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Report  
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**Local and regional democracy in Latvia**

Monitoring Committee

Rapporteurs:<sup>1</sup>      Xavier CADORET, France (L, SOC)  
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Draft recommendation (for vote).....2  
 Explanatory memorandum (for information) .....6

*Summary*

This report follows the third monitoring visit to Latvia since it ratified the European Charter of Local Self-Government in 1996.

It highlights the generally positive situation of local self-government in Latvia. In particular, the report stresses that local authorities enjoy extensive autonomy and a broad range of powers and that there is effective dialogue between central and local government. It praises the systematic references made in the Constitutional Court's case-law to the Charter, thus ensuring its applicability.

The rapporteurs nevertheless draw the national authorities' attention to the instability of local finances and the shortcomings of the financial equalisation system. They also note a pattern of "over-regulation" in the field of local authorities' "autonomous" functions, which de facto reduces their autonomy.

The Congress therefore recommends that Latvia take a series of measures to stabilise local finances and enhance the fiscal autonomy of local authorities. A further recommendation is that the national authorities increase the state's contribution to the equalisation fund and clarify the system of local powers. Even though the consultation system is generally good, longer deadlines could be granted for the mechanisms for consulting local authorities so as to make them more effective.

The report reiterates the importance of granting non-citizens voting rights in local elections so as to enable that section of the population to better exercise their political rights.

Lastly, the rapporteurs urge Latvia to consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

1 L: Chamber of Local Authorities / R: Chamber of Regions  
 EPP/CCE: European People's Party Group in the Congress  
 ILDG: Independent Liberal and Democratic Group  
 SOC: Socialist Group  
 ECR: Group European Conservatives & Reformists Group  
 NR: Members not belonging to a political group of the Congress

## DRAFT RECOMMENDATION<sup>2</sup>

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

a. Article 2, paragraph 1.b, of the Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that one of the aims of the Congress is to “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3, of the 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 monitoring procedures;

d. the appended explanatory memorandum on local and regional democracy in Latvia.

2. The Congress points out that:

a. Latvia joined the Council of Europe on 10 February 1995. It signed and ratified the European Charter of Local Self-Government (ETS 122, hereafter “the Charter”) on 5 December 1996. The Charter came into force in Latvia on 1 April 1997;

b. In accordance with Article 12, paragraph 1, of the Charter, Latvia declared that it was not bound by Article 9, paragraph 8, of the Charter;

c. The Monitoring Committee decided to examine the situation of local and regional democracy in Latvia in the light of the Charter. It instructed Marc Cools (Belgium, ILDG) and Xavier Cadoret (France, SOC), with the task of preparing and submitting to the Congress a report on local and regional democracy on Latvia. The delegation was assisted by Prof. Angel Moreno Molina, Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat;

d. The monitoring visit took place from 12 to 14 September 2017. During the visit, the Congress delegation met the representatives of various institutions. The detailed programme of the visit is set out in the appendix to this document;

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2 Preliminary draft recommendation approved by the Monitoring Committee on 14 February 2018.

Members of the committee:

*L. Verbeek* (Chair), *A. Aftanasova*, *H. Akgun*, *T. Akyurek* (alternate: *Y. Barakazi*), *M. Angelopoulos*, *L. Ansala* (alternate: *J. Rostedt*), *T. Arifi*, *V. Arques Cortes*, *G.A. Axelsson*, *D. Azarov*, *N. Barbu*, *G. Bardeli*, *V. Belikov*, *M. Belin*, *E. Bendodo*, *Bensayag*, *R. Biedron*, *A. Bindi*, *A. Bogdanovic*, *E. Bohlin* (alternate: *H. Hammar*), *Z. Broz*, *M. Bufi*, *X. Cadoret*, *V. Casian*, *M. Cavara* (alternate: *V. Svancer*), *G. Chatzimarkos*, *M. Cools*, *V. Crudu*, *H. Daems*, *S. Dickson*, *N. Dirginciene*, *A. Dismore*, *R. Dodd*, *G. Doganoglu*, *D. Eray* (alternate: *M. Hollinger*), *R. Fejstamer*, *L. Garlito Batalla*, *M. Gauci*, *G. Geguzinskas*, *A. Georgescu*, *K. Germanova*, *L. Gidei* (alternate: *V. Dontu*), *M. R. Gomes De Andrade*, *B. A. Gram*, *N. Grozev*, *I. Hanzek*, *L. Harribey* (alternate: *J.-M. Belliard*), *Z. Hassay* (alternate: *A.I. Acsay*), *G.M. Helgesen*, *B. Hirs*, *J. Hlinka*, *B. Hordejuk*, *V. Hovhanissyan*, *A. Ibrahimov*, *G. Illes*, *H. B. Johansen*, *A. Jozic*, *K. Kaladze* (alternate: *B. Davituliani*), *A. Kaleva*, *G. Kaminskis*, *O. Kasuri*, *M. Kaufmann*, *N. Kavtaradze*, *B. Kerimoglu*, *J-P. Klein*, *A. Knobova*, *J. Kokko*, *B. Krnc*, *L. Kroon* (alternate: *H. Bergmann*), *C. Lammerskitten*, *A. Leadbetter*, *F. Lec*, *P. Mangin*, *K. Marchenko*, *T. Margaryan* (alternate: *E. Yeritsyan*), *G. Marsan*, *P. McGowan*, *R. Mondorf*, *S. Mosharov*, *R. O’Grady*, *D. Pantana*, *N. Parlon Gil*, *V. Pasqua*, *G. Pauk*, *S. Paunovic*, *Z. Pava* (alternate: *A. Magyar*), *M.-L. Penchard* (alternate: *J.-P. Liouville*), *V. Prokopiv*, *A. Pruszkowski*, *P. Pryhara*, *I. Radojicic*, *G. Riba Casal*, *R. Rio*, *J. Rocklind*, *R. Rohr*, *B. Rudkin*, *V. Santarsiero*, *B. Schleicher-Rothmund*, *S. Schumacher*, *I. Serebyuk*, *L. Sfirloaga*, *A.-M. Sotiriadou*, *R. Spiegler*, *Y. Svitlychna*, *T. Taghiyev*, *T. Taliashvili*, *A. Tarnavski* (alternate: *T. Badan*), *P. Thornton* (alternate: *H. Carr*), *K. Tolkachev*, *I. Tomic*, *A. Torres Pereira*, *M. M. T. Turel* (alternate: *F. Genc Unay*), *A. Ugues*, *S. Vaag*, *K. Van Overmeire*, *V. Varnavskiy*, *R. Vergili*, *B. Voehringer*, *A. Vyras*, *H. Weninger*, *J. Wiene*, *D. Wrobel*, *L. Zaia*, *F. Zimmermann*.

N.B.: The names of members who took part in the vote are in italics.

Secretariat of the committee: *S. Poirel*, secretary to the committee and *S. Pereverten*, co-secretary to the committee.

e. The co-rapporteurs wish to thank the Permanent Representation of Latvia to the Council of Europe and all those whom it met on the visit for their readiness to assist the delegation and for the information they so willingly supplied.

