

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 420 (2017)¹

Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chişinău

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 states that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3, of the aforesaid Statutory Resolution CM/Res(2015)9, which provides 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 409 (2016) of the Congress on the revision of the Rules and Procedures of the Congress, in particular Chapter XVII of the latter on the organisation of monitoring procedures of the Congress;

d. Recommendation 322 (2012) of the Congress on local and regional democracy in the Republic of Moldova;

e. the explanatory memorandum entitled “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chişinău”.

2. The Congress notes that:

a. the Republic of Moldova acceded to the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 2 May 1996 and ratified it on 2 October 1997 without any reservations. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

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

c. the Bureau instructed Gunn Marit Helgesen (Norway, R, EPP/CCE), President of the Chamber of Regions of the

Congress, to travel to Chişinău to visit Dorin Chirtoaca, Mayor of Chişinău and Vice-President of the Chamber of Regions, in order to clarify the conditions surrounding his suspension and prepare and submit to the Congress a report on this issue;

d. the rapporteur travelled to Chişinău on 30 August 2017, where she had meetings with Mr Chirtoaca, the mayor of the capital, the Chief Prosecutor of the National Anti-Corruption Centre, representatives of the Congress of Local Authorities from Moldova (CALM) and the Minister of Justice. The detailed programme of the visit is appended to the explanatory memorandum;

e. the delegation would like to thank the Permanent Representation of the Republic of Moldova to the Council of Europe for its kind assistance in arranging this visit, and the persons with whom it met for the open and constructive discussions.

3. The Congress expresses its concern regarding:

a. failure to comply with Article 8, paragraph 3, of the Charter inasmuch as the elected mayor of the capital of the Republic of Moldova has been suspended by a judicial authority, and the fact that the anti-corruption prosecutor approached the municipal council on his own initiative to ask it to go to court to begin proceedings to suspend the mayor, which amounts to interference and thus risks politicising the judiciary, in the absence of provisions governing the specific procedure for suspending a local elected representative;

b. failure to comply with Article 3, paragraph 2, of the Charter inasmuch as the Mayor of Chişinău has been replaced by an unelected individual, a local government officer, who has successively served as acting deputy mayor and then as acting mayor;

c. failure to comply with Article 7, paragraph 1, of the Charter inasmuch as a local recall referendum is being organised to curtail the mayor’s term of office, despite the fact that the Moldovan Constitution and the law on the conditions of office of local elected representatives prohibit any binding mandate.

4. The Congress recalls that member States of the Council of Europe that have signed and ratified the Charter have undertaken to comply with its provisions.

5. It further recalls that “local democracy” is a shared value across the continent and thus a constituent part of European democracy. This implies that local elected representatives must be able to exercise their functions freely, in fact and in law, in the same way that elected representatives at the national level must be able to exercise theirs in any democratic State.

6. It emphasises that the general principle of local self-government entails decentralisation of public responsibilities and reasonable supervision on the part of national authorities, and that the principle of proportionality, as defined in the Charter, requires national authorities and their representatives to use methods that encroach as little as possible upon local self-government when exercising their powers.

7. In the light of the foregoing, the Congress:

a. undertakes to monitor closely the situation of DorinChirtoaca, Mayor of Chişinău and Vice-President of the Congress, by arranging a fact-finding mission, including several visits, if necessary, with a view to updating the information on his situation and on that of the capital city Chişinău, which will result in a recommendation to the Moldovan national authorities;

b. informs the European Commission for Democracy through Law (“Venice Commission”) of the Council of Europe of the present report, and in particular requests its opinion on the compatibility of the local recall referendum aimed at cutting short the term of office of the capital’s mayor with the international standards;

c. requests the Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) to take account of this report in the monitoring exercise on the situation of local and regional democracy in the Republic of Moldova planned for 2018, particularly in the light of the complaint sent to the Congress in the meantime by CALM, which denounces pressure being brought to bear on local elected representatives through recurrent court proceedings against them.

1. Debated and adopted by the Congress on 19 October 2017, 2nd sitting (see Document [CG33\(2017\)23](#), explanatory memorandum), rapporteur: Gunn Marit HELGESEN, Norway (R, EPP/CCE).