

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## **Recommendation 409 (2017)<sup>1</sup> The functioning of the organs of local democracy in a context of linguistic diversity in the communes “with facilities” around Brussels in the Flemish region**

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(2015)9 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 Statutory Resolution CM/Res(2015)9, which stipulates that “[t]he 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.* Congress Resolution 409 (2016) on the revision of the Rules and Procedures of the Congress, in particular Chapter XVII of the latter on the organisation of the monitoring procedures of the Congress;

*d.* Congress Recommendations 131 (2003) local democracy in Belgium and 366 (2014) on local and regional democracy in Belgium;

*e.* Congress Recommendation 258 (2008) on local democracy in Belgium: non-appointment by the Flemish authorities of three mayors;

*f.* the explanatory memorandum on the functioning of local democracy structures in a context of linguistic diversity in the communes “with facilities” around Brussels in the Flemish region.

2. The Congress notes that:

*a.* Belgium is a founding member of the Council of Europe, which it joined in 1949. It ratified the European Charter of Local Self Government (ETS No. 122, hereinafter “the Charter”) on 25 August 2004, with effect from 1 December 2004. The provisions not ratified relate to Article 3, paragraph 2, Article 8, paragraph 2, and Article 9, paragraphs 2, 6 and 7;

*b.* the Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (Monitoring Committee) instructed the co-rapporteurs on local democracy Henrik Hammar (Sweden, L, EPP/CCE), and on regional democracy David Eray (Switzerland, R, ILDG),<sup>2</sup> to carry out a fact-finding visit to Belgium in order to clarify the functioning of local democracy structures in a context of linguistic diversity in the communes “with facilities” around Brussels in the Flemish region, and to prepare and submit to the Congress a report on this subject;

*c.* the fact-finding visit took place on 2 and 3 February 2017 in Brussels. During the visit, the Congress delegation met with representatives from the national delegation to the Congress, local elected representatives and the Vice-Minister-President of the Government of Flanders and Flemish Minister for Local and Provincial Government, Civic Integration, Housing, Equal Opportunities and Poverty Reduction. The detailed programme of the visit is appended to the explanatory memorandum;

*d.* the delegation wishes to thank the Permanent Representation of Belgium to the Council of Europe and the interlocutors who met with the delegation for their open and constructive discussions.

3. The Congress expresses its concern with regard to:

*a.* the fact that the election of the mayor proposed by the local council has to be endorsed by the Flemish Minister of the Interior, whereas the proposed mayor is a member of the local council which was previously directly elected by the citizens. This form of validation could constitute, in some cases, a disproportionate supervision of local authorities by the regional Flemish Government and a breach of the spirit of the Charter’s preamble and Article 4 and Article 8, paragraph 3, thereof;

*b.* the resulting non-implementation of Congress Recommendations 131 (2003), 258 (2008) and 366 (2014) as regards the issue of the appointment system for mayors mentioned under paragraph 3.a above;

*c.* the legal impossibility for local councillors in these communes – where the majority of local residents are French-speaking – to comment in French on a point on the meeting agenda of a local council, or on that of other local internal bodies. This constitutes an undue limitation of their capacity and right to participate effectively in the meetings and decisions of these bodies and is therefore an infringement on the exercise of local democracy and, more generally, renders it impossible for exclusively French-speaking citizens to follow the activities of the local council;

*d.* the difficulties for French-speaking Belgian citizens to take part in local affairs or to use public services in an effective way, in particular in the field of social services, due to a restrictive interpretation of the Belgian federal language laws, as implemented and enforced by the Flemish Government, which could lead, in some cases, to discrimination.

4. The Congress recommends that the Belgian authorities:

*a.* revoke the system of appointment by the Flemish Minister of the Interior;

*b.* review the way in which the language laws are applied in municipalities “with linguistic facilities”, in order to allow the use of both French and Dutch by municipal councillors and by the mayor and aldermen at the meetings of the municipal council or of other local bodies;

*c.* extend the recommendation made above (paragraph 4.*b*) to the citizens of the communes concerned so that they can participate in a meaningful way in local public affairs and can make effective use of the municipal public services (and notably the social ones);

*d.* reconsider the possibility of ratifying Article 3, paragraph 2, Article 8, paragraph 2, and Article 9, paragraphs 2, 6 and 7, of the Charter and thereby undertake to comply with all the provisions set out in the said Charter.

5. The Congress calls on the Committee of Ministers to transmit this recommendation to the authorities of Belgium and to take it into account, together with the accompanying explanatory memorandum, in its activities relating to this member State.

6. The Congress recommends that the Parliamentary Assembly, the European Commission against Racism and Intolerance (ECRI) and the Commissioner for Human Rights take into account these recommendations within the framework of their activities in Belgium.

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1. Debated and approved by the Chamber of Local Authorities on 19 October 2017, and adopted by the Congress on 20 October 2017, 3rd sitting (see Document [CPL33\(2017\)02](#), explanatory memorandum), co-rapporteurs: Henrik HAMMAR, Sweden (L, EPP/CCE), and David ERAY, Switzerland (R, ILDG).

2. They were assisted by Ángel Manuel MORENO MOLINA, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat.