THE CONGRESS
OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 180 (2005)[1] on the state of local finances in the Netherlands

The Congress, bearing in mind the proposal of the Chamber of Local Authorities,

1. Bearing in mind the explanatory memorandum on the state of local finances in the Netherlands [CPL (12) 11 Part II] tabled by Kathryn Smith (United Kingdom, SOC) and its Recommendation 79 (2000) on the financial resources of local authorities asks the Committee of Ministers to take account of the following conclusions with regard to the current state and reform of local finances in the Netherlands;

2. The Congress believes that the power to levy local taxes and to determine their rate is a fundamental right of local authorities guaranteed by Article 9 of the Charter of Local Self-Government (hereafter referred to as “the Charter”);

3. The Congress recalls that Article 9.3 of the Charter provides that “part at least of the financial resources of local authorities shall derive from local taxes…”;

4. The Congress considers that the part of the financial resources which shall derive from local taxes must be significant and not merely symbolic. In this respect the Congress recalls its Recommendation 79 (2000) in which it took the position that local authorities must derive a substantial proportion of their resources from their own taxation revenue and from charges, the rates of which they must be free to set;

5. The Congress notes that the local taxation system of the Netherlands is characterised by the fact that 83% of the local fiscal revenue is derived from the real estate tax, that the part of the fiscal local income covers only 8.8% of the municipal revenue and that the local taxes cover only 1.1% of the GDP of the country;

6. The Congress takes the view that the last figure of 1.1% is already quite low, and that a further reduction of local fiscal income will not be consistent with Article 9.3 of the Charter;

7. The Congress recalls that in 1999 it regretted the low amount of the own resources of the Dutch municipalities (paragraph 47 of Recommendation 55) and recommended to consider, in the spirit of Article 9 of the Charter, the possibility of permanently and lastingly allocating a fixed percentage of public revenue to territorial authorities and furthermore to permit the increase of their own resources significantly through additional taxes or other measures (paragraph 50.i of Recommendation 55);

8. The Congress notes that the Dutch Government in reforming the real estate tax is planning to abolish the part of this tax which is paid by the users of dwellings, to maximise the annual increase of the real estate tax on owners and commercial buildings and to increase the Municipal Fund to compensate the municipalities for the loss of income (a draft law was submitted to parliament on 27 April 2005);

9.The Congress regrets that the abolition of the real estate tax on users of dwellings, coupled with the maximisation of the real estate tax on owners and commercial buildings, reduces the fiscal resources of municipalities to approximately two thirds of the current and already low amount of the fiscal revenue of the Dutch municipalities compared with other European countries;

10. The Congress considers that such a development heavily infringes upon the classical democratic connection between taxation and representation. The municipal citizen, if not owner, is no longer subject to local taxation. The owner of immovable property who remains a tax-payer may not always be a resident of the municipality and therefore is not involved in the decision on the real estate tax they have to pay;

11. The Congress warns that, according to a new scheme, not only will the compensation measures lead to a structural reduction of income for a substantial group of municipalities but the local financing will become, to a much greater extent, the task of the central State. At the same time the taxation burden imposed on citizens does not seem to diminish, but simply to be shifted from local to central taxation;

12. The Congress admits that there have been criticisms of the existing system of real estate taxation, and that it is useful to investigate alternative solutions but it also regrets that no alternative source of fiscal revenue has been offered by the government in spite of the opinions provided by the National Council for Financial Relationships, Council for Public Administration and the Association of the Netherlands Municipalities;

13. Therefore the Congress takes the view that the abolition of the real estate tax paid by the users and its subsequent limitation without any compensation by another local tax can be considered as a violation of Article 9.3 of the Charter and therefore a violation of public international law;

14. The Congress:

a. recommends to the Dutch authorities that they change the provisions of the draft law so as to grant the municipalities an alternative possibility of levying local taxes;

b. calls on competent Dutch authorities to consider not following-up on the proposals which will infringe Article 9 of the European Charter of Local Self-Government;

c. recommends that the Dutch Government continue to seek, in co-operation with the Association of the Netherlands Municipalities, ways and means to grant the municipalities by law as from 2007 an alternative source of local fiscal revenue simultaneously with the reform of the real estate tax and at least of the same volume as the current real estate tax and of which they will have the freedom to determine the rate;

d. invites the Committee of Ministers of the Council of Europe to transmit this recommendation to the Dutch authorities and to urge them to consider ways for its implementation;

e. invites the Dutch Government to inform the Congress before its next spring session on the follow-up given to the present recommendation.

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1. Debated and approved by the Chamber of Local Authorities on 8 November 2005 and adopted by the Standing Committee of the Congress on 9 November 2005 (see Document CPL (12) 11, draft recommendation presented by K. Smith (United Kingdom, L, SOC), rapporteur).

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