

34th SESSION

Fact-finding mission on the situation of local elected representatives in the Republic of Moldova

Recommendation 411 (2018)¹

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, 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 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, in particular, that the principles of the European Charter of Local Self-Government are implemented;”

c. Chapter XVII of the Rules and Procedures of the Congress on the organisation of the monitoring procedures;

d. Congress Resolution 420 (2017) and the explanatory memorandum on “Local democracy in the Republic of Moldova: clarification of the conditions surrounding the suspension of the Mayor of Chişinău”.

e. The appended explanatory memorandum appended hereto on the Fact-finding mission on the situation of local elected representatives in the Republic of Moldova.

2. The Congress points out that:

a. The Republic of Moldova acceded to the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 2 May 1996 and ratified it on 2 October 1997 without any reservations. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

b. The Republic of Moldova 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 Monitoring Committee of the Congress of Local and Regional Authorities of the Council of Europe instructed the co-rapporteurs on local and regional democracy Gunn Marit Helgesen (Norway, R, EPP/CCE) and Marc Cools (Belgium, L, ILDG),² to carry out a fact-finding visit to Moldova in order to clarify the situation of local elected representatives in this country;

d. The fact-finding visit took place on 13 December 2017 in Chisinau. During the visit, the Congress delegation met with Dorin Chirtoaca, with local elected representatives as well as representatives of political parties, with members of the Moldovan Delegation to the Congress and with representatives of the State Chancellery, the Chair of the Central Electoral Commission and the President of the Constitutional Court.

¹ Debated and adopted by the Congress on 27 March 2018, 1st sitting (see Document [CG34\(2018\)09](#), explanatory memorandum), co-rapporteurs: Marc COOLS, Belgium (L, ILDG) and Gunn Marit HELGESEN, Norway (R, EPP/CCE).

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

3. The delegation wishes to thank the Permanent Representation of the Republic of Moldova to the Council of Europe and the interlocutors who met with the delegation, for their open and constructive discussions.

4. The Congress expresses its concern with regard to:

a. several violations of the Charter identified in Resolution 420 (2017) which are still valid, notably with respect to Article 8 paragraph 3, Article 3 paragraph 2, and Article 7 paragraph 1, in particular as regards the conditions of suspension of the general mayor of Chisinau and the consequences that this situation entails on the dysfunction of local governance in the capital city, as stressed in the abovementioned resolution;

b. the lack of clear legal basis to suspend a local elected representative which also derives from contradictory provisions in domestic law ; the same prevails as regards local recall referenda and the conditions for the suspended mayor to campaign;

c. the fact that a large number of criminal prosecutions have been conducted against local elected representatives on the grounds of the anti-corruption fight and which appear to lead to problematic features as regards European standards;

d. the lack of consultation with the Congress of Local Authorities of Moldova (CALM);

e. the overall situation of local democracy in Moldova which has deteriorated substantially since the last Congress monitoring report adopted in 2012.

5. In the light of the foregoing, the Congress recommends that the Moldovan authorities:

a. examine the Court proceedings against local elected representatives in order to ensure that they are not constitutive of judicial harassment and do not prevent local elected representatives from managing their municipalities freely;

b. revise the Moldovan legislation (including the Electoral code) in order to issue clear and non-contradictory provisions and ensure their conformity with European standards, as regards the procedure of suspension of local elected representatives as well as local recall referenda and the conditions for campaigning;

c. find the correct equilibrium between local public interest and the fight against corruption in order to maintain a good level of local governance in the light of the Charter and other European standards and allow local elected representatives to exercise their political mandate freely whilst also benefiting from the presumption of innocence;

d. resume the dialogue with the national Congress of Local Authorities of Moldova in the framework of a regular formalised effective consultation process, in accordance with the Charter and Resolution 328 (2012);

e. enter into a constructive dialogue with the Congress rapporteurs on local and regional democracy on Moldova in the framework of the monitoring visit scheduled for spring 2018, in order to improve rapidly the situation as regards local democracy in Moldova, and in particular the situation of local elected representatives in this country.

6. The Congress calls on the Committee of Ministers to transmit this recommendation to the Moldovan authorities and to take it into account, as well as the accompanying explanatory memorandum, in its activities relating to this member State.

7. The Congress recommends that the Parliamentary Assembly, the European Commission on Democracy through Law ("Venice Commission") and the Commissioner for Human Rights take into account these recommendations within the framework of their activities in this country.