3. The Congress notes with satisfaction that:

- a. The present situation of local self-government deserves an overall positive assessment;
- b. State intervention in local affairs is strictly limited and regulated by the law, therefore fulfilling the requirements of the Charter;
- c. Local authorities enjoy an extensive autonomy and a notable realm of competences;
- d. There is an honest, fruitful and vigorous dialogue and negotiation pattern between the central government and the local authorities;
- e. The case-law of the Constitutional Court includes frequent references to the Charter, thus ensuring its applicability;
- f. The inter-municipal co-operation is good in general terms.

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

- a. the landscape of local finances is unstable, the revenues lack predictability in the long range, and the fiscal autonomy of local authorities is weak. In this sense, there is not a real system of "local taxes" in the technical sense of the term;
- b. the system of equalisation could be improved, since the contribution of the State to the equalisation Fund is too low. And the specific situation of small, rural municipalities, is not adequately taken into consideration in the current system of local finances;
- c. even if the system of consultation is good in general terms, in too many cases the deadline for receiving the local authorities' comments and suggestions on proposed measures is too short, thus limiting the capacity of local authorities to make meaningful and reasoned comment;
- d. in the field of "autonomous" functions, there is a pattern of "over-regulation", which reduces *de facto* the discretion and autonomy of local authorities in discharging their competences. To this end, the system of local competences should also be clarified;
- e. the category of the population called "non-citizens" which is still part of Latvian society and is not allowed to vote for local elections.

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

- a. ensure that the forthcoming tax reforms guarantee local authorities a level of resources at least equivalent to the one they have today, excluding the transfer of new competences, and allocate a fixed share of the Personal Income Tax in legislation in order to stabilise local finances, enhance the fiscal autonomy of local authorities and permit local authorities to better predict and plan their financial resources;
- b. increase the contribution of the State to the equalisation fund and better take into account the specificities of small rural municipalities in the general system of local finances;
- c. grant longer time-spans and deadlines for consultation mechanisms of local authorities in order to make them more effective and give local authorities the capacity to better react to all matters dealt with by the government and which concern them;
- d. clarify the system of competences in order to avoid overlapping and ensure that local authorities have full discretion to manage their own competences, with concomitant finances;

e. grant voting rights to local elections for non-citizens to guarantee a better exercise of political rights by this part of the population;

f. sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, of 16 November 2009 (CETS No. 207).

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## EXPLANATORY MEMORANDUM

### 1. INTRODUCTION: AIM AND SCOPE OF THE VISIT, TERMS OF REFERENCE

1. Pursuant to Article 2, paragraph 3 of Statutory Resolution (2015) 9 of the Council of Europe Committee of Ministers, the Congress of Local and Regional Authorities (hereinafter referred to as "the Congress") regularly prepares reports on the state of local and regional democracy in all Council of Europe member states.

2. Latvia is one of parties to the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter"). Concretely, Latvia signed and ratified the Charter on 5 December 1996. The Charter entered into force in Latvia on 1 April 1997. At the time of ratification, Latvia declared to be bound by the following articles of the Charter: Article 2, Article 3, paragraphs 1 and 2, Article 4, Article 5, Article 6, paragraph 1, Article 7, paragraphs 1 and 3, Article 8, paragraphs 1, 2 and 3, Article 9, paragraphs 1, 2, 3, 5, 6 and 7, Article 10 and Article 11. Some years later (letter from the Minister of Foreign Affairs of Latvia, dated 17 May 1999), Latvia enlarged the realm of its commitment, and declared also to be bound by the following articles: Article 6, paragraph 2, Article 7, paragraph 2, and Article 9, paragraph 4.

3. In conclusion, since 1999 Latvia is bound by all the articles of the charter, except article 9.8, which is the only provision that is not binding on that Baltic republic. Latvia has not limited the scope of the Charter to a part of its territory or to a certain kind of territorial units.

4. In the domain of local and regional democracy, Latvia has also signed and ratified the following Council of Europe Treaties and Protocols:

— The European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106): signed on 28 May 1998 and ratified on 1 December 1998. Entry into force for Latvia: 2 March 1999.

— The addition protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, of 9 November 1995 (ETS No.159): signed on 28 May 1998 and ratified on 1 December 1998. Entry into force for Latvia: 2 March 1999.

5. However, Latvia has not signed yet the following Council of Europe's Conventions having a connection with local and regional government:

— The Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning interterritorial co-operation, of 5 May 1998 (ETS No.169).

— The Convention on the participation of foreigners in public life at local level, of 5 February 1992 (ETS No.144).

— The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, of 16 November 2009 (ETS No.207).

— The Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euro-regional Co-operation Groupings, of 16 November 2009 (ETS No.206).

6. The Chair of the Monitoring Committee of the Congress appointed Mr Marc Cools (Belgium, ILDG) and Mr Xavier Cadoret (France, SOC), as rapporteurs, and instructed them to prepare and submit to the Congress such a report. An official monitoring visit in Latvia was carried out by the aforementioned rapporteurs. The delegation was accompanied by a representative of the Congress secretariat and was assisted by Prof. Dr. Angel M. Moreno (expert). The rapporteurs wish to express their thanks to the expert for his assistance in the preparation of this report. This group of persons will be hereinafter referred to as "the Delegation".

7. The monitoring visit took place on 12-14 September 2017. During the visit, the Congress delegation had meetings at the Ministry of Finance and the Ministry of Environmental Protection and Regional Development, at the National Parliament, the Constitutional Court, the State Audit Office and with the Ombudsman. The delegation also had exchanges with members of the Latvian delegation to the Congress and representatives of the Latvian Association of Local and Regional Governments. The

detailed programme of the visit appears as Appendix I to this document. The delegation would like to thank all interlocutors whom they met during the visit, for their warm welcome and the valuable information provided to the delegation during the meetings.

## 2. HISTORICAL BACKGROUND, POLITICAL SITUATION AND REFORMS

### 2.1. Historical background

8. Latvia declared its independence from Russia in 1918, which was recognized by the Russian Federation when signing the Peace Treaty in 1920. The Constitution of Latvia provides: "The State of Latvia, proclaimed on 18 November 1918, has been established by uniting historical Latvian lands and on the basis of the unwavering will of the Latvian nation to have its own State and its inalienable right of self-determination in order to guarantee the existence and development of the Latvian nation, its language and culture throughout the centuries, to ensure freedom and promote welfare of the people of Latvia and each individuals. Already at that time, the country implemented an advanced scheme for local governments. As a leading Latvian scholar has pointed out: *"Latvia has a rather long history of development of local government. The legal acts on local self-governments that were adopted immediately after the formation of the new country in 1918 were quite democratic and included female suffrage"*<sup>3</sup>.

9. In the period 1940-1944, the country suffered subsequently the invasions of the Soviet Army (1940), the German Army (1941) and the Soviet Army again (1944). After World War II, and for more than five decades, the country was occupied and became a part of the former USSR. In 1991, the country regained its independence. The Constitution of 1922 was reinstated in August 1991.

