

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 337 (2013)¹ Local and regional democracy in Italy

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(2011)2 of the Committee of Ministers 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 the above-mentioned Statutory Resolution, 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. its Resolution 307 (2010) Revised on procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No.122);

d. its Resolution 299 (2010) on the follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009);

e. its Recommendation 35 (1997) on the implementation of the European Charter of Local Self-Government in Italy which was adopted by the Congress in June 1997.

2. The Congress underlines that:

a. Italy became a member of the Council of Europe on 5 May 1949. It is a founder member of the Organisation. It signed the European Charter of Local Self-Government (ETS No.122, hereafter referred to as “the charter”) on 15 October 1985 and ratified it on 11 May 1990. Italy has adopted all the provisions of the charter with no reservations or declarations;

b. Italy 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), Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206) or Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation

between Territorial Communities or Authorities concerning interterritorial co-operation (ETS No. 169);

c. the Congress Monitoring Committee appointed Mr Knud Andersen (Denmark, R, ILDG) and Mrs Marina Bespalova (Russian Federation, L, EPP/CCE) as co-rapporteurs to monitor local and regional democracy in Italy;

d. the two monitoring visits took place from 2 to 4 November 2011 and from 3 to 5 December 2012. During the visits, the Congress monitoring delegation met representatives of the State institutions (parliament, government), the Constitutional Court, the ombudspersons, local authorities and their associations;

e. the delegation would like to thank the Permanent Representation of Italy to the Council of Europe, the Italian authorities, the national associations of local authorities and all the persons with whom discussions took place, for their readiness to assist, their interest in the Congress’s work and their co-operation throughout the visits.

3. The Congress notes with satisfaction:

a. the consolidation of the fundamental principle of local self-government in the Italian Constitution;

b. the inclusion, in 2001, of a new chapter (Title V) in the Italian Constitution on regions, provinces and municipalities;

c. the adoption of the law on the funding of local authorities in March 2011, which provides for the allocation of a portion of national taxes to local authorities, to compensate for certain State transfers which had been abolished;

d. the adoption in 2009 of the law on fiscal federalism setting out the fundamental principles for the co-ordination of public finances and the tax system, as well as the definition of tax equalisation.

4. The Congress regrets:

a. the non-respect of the right of local authorities to manage a substantial share of public affairs under their own responsibility, in the light of Article 3.1 of the European Charter of Local Self-Government;

b. that the principle of direct elections of officials at the provincial level is called into question with the introduction of indirect elections for provinces within the framework of the ongoing reform (Article 3.2 of the charter);

c. the reallocation of responsibilities, which ought by right be allocated to municipalities, to independent local consortia (Article 4.4);

d. the cuts in personnel and the arbitrary character of financial restrictions for staff of local authorities (“linear cuts”) (Article 6.1);

e. the inadequacy of the financial resources that the local authorities may use freely within the framework of their powers, and the fact that these resources are not always commensurate with the responsibilities provided by the law (Articles 9.1 and 9.2);

f. the insufficiency of the mechanisms and procedures for financial equalisation at the local and regional levels and the resulting unfairness of financial burdens (Article 9.5);

g. the lack of mechanisms for consultation of local authorities by the government in an appropriate manner, on issues related to the redistribution of financial resources to be allocated to them (Article 9.6);

h. that only the regions (and not the provinces or municipalities) have the right to commence proceedings in the Constitutional Court.

5. The Congress recommends that the Committee of Ministers invite the Italian authorities to:

a. complete the reform project launched with the constitutional amendments of over a decade ago and continued with legislation in 2009, in order to achieve the declared goals of fiscal federalism (Articles 4 and 9);

b. guarantee that a substantial share of public functions will remain fully and exclusively the responsibility of local and regional authorities (Article 3.1);

c. recommit to the democratic value of direct elections in any future structural reform proposals, notably as concerns the provincial level (Article 3.2);

d. review the scale and effect of shifting responsibilities from municipalities to consortia (Article 4.4);

e. ensure a sensitive application of cash-saving measures in the public sector and therewith prevent the anti-democratic effects of “linear cuts” with respect to the internal administrative structures and staffing of local authorities (Article 6);

f. endeavour to match resources to local and regional functions and to ensure the availability of adequate funding for local and regional authorities (Articles 9.1 and 9.2);

g. develop and implement equalisation procedures in order to achieve a functional system of local and regional funding, which is compatible with the European Charter of Local Self-Government (Article 9.5) as far as local authorities are concerned, and which takes inspiration from the Reference Framework for Regional Democracy, as regards the Italian regions;

h. improve the mechanisms of consultation with local authorities in the light of Article 9.6 of the charter;

i. review the law in order to allow the provinces and municipalities the right to apply, through a representative, to the Constitutional Court;

j. make further efforts to continue and to reinforce the implementation of anti-corruption measures, in order to ensure a higher level of local and regional democracy;

k. sign and ratify in the near future the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

6. The Congress invites the Committee of Ministers of the Council of Europe to take into consideration the present recommendation on local and regional democracy in Italy, as well as the explanatory memorandum, in its own monitoring procedures and other activities related to this member State.

1. Debated and adopted by the Congress on 19 March 2013, 1st Sitting (see Document CG(24)8, explanatory memorandum), rapporteurs: Marina Bespalova, Russian Federation (I, EPP/CCE), and Knud Andersen, Denmark (R, ILDG).