

46th SESSION

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AMENDMENTS

Monitoring of the European Charter of Local Self-Government in Italy

Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee)

Co-rapporteurs:¹ Andrew LEADBETTER, United Kingdom (L, CRE/ECR)
Randi MONDORF, Denmark (R, GILD/ILDG)

Draft recommendation (for vote) AMDT 1.....3

Summary

This is the 4th report monitoring the application of the Charter in Italy since its ratification in 1990.

Italy has a long tradition of local and regional autonomy that has shaped a state characterised by regionalism, which has been further developed in recent decades.

The rapporteurs note with satisfaction that Italian authorities gave meaningful consideration to the 2017 Congress Recommendation. The report also highlights that local and regional revenues are increasing, consultation processes have improved and some progress in the recruitment of staff has been observed. In addition, work to develop the legal basis for the re-introduction of direct elections in provinces is being undertaken, the equalisation system has improved, and the country has signed and ratified the Additional Protocol to the Charter on the right to participate in the affairs of a local authority (CETS No. 207).

However, the rapporteurs point out some aspects deserving special attention, such as the absence of legal recognition of the Charter by the Constitutional Court, the limited scope of action of metropolitan cities and provinces, the lack of adequate and commensurate resources for provinces, and the lack of a possibility for provincial and metropolitan councils to formulate a vote of dismissal or no confidence against their leaderships. Additionally, they note the absence of a system of fair and adequate remuneration for representatives of provinces and metropolitan cities, the persisting shortage of staff in local and regional authorities, and the existing threats and violence against elected officials.

1. L: Chamber of Local Authorities / R: Chamber of Regions.

EPP/CCE: Group of the European People's Party in the Congress.

SOC/G/PD: Group of Socialists, Greens and Progressive Democrats.

ILDG: Independent Liberal and Democratic Group.

ECR: European Conservatives and Reformists Group.

NR: Members not belonging to a political group of the Congress of Local and Regional Authorities of the Council of Europe

Therefore it is recommended, in particular, that Italian authorities reconsider the legal force of the Charter to make sure that local authorities can benefit from its protection. The national authorities are also invited to widen the scope of action of metropolitan cities and provinces, following the re-introduction of directly elected bodies. The rapporteurs also recommend ensuring fair and appropriate remuneration to elected officials of provinces and metropolitan cities and introducing a mechanism that strengthens legal action and extends the statute of limitations to provide better protection under criminal for elected representatives who are subject to attacks and aggression. Finally, the implementation of additional measures to enhance the capacity of local and regional governments in hiring highly qualified staff is recommended.

DRAFT RECOMMENDATION²

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

- a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;
- b. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, 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 the effective implementation of the principles of the European Charter of Local Self-Government.”
- c. Chapter XVIII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;
- d. the Contemporary Commentary by the Congress on the explanatory report to the European Charter of Local Self-Government adopted by the Statutory Forum on 7 December 2020;
- e. the Congress priorities for 2021-26, in particular priority 6b which concerns the quality of representative democracy and citizen participation;
- f. the Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda for Sustainable Development, in particular Goal 11 on sustainable cities and communities and Goal 16 on peace, justice and strong institutions;
- g. the Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;
- h. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;
- i. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;
- j. Congress Recommendation 404 (2017) on the monitoring of the European Charter of Local Self-Government in Italy;
- k. the Explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Italy.

2. The Congress points out that:

- a. Italy joined the Council of Europe on 5 May 1949, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 15 October 1985 and ratified it without reservations on 11 May 1990. The Charter entered into force in Italy on 1 September 1990.
- b. the Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (hereinafter referred to as “the Monitoring Committee”) decided to examine the situation of local and regional democracy in Italy in light of the Charter. It entrusted Andrew Leadbetter, United Kingdom (L, CRE/ECR) and Randi Mondorf, Denmark (R, GILD/ILDG), with the task of preparing and submitting to the Congress a report on local and regional democracy in Italy. The delegation was assisted by Prof Nikolaos Chlepas, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

2. Preliminary draft recommendation approved by the Monitoring Committee on 14 February 2024

c. the monitoring visit took place from 9 to 12 October 2023. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the explanatory memorandum;

d. the co-rapporteurs wish to thank the Permanent Representation of Italy to the Council of Europe and all those whom they met during the visit.