10. Latvia has a total population of roughly 1,950,000 inhabitants (2017 data of Central Statistical Bureau of the Republic of Latvia) and an area of 64,589 km<sup>2</sup>. Currently, the country is a young and vital democracy, with an active presence in the most important international organisations. Namely, the country was admitted in the United Nations in September 1991, joined the Council of Europe in 1995 and the European Union, and NATO in 2004. Latvia keeps regular, peaceful and amicable relations with all its neighbours, and especially with those belonging to the Baltic Sea region. As an example, the Latvian-Russian Border Treaty was signed in 2007, demarcation was concluded in 2017, and several other bilateral treaties have been signed afterwards.

### 2.2. Political situation and reforms

11. The form of government of Latvia is that of a parliamentary constitutional Republic, "an independent democratic republic", according to art. 1 of the Latvian Constitution (*Satversme*). The head of State is the President of the Republic, who is elected by the national Parliament (*Saeima*) for a period of four years (art. 35 of the Constitution).

12. The legislative power of the republic resides exclusively at the State level, in the "Saeima". This is a unicameral chamber, composed of 100 representatives (art. 5 of the Constitution). The MPs are elected every four years. The last general elections were held in October 2014 and the next general elections are due in October 2018.

13. The executive branch is composed of the Head of Government (Prime Minister) and of the Cabinet, which is composed of ministers who are nominated by the Prime Minister and appointed by the Parliament.

14. Although the Latvian Constitution does not define the type of republic (unitary-decentralised-federal) Latvia is clearly a unitary country. On the other hand, the country has experienced a sustained process of administrative decentralisation at the local level, which is discussed below.

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3 I. Vilka: "Local government in Latvia", in: *Local government in the member states of the European Union: a comparative legal perspective* (A.M. Moreno, editor). INAP, Madrid, 2012 p. 365.

15. Since the recovery of its independence (1991) Latvia has undergone many deep political and territorial reforms: transition to a full democracy, accession to the EU, and reorganisation of its territorial administration. In this latter domain, the most important reform was conducted in the period 1998-2009, and was anchored in the Administrative Territorial Reform Act of 1998. Basically, the old territorial structures of local and state-deconcentrated administration were turned into a more rational one. The number of local authorities was significantly reduced and the district level was abolished. As a result of the reforms, currently the local governments are divided in 9 republic cities and 110 municipalities. There is only a "local" level of government and there is not a proper "regional" level of government. However, during the consultation process, both the national authorities and the Latvian association of local and regional authorities stressed that planning regions have all main attributes of regional government, except direct elections. Such attributes are:

- a. They are legal entities under public law;
- b. Main decision maker – Development Council have several regional legislation functions and is elected from elected local politicians (secondary elections);
- c. Executive power is established by the Development Council and is responsible to it; There is not any subordination of planning regions executives to the central government;
- d. Planning regions have: obligatory autonomous competences, voluntary autonomous competences and competences delegated by the national government;
- e. Hierarchy exist only for planning documents of EU, national, regional and local scale.

The association highlights that the share of their competences is small, but the Law on Administrative Territories and Populated Areas presently includes a delegation to the Cabinet of Ministers to prepare draft law on regional self-governments.

16. It should be indicated in the present report that a part of the population in Latvia is formed by the « non-citizens » which represents approximately 10% of the population (and in some municipalities more than 1/3 of the population). The proposal made by the President of Latvia to automatically grant Latvian citizenship to children born from non-citizens in Latvia still did not meet the parliamentary majority. The rapporteurs stress that it would be desirable that this proposal can be adopted as well as the grant of voting rights to local elections for non-citizens. The rapporteurs consider that the conjunction of these two measures would guarantee a better exercise of political rights of this part of the population. During their visit, it appeared to the rapporteurs that the non-citizens do not seem to meet any particular difficulty to benefit from various public services.

### **2.3. Previous reports and recommendations**

17. Latvia received attention by the Congress at different times during the last twenty years: in 1998, the situation of local and regional democracy in Latvia was the object of a specific report, which resulted in "Recommendation 47 (1998) on local and regional democracy in Latvia", and then in "Recommendation 317 (2011)". In this monitoring exercise, the Congress recognised that, in general terms, the system of local government in Latvia was developed in accordance with modern European standards, and provided some recommendations.

18. Apart from this monographic monitoring exercises, the Congress has paid attention on two occasions to the specific situation of the so-called "non-citizens" (see, infra, appendix I) from the local government perspective: in 2005, it adopted its "Information report (CG/INST(12)3) on local democracy and on the participation of non-citizens in public and political life at local level in Latvia". Later in 2008 it adopted "Recommendation 257 (2008) on local democracy in Latvia: the participation of non-citizens in public and political life at local level".

### 3. HONOURING OF OBLIGATIONS AND COMMITMENTS: BASIC FEATURES OF LATVIAN LOCAL AUTHORITIES

#### 3.1. The Constitution and the basic legislative framework

19. Contrary to what happens in other countries, the Constitution of Latvia (1922, as amended) does not include any specific chapter dealing with local government. The Latvian Constitution does not enumerate or single out the entities forming the local layer of government; does not proclaim the principle of self-government; and does not identify the basic organization or the competences of the local entities. As a matter of fact, there are few provisions dealing with local government, the most important being art.101 of the Constitution. This section provides, though, important principles in the field of local government:

a. On the one hand, the principle of people participation and involvement in the work of the local entities. In this sense, the Constitution proclaims that “every citizen of Latvia has the right, as provided for by law, to participate in the work of ...local government”. This initial wording is coupled by an additional sentence enlarging that principle to EU citizens: “Every citizen of the European Union who permanently resides in Latvia has the right, as provided by law, to participate in the work of local governments”.

b. On the other hand, local direct democracy is especially provided for in another indent of the said article: “Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia”.

c. Finally, the Constitution deals with the working language of local authorities. This matter is apparently of minor importance in many countries but it is very relevant in Latvia, in the light of his history. Concretely, Article 101 of the Constitution provides that “... The working language of local governments is the Latvian language”.

20. The fact that the domestic constitutional provisions on local government are so laconic plays an important role in evaluating the observance of article 2 of the Charter, as it will be presented *infra*.

21. Beyond these laconic constitutional provisions, the organisation, competences, finances and operational aspects of local authorities are regulated by a comprehensive set of laws and regulations, either approved by the Saeima or by the national government. The most relevant pieces of Latvian legislation dealing with local self-government is currently the Law of Local Governments, enacted in 1994 and amended many times since then. This statute is a sort of “code” of the local administration system. With some 100 articles, it regulates the organisation of the local authorities, its competences, its internal administration, the forms of control over their activities, their property and financial resources, and the forms of association and cooperation. Other important pieces of legislation are:

- The Act on Taxes and Duties of 1995
- The Law on Self-Government’s Budgets of 1995
- The Act on State Administration Structure of 2002
- The Act on Regional development of 2002
- The Act on Elections of the Republic city council and municipality council of 2008
- The Act on Administrative Territories and Populated Areas of 2008
- The Act on Spatial Development Planning of 2011
- The Act on Equalization of self-government finance of 2015.

22. The domestic legal system on local governments is also formed by governmental regulations, approved by the Cabinet. One of the most important regulations on local government is the Cabinet Regulation No. 585, of 6 July 2004, which regulates the procedures by which the Cabinet co-ordinates with local governments on issues that affect their interests. This regulation was adopted pursuant to art. 86. of the Law on Local Governments.

