

32nd SESSION**Local democracy in the Republic of Malta**

Recommendation 400 (2017)¹

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 Malta²;
 - 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;

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\(2017\)02](#), explanatory memorandum), co-rapporteurs: Risto RAUTAVA, Finland (L, EPP/CCE) and Stewart DICKSON, United Kingdom (R, ILDG).

² 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.

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);

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.