



## Recommendation 122 (2002)<sup>1</sup> on local democracy in Malta

The Congress, bearing in mind the proposal of the Chamber of Local Authorities,

### 1. Recalling:

*a.* Article 2, paragraph 3, of the Committee of Ministers' Statutory Resolution (2000) 1 on the Congress of Local and Regional Authorities of Europe (CLRAE) which entrusts it with the preparation of country by country reports on the situation of local and regional democracy in member states and in applicant states;

*b.* its Resolutions 31 (1996), 58 (1997) and 106 (2000) establishing guiding principles on the preparation of the above-mentioned reports;

2. Having regard to the mandate given to its Institutional Committee to prepare these reports and following an agreement with the Committee of the Regions to prepare reports on countries which are candidates for membership of the European Union;

3. Having examined the report of the Institutional Committee of the Chamber of Local Authorities on local democracy in Malta, prepared by Mr René Paas (Netherlands, L) rapporteur;

4. Thanking the following Maltese authorities: the Honourable Dr Austin Gatt, Minister of Justice and Local Government, Dr Charles Mangion, member of parliament Mr Joseph Galea, Auditor General, Dr Anthony Borg Barthet, Attorney General, Mr Clyde Puli, President of the College of Local Councillors of the National Party, Dr J. Brincat, Deputy leader of the Labour Party, Dr Ian Micallef, President of the Maltese delegation to the CLRAE, as well as mayors, local councillors, the Secretary of the Association of Local Councils Executive Secretaries and the representative of the European Union delegation in Malta, met by the rapporteur during his two official visits to the country (1-2 March and 1-2 July 2002) for the frank and constructive dialogue and the detailed information provided for the preparation of the report;

5. Thanking in particular the President, the Executive Committee and the secretariat of the Maltese Local Councils Association for its essential contribution in the organisation of the above-mentioned visits and the documentation made available to the rapporteur;

6. Thanking Professor Eivind Smith (Norway), member of the Group of the Independent Experts on the European Charter of Local Self-Government, for the substantial

help he has given the rapporteur in carrying out his task, Professor Henry Frendo (Malta), member of the said group, for the information and comments provided on the occasion of the above-mentioned visits as well as the Secretary of the Institutional Committee for the assistance provided in this respect;

7. Wishes to draw the attention of the Maltese parliamentary and governmental authorities to the following considerations:

*a.* Malta is a unitary state and no federal or regional self-government structure exists;

*b.* the system of local self-government is reflected in the Constitution since an amendment adopted in 2001 and is thoroughly regulated by statute initially adopted in 1993 and later amended;

*c.* in 1993, the Maltese authorities ratified twenty-five paragraphs of the European Charter of Local Self-Government (Article 2; Article 3, paragraphs 1 and 2; Article 4, paragraphs 1, 2 and 4; Article 5; Article 7, paragraph 1; Article 8, paragraph 2; Article 9, paragraphs 1 and 2; Article 10, paragraph 1; Article 11);

*d.* on this basis, the system of local self-government in Malta has been in existence for less than ten years, it is implemented on the territory of one of the smallest and most densely populated states of Europe and consists at present of sixty-eight local councils with an average population of less than 6 000;

*e.* since its initial implementation, this system has steadily been developed through the transfer of increased responsibilities from central government to the local councils and other means;

*f.* this development seems to have happened according to a deliberate step-by-step attitude and has taken place in close co-operation with local councils, represented by the Local Councils Association;

*g.* globally, it must be recognised that local self-government in Malta has made considerable steps forward since it was introduced in 1993;

*h.* nevertheless, it should be noted that:

i. most of the steps towards a more important role for local councils have been fairly small;

ii. the share of public affairs that the local authorities in Malta have the right and ability to regulate and manage consequently remains relatively small;

iii. the range of own responsibilities carried out at local level are less than broad;

iv. local councils' budgets, as compared to central government spending, remain very low and (at least until the year 2000) no evident tendency of improvement is manifest in this respect;

8. With this in mind, invites the Maltese authorities to pay due attention to the detailed observations and

considerations laid down in the report on local democracy in Malta mentioned in paragraph 3 above. In particular, attention should be paid to the following issues:

*a.* the compliance with Article 3, paragraph 1 and Article 4, paragraph 3 of the European Charter of Local Self-Government should be reconsidered, notably concerning the right of local authorities to regulate and manage a “substantial share of public affairs” with due respect being paid to the so-called subsidiarity principle;

*b.* the fact that the share of public affairs devoted to local councils in Malta remains very small should provide a stepping-stone for continued and strengthened efforts in favour of an enlarged role for local councils in Malta;

*c.* it is regrettable that the early ratification of twenty-five paragraphs of the European Charter of Local Self-Government was not followed by the acceptance of other paragraphs of the Charter. More particularly, since full compliance between Maltese law and the requirements of Article 7, paragraph 2 and Article 9, paragraphs 4 to 6 of the said Charter seems to exist, Maltese authorities should consider the possibility of ratifying the above-mentioned paragraphs as a first step towards the acceptance of the remaining paragraphs;

*d.* given the importance of local taxation for the development of a system of responsible local self-government, the Maltese authorities are invited to consider further the possibility of introducing such a system; in order to achieve this objective gradually but also to train municipalities to deal with taxation issues, the Maltese authorities should consider the possibility of sharing state taxes with local authorities;

*e.* it is noted that Article 49.1 of the Local Councils Act requires a local authority to consult the minister prior to appointing its executive secretary; this consultation process should never be understood as amounting to an approval by the minister concerned;

*f.* more generally, the Maltese authorities are invited to consider the further development of the system of local self-government in Malta in the light of the general impression that local councils have limited tasks, limited budgets, a limited number of employees, limited working space, limited financial reward for mayors, no financial reward at all for other councillors, no possibility of local taxation and an extensive control system by central authorities;

*g.* in the scope of the European Charter of Local Self-Government and the values on which it is based, the only way out therefore seems to be to proceed further on the path of progressively attributing by law (or delegating) clearly defined responsibilities to local councils; this transfer (or delegation) should be accompanied by the necessary financial resources, a part of which should derive from local taxation;

9. With this in mind, invites:

*a.* the Committee of Ministers to forward this recommendation and its explanatory memorandum to the Maltese authorities;

*b.* the European Commission to take into account this recommendation and its explanatory memorandum in relation to the accession process of Malta to the European Union and addresses a copy of these texts to the European Parliament and the Committee of the Regions;

*c.* the Maltese Minister responsible for Local Self-Government to participate in the plenary meeting of its Chamber of Local Authorities which will take place in Strasbourg in May 2003 in order to present the measures taken and/or envisaged to implement this recommendation.

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1. Debated and adopted by the Standing Committee of the Congress on 14 November 2002, (see Doc. CPL (9) 7, draft recommendation presented by Mr R. Paas, rapporteur).