### 3.2. The local government system

23. As noted *supra*, an important administrative territorial reform took place in Latvia in 1998-2009.<sup>4</sup> The old districts (*Rajons*) were abolished and many small municipalities were amalgamated into bigger units. Concretely, 524 local entities and settlements of different sort were merged into bigger territorial local units. At present, the territory of Latvia is divided into three territorial scales : (a) the central, state administration; and (b) the regional governments- 5 planning regions and c) local level, formed by 119 entities: 9 “republic cities” (*republikas pilsēta*) and 110 municipalities (“*novads*”).

24. There are also five so called “planning regions” in the country (in Latvian: Latvijas plānošanas reģioni). Concretely, those of Kurzeme, Latgale, Rīga, Vidzeme and Zemgale. The English word “region” should not lead to the conclusion that there is also a genuine regional level of territorial government in Latvia. There is no such regional level, because the “planning regions” are in reality a sort of cooperative structure set up at supra-municipal level, that have been established by the State on the initiative on local governments for the purpose of coordinating the economic development and cooperating with local governments in the delivery of local services. Precisely from this last perspective, in 2016 the State Audit Office issued an audit report where it highlighted the role of the regions in ensuring the cooperation in the provision of services by municipalities. In 1998, they were recognized by the Law on Regional Development as legal entities. Next regulations after 2002 and 2005 described their status more precisely. Territories established previously by decisions of local and district governments were recognized by decision of the Cabinet of Ministers, regions were included in national budget and several public competences (including narrow legislative functions) were recognised by national laws. Presently the Law on Administrative Territories and Populated Areas includes two principal statements:

a. In Latvia there shall be regions with local governments.

b. The Cabinet must propose a new draft law on such regions.

Until full introduction of regional governments, the role of such governments is fulfilled by planning regions<sup>5</sup>.

25. The key legal rule governing the Regions is the Law on Regional Development of 2002 (as amended), whose art. 5 defines the planning regions as “a derived public person”. The running body of the region is the Development Council, which is not an elected body since the council consists of mayors or council members of the local governments included in the geographical area of the said “region”. Art. 5. 2 of that Act provides that the “*the Cabinet shall determine the territories of the planning regions in accordance with proposals submitted by local governments*”. Following this provision, the present planning regions were established by a decision of the national Cabinet of 5 May 2009. For instance, the Riga Planning Region has an area of 10,437 km<sup>2</sup> and includes 32 local governments (30 novads and the cities of Jūrmala and Rīga) with a total population of roughly 1.1 million people. Planning regions were established as voluntary initiative during 1995-1998. It was a form of self-governments’ co-operation.

26. The main competences of the planning regions are identified in the domain of spatial planning, management of investment programs (including the European Union funds) and the organisation of public transportation (a more detailed enumeration of competences is enshrined at art. 16bis of the Law on Regional Development). In this sense, each planning region is supposed to adopt one or more plans in any of those domains.<sup>6</sup>

27. In conclusion, the Latvian planning regions cannot be considered as “regions” in the sense of the Council of Europe’s Framework Reference for Regional Democracy (2008). In conclusion, it is arguable whether the Planning Regions can be considered as true « Regions » in the sense of the Framework Reference. In any case, the national association fully considers them as such “regions”, despite the fact that their ruling bodies are not elected.

4 See: E.Bartkevics: *Administrative territorial reforms in Latvia*, Latvian Association of Local and Regional Governments, 2011

5 See: Pukis M, (2015), *Regionalism in Latvia*, Assembly of European Regions Study of Regionalism.

6 See, for instance, the *Riga Planning Region Local Action Plan: Urban transportation plan of Riga Metropolitan Area* (2010).

28. As noted *supra*, the local level is currently formed by 119 local authorities: 9 “republic cities” or just “cities” (*republikas pilsēta*) and 110 municipalities (“*novads*”). The differences between “republican cities” and municipalities are not very important, as the Delegation could notice, at least from the legal perspective. This classification has no relevant impact on the legal regime of both types of entities, for instance in the field of local competences. The main differences are of “geographical” or economic nature. For instance, the “city” has some distinguishing features: (a) the level of urbanization is higher than in the *novads*, which are usually located in the rural environment; (b) a city has a system of developed commercial activities, and a concentration of public services such as health care or education; (c) the city has also a complex of cultural institutions and (d) it has at least 25,000 inhabitants. Examples of such cities are Riga, Jūrmala or Jelgava.

29. Beyond the technical type of the local authority (either “city” or “*novads*”) the institutional profile of Latvian local authorities, their competences and sources of revenue is the same independently from that classification. The system then is very “symmetric” or homogeneous throughout the country.

30. In the light of the information and impressions collected by the Delegation during the visit, the number and size of local authorities does not seem to be at present a controversial issue. The main reason is that, as noted *supra*, the past national reforms did produce a significant reduction of local authorities, and the present situation is considered to be fair, while improvable. In this sense, there are still disparities among Latvian local authorities, ranging from 1,036 inhabitants (*Baltinavas novads*) to 641 423 inhabitants (Riga).<sup>7</sup> Therefore, the government encourages further mergers of municipalities, especially among the smallest ones, although there is no specific strategy or executive plan to foster that goal.

### 3.3. Status of the Capital City

31. Rīga, founded in 1201, has always been the capital of the country since its independence, as well as the most important Latvian city from the political, economic and social perspective. It has an area of 304 km<sup>2</sup> and a population of 639 647 inhabitants (2016 data). Like the 9 larger municipalities in Latvia, Rīga, has the status of “republic city”. The territory of the city of Rīga is also the seat for the Planning Region Rīga, for most State administration offices and departments, for foreign embassies and for delegations of international and regional organisations and international firms. Rīga entertains a strong international cooperation with other cities, especially with the other Baltic capital cities.

32. Despite this administrative, political and economic importance of the capital, Rīga does not enjoy a specific or particular “capital status”, and it is governed by the general laws and regulations on local government.

33. According to the Law, Rīga, on top of the functions that are attributed to any other city, has to perform a set of specific “functions” that are connected with State or national interest. In particular, art. 17 of the Law on Local governments (art. 17) identifies such functions:

- a. providing support to central State institutions, foreign diplomatic missions and international organisations;
- b. ensuring the conditions for the reception of foreign delegations and the maintenance of national representation;
- c. participation in the maintenance and development of historical sites of the State and of national importance, as well as of cultural infrastructure;
- d. participation in the maintenance and development of communications systems and transport infrastructure of State importance.

34. Beyond this specific mention to the capital in the Law on Local Governments, the current legislation does not grant Riga a true “special status” as other big European capitals have, in terms of competences and financing. The sources of funding of Riga are, in principle, the same as other Latvian cities, and so are its competences. Thus, there is no specific benefit enjoyed by the city for the reason of being the capital of the country. The city of Riga does not collect any special tax. Likewise,

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<sup>7</sup> Data provided by the Central Statistical Bureau (2017).

the Mayor and the Council of Riga have the same status and competences as in any other city. According to our interlocutors, the current situation is not seen *per se* as a negative one, and the present “status quo” also represents some advantages for the city, due to its flexibility and its capacity to adapt to different scenarios. On the contrary, a prospect “special status” could potentially be more rigid or restrictive than the current situation, in particular in case there is no sufficient financing. This is essentially the reason why the Riga local representatives do not make claims for obtaining a special status for the capital.