3. The Congress notes with satisfaction that in Italy:

a. the Italian authorities gave consideration to the previous Congress Recommendation 404(2017) which recommended to “reintroduce direct elections for the governing bodies of provinces and metropolitan cities” and seem to continue giving meaningful consideration to this recommendation through ongoing legislative changes;

b. the revenues of ordinary regions and other local authorities are increasing;

c. the consultation of local authorities has reached a satisfactory level, also on financial matters, and seems to be developing positively;

d. some progress has been observed concerning staff, entailing new recruitments and perspectives for better qualified human resources in local and regional governments;

e. the introduction of the concept of “differentiated autonomy” for ordinary regions entails a right to additional financial resources and may reduce the gap in such resources between ordinary and special regions;

Amendment 1

Presented by the rapporteurs.

In sub-paragraph 3.e, delete “additional financial resources” and replace it with “equalisation measures”.

Sub-paragraph 3.e should read:

e. the introduction of the concept of “differentiated autonomy” for ordinary regions entails a right to equalisation measures and may reduce the fiscal gap between ordinary and special regions;

f. the equalisation system has been improved based on the estimation of standard needs and fiscal capacity, and on the increase of this fund envisaged for 2024;

g. the entry into force on 1 February 2024 of the Additional Protocol to the Charter on the right to participate in the affairs of a local authority, which was signed and ratified by Italy on 24 October 2023.

4. the Congress notes that the following points call for particular attention:

a. the Constitutional Court's case law does not recognise the legal force of the Charter, which means that local and regional authorities are deprived of the protection offered by the Charter;

b. the scope of action of metropolitan cities and provinces remains restricted despite the previous Congress Recommendation;

c. the lack of adequate and commensurate financial resources for provinces, in accordance with Article 9 of the Charter;

d. the possibility for provincial/metropolitan councils to formulate a vote of dismissal or no confidence against their president/mayor in order to strengthen the political accountability of presidents/mayors has not been introduced yet despite the previous Congress Recommendation;

e. elected officials of provinces and metropolitan cities do not receive fair and appropriate remuneration;

- f. the lack of flexibility and discretion in the tasks assigned to municipalities by the central level, mainly due to overregulation and bureaucratisation;
- g. while there have been positive developments recently in the potential for hiring new staff, a shortage of staff persists in local and regional authorities;
- h. local and regional elected representatives are increasingly targeted by threats and pressures, undermining their ability to exercise their mandates;
- i. the system of governance for the metropolitan area of the capital city Rome is obsolete notably due to the fragmentation of municipal structures and the persistent lack of coordination;
- j. the three additional protocols to the European Outline Convention on Trans-Frontier Co-operation between Territorial Communities or Authorities have not been signed and ratified yet.

5. In light of the foregoing, the Congress requests that the Committee of Ministers invite the authorities of Italy to:

- a. reconsider the legal force of the Charter, to ensure that Italian local authorities can benefit from the legal protection of the Charter;
- b. widen the scope of action of metropolitan cities and provinces, once the reintroduction of directly elected bodies has taken place;
- c. ensure adequate and commensurate financial resources to provinces, in accordance with Article 9 of the Charter;
- d. Introduce the possibility for provincial/metropolitan councils to formulate a vote of dismissal or no confidence against their president/mayor in order to strengthen the political accountability of presidents/mayors, as already recommended in the previous Congress recommendation 404 (2017);
- e. allocate fair and appropriate remuneration to elected officials of provinces and metropolitan cities;
- f. undertake a reform on administrative simplification to tackle excessive bureaucracy and over-regulation to provide local authorities with greater freedom to adapt to local conditions and enable them to better implement delegated tasks;
- g. introduce a mechanism that strengthens legal action and extends the statute of limitations to provide better criminal law protection for mayors who are subject to attacks and aggression from citizens in the exercise of their public duties (possibly considering the introduction of a specific type of offence for these actions);
- h. implement additional measures to enhance the capacity of local and regional governments to hire highly qualified staff;
- i. modernise the system of governance for the metropolitan area of the capital city Rome to be in capacity to address new challenges such as infrastructure and transportation issues, climate and demographic changes by developing collaborative forms of metropolitan governance involving various stakeholders, including in particular local and regional authorities;
- j. sign and ratify the three additional protocols to the European Outline Convention on Trans-Frontier Co-operation between Territorial Communities or Authorities in the near future.

6. The Congress calls on the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to take account of these recommendations on the monitoring of the European Charter of Local Self-Government in Italy and the accompanying explanatory memorandum in their activities relating to this member State.