

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Recommendation 323 (2012)¹ Local and regional democracy in Portugal

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, 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 aforementioned Statutory Resolution CM/Res(2011)2, 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) REV on the “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. the explanatory memorandum on local and regional democracy in Portugal drawn up by the Rapporteurs, Jos Wienen and Devrim Çukur following an official visit to Portugal from 7 to 9 November 2011.

2. The Congress notes that:

a. Portugal signed the European Charter of Local Self-Government on 15 October 1985 and ratified it on 18 December 1990 without reservations, with entry into force on 1 April 1991;

b. Portugal 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);

c. the Congress Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee) decided on 23 March 2011 to carry out a second monitoring of the state of local and regional self-government in Portugal. It instructed Mr Wienen and Mr Çukur to prepare and submit to the Congress, as Rapporteurs, a report on local and regional democracy in Portugal;

d. the Congress delegation carried out a monitoring visit to Portugal from 7 to 9 November 2011 visiting Lisbon, Coimbra and Vila Nova de Poaires.

3. The Congress wishes to thank the Permanent Representation of Portugal to the Council of Europe and the Portuguese authorities at central, regional and local levels, the National Association of Portuguese Municipalities (ANMP) and the National Association of Parishes (ANAFRE), experts as well as other interlocutors for their valuable co-operation at different stages of the monitoring procedure and the information conveyed to the delegation.

4. The Congress also takes note that:

a. Portugal is engaged in substantial economic, political and administrative reforms with long-term effects on local and regional government on the basis, amongst others, of the Memorandum of Understanding, which led to the Government “Green Paper” concerning the reform of the management, territory and politics of local government;

b. that the Portuguese Constitution gives considerable importance to local and regional self-government, although the institutional interaction between these two tiers and the State requires improvement;

c. that there are no political initiatives at present to reintroduce the debate on the question of administrative regions in mainland Portugal;

d. that the Government attaches special significance to a territorial reform as well as to an in-depth reform of the Local Finance Act of 2007, which will certainly have particular implications for the core responsibilities of local self-government entities.

5. The Congress expresses some concern that:

a. local authorities and their representative associations are not systematically consulted on the basis of a clear, generally binding and functioning procedure;

b. the associations representing local authority interests do not have the right to appeal directly to the Constitutional Court against a decision or a regulation which would contradict one of their rights;

c. Portuguese municipalities have been affected in unequal ways by the economic and financial effects of the crisis, some of them facing very serious budgetary problems and the recent state restrictions concerning indebtedness have shortcomings with regard to a fair distribution of charges;

d. regional and local authorities lack sufficient autonomy with respect to local taxes including the local and regional tax collecting system;

e. the co-operation between the state administration at local and regional level and local and regional self-government entities lacks a clear and coherent basis.

6. In the light of the above, the Congress recommends that the Committee of Ministers invite the Portuguese authorities to:

a. improve the consultation process by institutionalising systematic prior and timely consultation with the associations of regional and self-government bodies on issues that are of direct concern to local and regional authorities, in particular on the ongoing reforms related to local and regional authorities, with the aim of agreeing upon common consultation guidelines;

b. grant the associations representing local authority interests the right to appeal directly to the Constitutional Court;

c. consider setting up, on a temporary and flexible basis, special aid programs or procedures to strengthen the economic competitiveness of those municipalities that have been more seriously affected by the economic and financial crisis;

d. give local authorities more autonomy with respect to local taxes including the local tax-collecting system;

e. consider the setting up a national stability board, including local representatives, in order to streamline budget

objectives and procedures, with a view to assure as far as possible, the compliance with national, European and international commitments, and a better coherence in the co-operation between the different tiers of government;

f. guarantee an effective participation of the municipalities in the legislative process to reform the Local Finance Act of 2007, particularly if budgeting procedures with respect to accounting, monitoring and reporting functions or other items to improve the efficiency of local budgeting procedures are involved;

g. consider signing and ratifying, 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 and to ratify the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159) signed on 9 May 1997.

1. Debated and adopted by the Congress on 22 March 2012, 3rd Sitting (see Document CG(22)11, explanatory memorandum), Rapporteurs: J. Wienen, The Netherlands (L, EPP/CD) and D. Çukur, Turkey (R, SOC).