35. The main complaint heard by the Delegation about the current situation had to do with financing. As in the case of other capitals, Rīga allegedly does not receive enough funding. For instance, claims were made that although the capital receives specific funding for some of the *special functions* that the Law attributes to it (see *supra*), it does not receive funding for others. Moreover, it was reported to us that Rīga receives every day thousands of people who live in other nearby cities but work in the capital (commuters). They use local services and have an impact on local facilities and infrastructures. However, this aspect is not taken into consideration when the financing is calculated, because these people are just day commuters and “de facto” people in the city, while the current system for the calculation of local finances does only take into consideration “legal” permanent residents. On the other hand, many real estate properties located in the city are exempted from paying the real estate tax (governmental and diplomatic buildings). According to our interlocutors, the specific situation of Riga is not adequately taken into consideration in the design and operation of the financial equalisation mechanisms now in force in the country.

36. Finally, the Delegation did not heard of any claim in favour of the establishment of a “metropolitan area” or similar structure encompassing Rīga and the neighbouring cities. It is true that the wording “Rīga Metropolitan Area” is used in some materials such as planning documents, but that notion is just a geographical denomination and does not identify a governmental organisation whatsoever. In conclusion, Riga has no “special” status but the local rulers do not made claims in favor of having such status, while they complain that the specificities of the capital should be reflected in the system of local finances.

#### **4. ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)**

##### **4.1. Article 2: foundation of local self-government**

###### **Article 2 – Constitutional and legal foundation for local self-government**

The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

37. In Latvia, the principle of local self-government is not explicitly recognised or proclaimed as such in the Constitution. The Charter entered into force in Latvia in 1997, and from this very moment it became “the law of the land”. The lack of explicit mentions to the principle of local self-government in the Constitution has not been an obstacle for the Constitutional Court to declare and proclaim the principle of self-government in a consistent case-law. Indeed, the direct applicability of the Charter is ensured and recognised by the Constitutional Court, and as matter of fact the Latvian Constitutional Court is probably the domestic Constitutional Court that has developed a most comprehensive jurisprudence on the recognition and application of the Charter. The constitutional basis for such case-law is arts. 1 and 101 of the Constitution (*Satversme*) (see, *infra*, point 4.10).

38. This situation was also considered in the Congress monitoring report of 2011, and the Delegation understood that the fact that the principle is protected by the case-law of the Constitutional Court is sufficient, in order to appraise the compliance with article 2. For the sake of consistency, the rapporteurs follow this view, even if it is evident that the case-law of a constitutional court is not necessarily monolithic or stable, and there is the danger (even theoretically) that the Court could nuance or reduce its jurisprudence over time.

39. At the level of regular legislation, it should be also noted that the principle of local self-government as such is not explicitly proclaimed in the national legislation. However, art. 5 of the Law on Local governments clearly provides that “*Local governments, within the scope of their competence and the*

*law, shall act independently*”, a wording which clearly stands for the implicit recognition of local self-government. Apart from that, the legal scheme and the political scenario of the country is pervaded by the idea that local authorities enjoy “independence” or self-administration (*pašvaldības*, in Latvian).

40. In the light of the precedent, it may be concluded that article 2 of the Charter is respected in Latvia, although it would be more than advisable that Latvian authorities consider amending the Constitution or the Law on Local Governments in order to introduce expressly the principle of local self-government.

#### 4.2. Article 3: Concept of local self-government

##### Article 3 – Concept of local self-government

- 1 Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
- 2 This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

##### Article 3.1: Concept of local self-government

41. For the sake of this provision of the Charter, the main question is whether, in the present situation, Latvian municipalities do regulate and manage a “substantial share of public affairs”. The rapporteurs think that this is the case, in the light of the number and importance of local competencies (*see, infra* point 3.3.2) and the fact that local authorities are endowed with typical “administrative” or governmental powers, such as the power to enact binding local regulations and to impose sanctions and fines on those who do not comply with them. Moreover, local authorities may approve different sorts of plans, in which they can freely formulate local public policies. In general there are no “a priori” controls from State agencies and departments, for most of the decisions taken by municipalities (*see, infra*).

42. Another indicator of the “importance” or the political and social role of local government in a country is the local government expenditure in the national general, government consolidated budget, especially in comparison with other EU countries. In this sense, the figures are eloquent, since Latvian indices are above the overall EU figures. For instance, in 2004 the indicator for Latvia was 27.9%, at that time the 10<sup>th</sup> highest in the EU. Some years later (2012), this indicator was even more positive, as it was the eighth highest in the EU.<sup>8</sup>

##### Article 3.2: Local bodies and organs

43. The internal structure and organisation of local authorities are regulated by the Law on Local Governments (art. 18 and ff.) and are the same for *novadi* (municipalities) and *pilsētas* (cities). In the light of this legal framework, the main bodies of the municipality are:

44. The representative body is the council (city council – municipality council), composed of “councilors” or “deputies” (English-translated terminology). The local council is the body for debate and decision-making, and its members are elected by the citizens of the municipalities, through a process of secret, general, and direct voting. Elections are called every four years at national level on the first Saturday in June, the last local elections having been held in June 2017 and the turnout was 50,39%. The voter turnout in local elections has evolved from 58.5% in 1994 to 62% in 2001 (peak in participation) to 46% in 2013.<sup>9</sup> In 2015, 25.1% 14<sup>th</sup> highest in EU.

45. Local elections are regulated by a different and specific piece of legislation, namely the Law on Elections of the Republic City Council of 13 January 1994, as amended. This statute also sets the number of councilors in the local councils, which is proportional to the local population, although different rules apply for *novads* and *pilsētas*. In the case of “municipalities”, 9 Council members are elected when the local population is up to 5,000 residents. This number raises to 15 in the case of

<sup>8</sup> On this aspect, see: I. Vilka: “Decentralisation” in: J. Rozenvalds (editor): *How democratic is Latvia. Audit of Democracy 2005-2014*, University of Latvia, Advanced Social and Political Research Institute, 2015, page, 234.

<sup>9</sup> Source: Central Election Commission of the Republic of Latvia.

local entities having between 5,001 and 20,000 residents; 17 if the population ranges from 20,001 to 50,001 inhabitants and 19 if the local population is higher than 50,000 residents.

46. In the case of *pilsētas* (cities), there are 13 deputies when the number of residents is up to 50,000 residents, and 15 for 50,000 residents. Special rules are set for Rīga, whose council has 60 members.

47. Every person who is a citizen of Latvia or a citizen of an EU country (dully registered), has reached the age of 18 and has been registered on the Voters register at least 90 days before the day of the election has the right to vote in the local elections. The Law on Local Elections also stipulates who can run as candidate in those electoral processes.

