

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 400 (2017)¹ Local democracy in Malta

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 395 (2015) on the revision of 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 explanatory memorandum on local democracy in Malta (CPL32(2017)02).

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 (ETS No. 122) on 6 September 1993. It did not ratify Article 9, paragraph 3, of the Charter;

b. the Congress Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) 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 Malta;²

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), from the Constitutional Court of Malta, the Ombudsman, from local authorities (Valletta, Żebbuġ and Mosta local

councils, Gozo Regional Committee, Għarb and Senglea local councils). The delegation also met 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, Malta has adopted certain amendments to primary and secondary legislation and has issued regulations, all of which have 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 in the applicable domestic legislation and in the Constitution of Malta (Article 2 of the European Charter of Local Self-Government);

b. the inadequate and undiversified financial resources of local councils to execute their functions fully and effectively (Article 9, paragraphs 1 and 4), their limited own income in the framework of their competences (Article 9, paragraph 2), and the 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, paragraph 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, paragraph 3);

d. the absence of full discretion of local councils to exercise their initiative with regard to matters not excluded from their competence (Article 4, paragraph 2) due, *inter alia*, to their lack of financial autonomy, excessive involvement of the central government in local affairs in practice (Article 4, paragraph 4), and disproportional supervision powers of the central authorities (Article 8, paragraph 3);

e. the lack of formal consultation mechanisms between the central government and the local authorities (Article 4, paragraph 6);

f. the inappropriate financial compensation of local elected representatives for the proper exercise of their duties (Article 7, paragraph 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, paragraph 2);

h. the absence of special status for the city of Valletta as capital city;

i. the conditionality of the access to the national capital market on the approval of the central government (Article 9, paragraph 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, and to 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, paragraph 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 of the central government;

h. confer a special status on Valetta as capital city in the light of Congress Recommendation 219 (2007) on the status of capital cities;

i. abolish the system of requiring the approval of the central government prior to obtaining a 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. in co-ordination with local authorities, introduce measures 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.

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), 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.