visit, the Congress delegation met with representatives of various political institutions such as the Parliament, the Minister of Public Administration, the city of Tallinn and the counties of Ida-Viru and Järva, the western Islands, Chancellor of Justice, National Audit Office and the Supreme Court. The delegation also met with representatives from the Estonian delegation to the Congress and associations. The detailed programme of the visit is appended to the explanatory memorandum;

e. the delegation wishes to thank the Estonian authorities at central and local levels, the Estonian delegation to the Congress, the national associations of local authorities as well as all the interlocutors met during the visit for their readiness to assist and for the information they provided. The delegation also thanks the Ambassador of Estonia to the Council of Europe, who contributed to the organisation and smooth running of the visit.

3. The Congress notes with satisfaction:

a. the ratification by Estonia in 2011 of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, which illustrates a political commitment towards the participation of citizens in local public affairs;

b. the revision of the State Budget Law (section 46 (2)-(4)) in order to strengthen the interaction between the State and local authorities and their associations on budgetary items;

c. the initiatives of the Estonian institutions to start a process of far-reaching reform of the territorial architecture of the country at local and State levels.

4. The Congress expresses its concern at:

a. the lack of a clear division of competences between local and State authorities (Article 4, paragraphs 2 and 4);

b. the absence of adequate concomitant financial resources for the transfer of competences to local authorities and their overwhelming dependence on State grants and transfers (Article 9, paragraphs 2-4);

c. the small potential for own resources that local authorities have to execute their tasks, especially in rural areas, the low level of own tax revenues of local authorities (Article 9, paragraph 3) and the fact that the system of financing of local authorities is neither diversified nor evolutionary (Article 9, paragraph 4);

d. the fact that, in practice, the consultations on issues of interest to local authorities are not systematic and their deadlines are too short to allow for appropriate and effective consultation in the sense of Article 4, paragraph 6;

e. the lack of clarity of distribution procedures, including the equalisation and the special support schemes, as well as insufficiency of the equalisation fund to cover the needs of local authorities (Article 9, paragraph 5).

5. The Congress recommends that the Committee of Ministers invite the Estonian authorities to:

a. clarify their legislation concerning the distribution of mandatory tasks and functions between local government and the State, and transfer a maximum of competences, together with concomitant finances, to the local level. Such measures could complete the government's approach to strengthening local democracy through the merger within larger territorial units;

b. combine as far as possible the functional responsibility of the State for a given competence with the financial responsibility to cover the costs of its implementation, and refrain from using the State reform at agency level as a hidden transfer of responsibilities to local authorities;

c. change the domestic legislation in line with the completion of the territorial reform in order to give local authorities more financial autonomy and diversify the financial system of sources of their revenue by improving the local tax system and enlarging the local share in State taxes;

d. ensure in practice reasonable deadlines and regularity of consultations with local authorities on matters concerning

them directly, in the sense of Article 4, paragraph 6, of the Charter. The practice of consultation should be adapted to the need for local authorities to closely follow deliberations, especially those relating to the reform process and on matters relating to local finance;

e. increase the dotation to the equalisation fund, review the criteria for its distribution and develop new vertical and horizontal instruments to improve the Estonian fiscal equalisation system and strengthen local fiscal autonomy.

6. The Congress invites the Committee of Ministers of the Council of Europe to take into consideration the present recommendation on local democracy in Estonia, as well as the explanatory memorandum, in its activities related to this member State.

1. 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\(2017\)04](#), explanatory memorandum), rapporteurs: Henrik HAMMAR, Sweden (L, EPP/CCE), and Leendert VERBEEK, Netherlands (R, SOC).