48. The local council adopts the most important political decisions affecting the municipality or city: the local budget, the local internal by-laws, the local master plan, the local generally binding regulations, the local economic and development plans, the name of the streets and public places, the remunerations of the council members and of the mayor, etc. In this sense, the Law on Local Governments lists up to 27 different competences for the council, plus any other competence that could be provided by the sectoral legislation (art. 21). The sessions of the council are public. The city council approves its own internal by-laws and rules of procedure. The councils should meet at least once per month.

49. The *mayor* is the top executive authority of the municipality. This word is in italics because it should be noticed that Latvian law does not use the word “mayor” or any other equivalent, but that of “Council Chairperson”. That is, the *mayor* is in Latvia primarily the Chairman or the Chairwoman of the Council.

50. The mayor is elected by the members of the local council and he runs and organises the work of the local council (calling of the meetings, forming the agenda, proposing decisions, organising the debates, etc.). He represents the local entity in any forum or procedure. He is the responsible person for the execution of judicial rulings affecting the local entity, etc. The Law on Local Government provides for different competences of the Chairperson (art. 62). However, Latvian mayors are in reality more than simple “chairmen” of the local council, and they have a clear political leadership capacity and executive functions, as a Latvian scholar points out.<sup>10</sup>

51. Apart from the Council and its “chairperson”, the Law on Local Governments provides for other bodies such as standing committees, and especially a Standing Committee on finances, which, *inter alia*, provides opinions on draft budgets or recommendations regarding the management of local government property.

52. The “execution” of the local policies and decisions is entrusted to officials elected or appointed by the council and by local government institutions. Among those officials, the most important is the “executive director”. The executive director is an obligatory position in the local entities having more than 5,000 residents, in the rest this position may be discharged also by the *mayor*. The executive director manages the local administration and executive functions. For instance, he has the power to conclude contracts of minor value (see, art. 69 of the Law on Local Governments).

53. Apart from the “formal” bodies for decision-making, Latvian legislation provides specifically for citizens’ participation. There are different ways and procedures for channeling such participation: in addition to the regular voting rights in local elections, local resident may attend the city council and have access to the agenda and the minutes of such meetings on the municipality’s website. Local leaders declared that citizens’ participation is good in general terms and that in recent years it has been boosted by electronic procedures.

54. In the light of the precedent, the Delegation draws the conclusion that the provisions of article 3 of the Charter are respected in Latvia.

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10 I. Vilka, *op cit* at note 1, page 374.

### 4.3. Article 4: Scope of local self-government

#### Article 4 – Scope of local self-government

- 1 The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
- 2 Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
- 3 Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
- 4 Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
- 5 Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
- 6 local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

#### *Article 4, para 1-5: Local competences and powers*

55. According to the Law on Local governments, the competences of Latvian local entities are classified into different sorts (art. 6):

- a. “autonomous” functions prescribed by that Law
- b. “autonomous” functions prescribed by sectoral legislation
- c. “delegated State administrative functions”
- d. functions whose performance has been transferred to local governments
- e. “administrative tasks” that have been assigned to local governments by State administration
- f. and “autonomous functions” that are performed as *voluntary initiatives*.

56. Each one of the precedent types of “competences” is regulated in separate provisions of the Law on Local Governments (arts. 7 to 12). Each type is supposed to match its own funding source.

57. Local representatives made the claim that this classification of competences is not satisfactory. On the one hand, there are too many types of competences, and the differences between the different types are not clear sometimes. On the other hand, and this is a more serious claim, they allege that, when the legislator attributes competences to the local governments in the sectoral legislation, it is not always clear under what heading or category the granted competence is supposed to be. That is, the legislator does not clarify what type of competence is the new granted competence. This is not only confusing but has a negative impact on the system of financing, because some competences are financed under some rules while the other types of competences are financed in a different way.

58. The local competences may be sorted into two main groups: “own” functions (autonomous) and “delegated” functions. It is also usual to merge the local competences into “mandatory autonomous functions”, prescribed by Laws, autonomous functions performed as *voluntary initiatives* and *delegated functions* on behalf of the State.

59. The “autonomous functions” singled out by the Law on Local Governments are enumerated along 22 subheadings, which include, *inter alia*,; social welfare; transport; local roads, culture; maintenance of public services; education (pre-school, primary and secondary education; environmental protection and water provision; waste management; the running of public utilities; the provision of public services and running of local facilities, a “macro” heading that includes many other activities (streets, lightening, cleaning, reparation and maintenance etc); the participation in ensuring public order, and the registration of civil status documents.

60. In the domain of autonomous competences, it can be stressed that:

— some autonomous competences are characterised as “full and exclusive”. For instance: “*to perform the registration of children residing in the local territory*”. Other competences, though, are not “full and exclusive”, but they consist of “participation” or collaboration in the provision of a public service by the State. For instance: “*to participate in ensuring civil defense measures*”. In any case, the competences that are “full and exclusive” outnumber those that have a partial or “participatory” nature.

— The Law provides that autonomous competences must be performed by local governments “*in accordance with procedures laid down in relevant laws and Cabinet regulations*” (art. 7.1). This point raises some concerns from the perspective of article 4 of the Charter, because the Government may establish many and detailed regulations governing the way how local governments must exercise their own competences and deliver the local public services. This fact seriously undermines the real capacity of local governments to design and to implement local public policies, and even triggers the question whether local “autonomous functions” may at all be considered as *full and exclusive*, in the scenario of over regulation. In this sense, our interlocutors made several claims that in many domains the Government issues such regulations, so that in practice the realm of discretion left to local government in discharging their own duties and in the delivery of local services is seriously limited. Several local representatives reported that every year there are more than 400 new laws and around 1000 cabinet, many of which deal with matters that are entrusted to the local governments. This impression is supported by scholars who assert, for instance, that “*the trend to increasingly regulate the implementation of local government functions...exists in Latvia*”<sup>11</sup>.

— Local governments not only enjoy “competences” in the regular meaning of the word but they have a large legal capacity and many important “governmental” powers, such as the power of internal self-organisation; they also have the legal capacity to found local companies and foundations; to acquire and sell movable and immovable property; to introduce local fees and decide on tax rates; to issue binding local regulations and to sue in courts.

— Apart from “autonomous” functions, local governments may receive “delegated” tasks and functions from the State. The Law clearly provides for the condition or requirement that the Government, in delegating such tasks, must ensure the resources necessary for the performance of such tasks. This caveat is made explicit in two separate provisions of the Law on Local Governments (art. 11, second indent, and art. 13, first indent). However, some interlocutors claimed that in certain cases the Government does not grant specific or additional funding for delegated tasks.

— Latvian local authorities also have large regulatory powers, since they can approve local binding regulations imposing duties, conditions and obligations on the local residents, as well as administrative liabilities (for instance, monetary fines) for those who violate them. The areas or matters where local authorities may approve local regulations is pretty large, under art. 43 of the Law on Local Government. For instance: buildings and urban planning, protection and maintenance of public forests and waters, markets and trading in public places, public order, the keeping of domestic animals, or the use of public means of transport.

— Last but not least, the Latvian system of local government includes a provision that is unfortunately missing in some European countries and that may characterised as a “general residual clause”. Namely, art. 12 of the Law on Local Governments provides that cities and municipalities, in the interest of local residents, “may voluntarily carry out their initiatives with respect to any matter if it is not within the competence” of other State bodies and institutions, provided that “such activity is not prohibited by law” (art. 12). An example of such “voluntary” initiatives is the local police, which is not compulsory in all Latvian municipalities. This feature of the Latvian system of local government should be praised, and accordingly it makes Latvia comply with article 4.2 of the Charter.

