

## THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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### **Resolution 438 (2018)<sup>1</sup>** **Coping with the debt burden: local authorities in financial difficulty**

1. The right of local authorities to adequate financial resources of their own is a key principle of the European Charter of Local Self-Government (ETS No. 122). It also introduces the principle of proportionality, providing that any transfer or delegation of additional or non-statutory jurisdiction must be accompanied by resources corresponding to the new powers granted and services to be provided. However, these principles are rarely applied or implemented in Council of Europe member States.

2. In most member States, the explicit recognition of the principle of adequate financial resources is not included in the constitution but is guaranteed by law. However, even where the principle enjoys legal recognition, it is often not very directive. It is difficult to take cases to court, because financial autonomy appears to be more a political issue than a matter for the courts. Finally, some member States do not offer any recognition or guarantee, constitutional or legal, of the principle of sufficient funding.

3. If partial or indirect data, such as the share of gross domestic product (GDP) or public expenditure, can be used to determine to a certain extent the degree of financial autonomy of local authorities, a common definition of the concepts mentioned in Article 9 of the Charter would appear to be necessary.

4. Local taxation is a key element of the financial autonomy of local authorities, as genuinely local taxes allow municipalities to base their revenues on their own decisions. The capacity of local governments to generate revenue is thus an excellent indicator of their financial autonomy. There is a strong correlation between the degree of financial autonomy and the ratio of own resources to central government transfers. The greater the share of local revenues in the local authorities' total budget, the greater their financial independence and the more they can finance their activities themselves. Similarly, the municipalities' financial autonomy is all the greater as the ratio of overall/lump sum allocations to specific or reserved allocations is high.

5. The Charter enshrines the right of local authorities to be consulted on the way that resources are allocated or redistributed to them. While the existence of a formal consultation procedure, even with a legal basis, does not in itself guarantee that genuine consultation takes place, it is preferable that clear, predictable, effective, transparent, open and inclusive methods of consultation are put in place in all member States, in accordance with their legal and constitutional traditions.

6. The Charter expressly provides that local authorities should have the right of recourse to a judicial remedy if they consider that the central authority or another administration does not respect the principle of local self-government, and in particular their financial autonomy. In most Council of Europe member States, these cases fall within the competence of constitutional, administrative or ordinary courts. These remedies are, however, generally difficult to implement, as the Charter does not define in a precise and detailed manner the principle of sufficient funding and the corresponding national legislation and budgetary allocation procedures are often non-existent.

7. In view of the above, the Congress of Local and Regional Authorities of the Council of Europe,

*a.* bearing in mind Resolution 372 (2014) and Recommendation 362 (2014) on adequate financial resources for local authorities;

*b.* noting that the share of municipal own resources varies considerably from one member State to another, as does the development of the ratio between central government allocations and local revenues;

*c.* regretting that in several member States, notably Ireland, Liechtenstein and the United Kingdom, there is no constitutional or legal recognition or guarantee of sufficient municipal finance;

*d.* noting that in several member States, such as Albania, England (in the United Kingdom), Greece, Hungary, Montenegro and Romania, even where local authorities are free to provide services or to dispose of revenues generated at the local level, the latter are no longer sufficient to cover the cost of services, thus going against the principle of proportionality;

*e.* concerned at the reduction, in some cases, of local revenues resulting from centralisation and/or deconcentration processes;

*f.* regretting that in some member States, such as Cyprus, England (and to a lesser extent the rest of the United Kingdom) and Hungary, the consequences of the 2008 financial crisis have led to a massive reduction in municipal funding both in absolute and in relative terms;

*g.* noting with concern that the fiscal capacity of local authorities is extremely limited in Greece, Latvia and Romania;

*h.* noting that reserved allocations remain predominant in several countries, posing a threat to the financial and even the political autonomy of municipalities;

*i.* noting that Ireland, Liechtenstein and the United Kingdom do not have legal rules and sometimes not even written rules on the subject of consultation of local authorities by higher levels of government;

*j.* regretting that, while a number of member States have made significant progress, almost all the recommendations made by the Congress in 2014 could be repeated for those countries which follow the provisions of Article 9 only reluctantly, or simply ignore them;

*k.* fearing that, in the absence of sanctions, even in the event of a clear violation of the provisions of the Charter, no positive change can be expected in the near future from member States reluctant to implement the provisions of Article 9;

*l.* regretting that neither the Council of Europe nor the European Union has reliable and comparable economic data on the financial resources of the municipalities of its member States, limiting the establishment of international comparisons and impacting the quality of macroeconomic and economic decisions regarding international economic governance frameworks;

*m.* therefore calls on its Monitoring Committee to continue to pay attention to countries that are not meeting their commitments under Article 9 of the Charter and to undertake, where possible, post-monitoring and co-operation activities to improve the situation;

*n.* calls on national associations of local and regional authorities to:

i. promote a real culture of partnership, consultation and coproduction of political and budgetary decisions between national and local authorities;

ii. engage or continue their discussions with their regional and national governments, so that predictable, effective, results-oriented, equitable, open and inclusive methods of consultation are put in place, while respecting the legal and constitutional traditions of each member State;

iii. promote the transparency of the criteria and methods used to calculate central government allocations and financial equalisation so that they and the local authorities can verify the calculation process and be consulted.

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1. Debated and adopted by the Congress on 8 November 2018, 3rd sitting (see Document [CG35\(2018\)21](#), explanatory memorandum), rapporteur: Heather McVEY, United Kingdom (L, SOC).