61. As a result of this system of competences, “powers”, “tasks” and “initiatives”, the Delegation sees that the number of autonomous competences singled out in the Law of Local government is pretty large. Plus, any sectoral law (for instance, in the domain of transportation or urban planning and management) may attribute other autonomous functions to the local entities. This, coupled with other delegated “functions” and “tasks” form a notable set of competences, both from the perspective of their number and of their relevance. In one compares this list of competences with the equivalent

<sup>11</sup> See. I. Vilka, Decentralisation, *op. Cit* note..., page 235.

situation in many European countries, it is easy to arrive to the conclusion that Latvian local authorities have a high level of competences, thus largely complying with articles 2.1 and 4 of the Charter.

62. For these reasons, the Delegation comes to the conclusion that article 4.1 of the Charter (and, by implications, article 3) are complied with in Latvia.

*Article 4.6: Consultation and participation of local government in decision-making*

63. Local governments are regularly consulted in the adoption of matters that affect their interests, and they regularly participate in the decision-making of State institutions on those matters. Most of this consultation and participation is channeled through the national Latvian Association of Local and Regional authorities (LPS), under the authority of art. 96 of the Law on Local Governments, although local governments are free to conduct lobby and participation on an individual basis.

64. Moreover, this institutional consultation and participation is regulated in the Law by two key provisions. On the one hand, art. 86 of the Law on Local Governments provides that the Cabinet shall agree with the municipalities on issues concerning the interests of all municipalities, such as:

- draft legislation and draft regulations of the Cabinet concerning the municipalities;
- the amount of subsidies and earmarked grants to be allocated to municipalities each economic year and other financial matters that will be discussed *infra*.

65. It is important to underline that the Law does not provide for the local authorities just to be consulted (in the sense of “being heard”) but the duty of the State to negotiate and even “co-ordinate” with them. This means that the Law is pervaded by the principle of true, deep and “binding” participation of local authorities in the decision-making of State authorities.

66. The second relevant legal rule in this domain is the Cabinet regulation No. 585, of 6 July 2004. This regulation describes in a more detailed manner the matters on which the consultation and negotiation must take place, as well as the procedures to conduct such negotiation process. Thus, it is provided that:

- each year by 1 March, the LPS shall submit the competent ministries the list of officials who are authorised to participate in the negotiations;
- each year by 1 April, the ministries shall agree with the LPS on the issues that need to be co-ordinated, and the terms for their considerations;
- each year by 1 August, negotiations shall take place between the competent ministries and the LPS;
- the results of the negotiations between the ministries and the LPS shall be drawn up as minutes.

During the consultation procedure, national authorities stressed the fact the minutes of negotiations between the Ministry of Finance and the Latvian Association of Local and Regional Governments shall be drafted, taking into account the agreement of the other ministries on financial issues, and in conformity with the requirements specified in the State Administrative Structure Law. After signing the minutes thereof shall be submitted to the Cabinet concurrently with the draft Law on the State Budget. Its further reviewing and sending to the Saeima shall take place in accordance with the requirements of Section 13 of the Law on Local Government Budgets, and the copies of the minutes shall be sent to other ministries for information.

— Moreover, such minutes shall be published on the internet webpage of the Ministry of Regional Development and Local Government within one month after every negotiation. This undoubtedly increases the “binding” nature of the negotiation since they are made public.

— The minutes shall be sent to the Cabinet. In the domain of financing, the minutes shall be sent concurrently with the draft Law on the State budget and later on to the *Saeima*.

67. In this domain, the local representatives met by the Delegation made two substantive claims. On the one hand, and even if they are satisfied with the current scheme and pattern of participation, they find that on too many occasions the Government circulates its proposals and drafts with a too narrow time span for making comments and allegations (in some cases, it was reported, in a deadline of just some hours!). This was a recurrent claim made by several local representatives. This means that, in practice, the local governments have no time to react to the government proposals. This is a bad practice that could certainly be improved. On the other hand, they also claimed that during the territorial reforms, which entailed among other measures the suppression of many local governments, the voice of the local entities was not properly taken into consideration.

68. In the light of the precedent, the Delegation considers that Latvia complies with article 4 of the Charter.

#### 4.4. Article 5: Protection of boundaries

##### Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

69. Checking whether article 5 of the Charter is currently respected in Latvia is a somewhat tricky question, for the simple reason that, since the closing of the territorial reforms in 2009, there have not been substantive experiences of alteration of local authority boundaries and therefore this provision could hardly be applied. It is true that, in the past, there were allegations of lack of respect of this article of the Charter. For instance, the explanatory memorandum of Recommendation 317(2011) on “local and regional democracy in Latvia”, states that “*the delegation noted that the reform has met with a certain amount of resistance and opposition. Central government was accused of insufficient consultation and discussion with its interlocutors*” (par. 63).

70. During this visit, the Delegation did not hear any complaints from political leaders and association on the possible non-recognition of this article in the present situation. In any case, there is no constitutional provision on the matter and the Law on Local Governments does not include specific provisions either.

71. In conclusion, Latvia complies with article 5 of the Charter.

#### 4.5. Article 6: Administrative structures

##### Article 6 – Appropriate administrative structures and resources for the tasks of local authorities

- 1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- 2 The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

##### Article 6.1: Administrative structures

72. Latvian local authorities are endowed with pretty large self-organisation powers. In this sense, art. 14 of the Law of Local Governments provides that, in carrying out their functions, “*local governments have the right...to establish local government institutions, to found societies or foundations and capital companies*” (letter a). Furthermore, under art. 24 of the said Law, the council of every local entity may approve the “by-laws of the local government” (English terminology) in which the council determines the “administrative organisation and structure of the local government”, the several council committees (with their competence and organisational arrangements), and the “organisational and technical servicing” of the local authority.

73. In rural territories (*pagasti*) in which the local government administrative center is not located, the municipalities are supposed to set up a local administration office that facilitates the contacts between the rural residents and the Town Hall. These deconcentrated offices are run by a manager of the rural

territory or “administration manager”, whose functions are enumerated at art. 69 of the Law on Local Governments.

74. Each municipality or city has its own office, consisting of administrative officials who are responsible for discharging the instructions of the Council Chairman and of the executive director. In most local authorities (at least those having more than 5,000 inhabitants) the municipal administration is run, on a day-to-day, basis, by the executive director, who is appointed by the council on the proposal of its chairman. The executive director is responsible to the council. The head of the administration as well as the speaker of the Council is a mayor. Executive director is subordinated to the mayor and his competence includes all elements determined by the Law on Local Governments, but sometimes there is shared responsibility with other executives. All administration (including executive director) is responsible to the Council.

75. As it can be seen, the self-organisation powers of Latvian local authorities are very extensive, and is only limited by the Law on Local Governments. This situation complies with the requirements of article 6.1 of the Charter.

- *Article 6.2: Conditions of service*

76. Municipalities and cities in Latvia are quite autonomous (and even independent from each other) in the field of human resources and in the management of their own staff. For instance, they can freely appoint and dismiss their own employees without the need to get the approval from State authorities. As a rule, the personnel working in Latvian local authorities are not “civil servants”, but contractual employees. Each and every local entity is considered to be an independent “company” for the sake of labor relations. This means that, contrary to what happens in other European countries (such as France) there is no *fonction publique territoriale* at all, and there is no “professional career” in the local sector nationwide.

77. Big cities, such as Riga, do sign collective agreements or deals with the local employees or local trade unions, which are signed by the Council Chairman. These agreements establish provisions on different matters such as the working conditions, working time, salaries etc, as long as they do not contradict the general employment and labor laws and regulations of the country. Small municipalities follow the general laws and regulations on the matter, and may eventually take decisions by the council. They may also adhere to collective agreements made at national level for municipalities.

78. In the domain of remunerations and wages for the local employees, since 2010 local governments have discretion to decide on the remuneration of their staff. Local remuneration order has to be established within the frame set by the law on remuneration of officials and employees of State and local government authorities of 2009.

79. The LPS representatives reported that, prior to 2008, the situation was more satisfactory because the local governments enjoyed greater autonomy and freedom to establish the salaries of their own staff. However, after this date, and due to the economic crisis, the Government implemented a set of austerity measures, which rendered the situation more rigid and restrictive. They assessed the situation as negative, because in general local authorities cannot recruit qualified personnel, since the salaries paid in the local public sector are clearly poorer than those paid by the private sector. The rapporteurs were told that, in general, the salaries are low, and the work in local administration is usually unattractive for young, qualified people. During the Consultation procedure, national authorities informed the Delegation that for both the public sector and the local government employees remuneration is set by The Law on Remuneration of Officials and Employees of State and Local-government Authorities. The law determines that monthly salary of employees of local governments should not exceed upper limits of monthly salaries set for positions of similar difficulty and responsibility in the direct administration institutions. Also the law sets various different bonuses up to 60 % which employees can receive in addition to monthly salary.

80. With this caveat in mind, the Delegation concludes that art.6.2 of the Charter is complied with in Latvia.

#### 4.6. Article 7: Conditions for the exercise of responsibilities

##### Article 7 – Conditions under which responsibilities at local level are exercised

- 1 The conditions of office of local elected representatives shall provide for free exercise of their functions.
- 2 They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
- 3 Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

81. For what concerns the conditions of service for members of the local council and for the Chairman, it should be noted that the members of the local council who attend the meetings of the council are allowed to receive an allowance for attending such meetings. The council meets at least once a month. The same happens when they attend the meetings of the different local committees. The representatives of the LPS considered that the amount of money that is paid currently as allowances is fair. In the case of large cities (such as Riga) there are also local council members who work as such on a full time basis. In this case, they receive a salary, which is set up by the council. In the field of conflicts of interests. During the consultation process the delegation was informed that there are range of restrictions for joining posts for Council Chairman, deputy chairman, and some restrictions for councillors.

82. *Mayors* are remunerated for their job, as it is proclaimed in art. 63 of the Law on local governments. They receive a remuneration, which is determined by the Council, in compliance with the Law on Remuneration of Officials and Employees of State and Local Government Authorities. Local councils determine the remuneration of the chairperson in the context and within the “fork” that is determined by that piece of legislation and by implementing Cabinet regulations. Therefore, the salaries are not the same throughout the country and vary in accordance with different factors (such as the number of local residents) These remunerations were assessed as inadequate in the small municipalities, while fair in the cities. Local government elected officials are also provided with social guarantees in case of job loss.

83. Consequently, and although the situation could be improvable, the Delegation understands that article 7 of the Charter is respected in Latvia.

#### 4.7. Article 8: Administrative supervision of local authorities' activities

##### Article 8 – Administrative supervision of local authorities' activities

- 1 Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
- 2 Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
- 3 Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

84. In Latvia, the control and supervision of local authorities by the State is performed by different bodies and institutions. The control of the State ministries and departments over local authorities is very limited, and strictly regulated in the Law. To begin with, the line Ministry that is in general responsible for the supervision and control of the local entities is the Ministry of Environmental Protection and Regional Development (hereinafter, “MEPRD”). It may seem weird that a Ministry with such a name would be responsible for supervising local authorities, however the reason is that this body is the result of a merger of two pre-existing ministries, one of which was responsible for these tasks. Within the MEPRD there is a General Department that is especially responsible for this activity.

85. The MEPRD carries out a limited control over local authorities, due to the fact that they are autonomous under the Law. For what concerns the individual or particular decisions adopted by the

local bodies (*administrative acts*), the Minister cannot cancel, revoke, quash or suspend those decisions. In those cases, the individual or company that is affected by the said decision can sue the local body in the administrative court.

86. In the case of local binding regulations adopted by the council, the controlling scenario is different, but here again the control of the MEPRD over local bodies is only a control of legality and "ex post facto". As a rule, whenever a local authority approves a local binding regulation it has to send it, together with the explanatory memorandum to the MEPRD, for the provision of an opinion. The draft is analysed from the legal perspective (lack of competence, infringement of national laws or regulations, etc.) during a period of 30 days. If, during that time, the Minister does not release an opinion raising objections to the local regulation, then the local government shall publish the adopted regulation in the official journal (*Latvijas Vēstnesis*). If the Ministry finds that there is a problem of lawfulness, it will forward an opinion in that sense to the local authority. The local authority may amend or change the regulation in conformity with the said ministerial opinion and after that the local regulation may be officially published.

87. If the local council refuses to do so, then the Minister may suspend the regulation by means of a substantiated order, which will be published in the official gazette. In this case, the Chairperson of the local council must convene an extraordinary meeting of the council in order to analyse and discuss the situation, a meeting of which the Minister must be informed. If the local council decides not to revoke or to amend the local regulation in accordance with the ministerial order, it must submit an application to the Constitutional Court regarding the revocation of the suspensive order of the Minister. In this case, the order remains in force until the proclamation of the judgment of the said court. The delegation was told that during the process there are informal talks and dialogue between the local authorities and the MEPRD. This procedure is regulated at arts. 45 and 49 of the Law on Local Governments.

88. In general, the current system of inter-administrative control by State ministries does not seem to raise concern or controversy on the part of local authorities, and they feel free to take the decisions that they find more convenient. Most of the interlocutors met by the rapporteurs said that they did not have experienced any real case of attempt of unlawful control from the State authorities, and that the control takes place at the legality stage.

89. There also two extraordinary measures that can be adopted by State authorities in this domain. The first is the dismissal of the Council Chairman, in cases of neglect of duty or serious irregularities in his behaviour. The decision about the dismissal of a "mayor" is adopted by the MEPRD after the appropriate contradictory procedure (under art. 91 of the Law on Local Governments). Once the Minister adopts such decision, the affected individual can litigate in the competent court.

90. The second form of extraordinary control that the State may exert on a local authority is the dissolution of the local council. This decision must be adopted by the *Saeima* by means of an Act, although the MEPRD is responsible for triggering the procedure. This device is strictly limited to situations of serious malfunctioning of the local council, or when it repeatedly fails to observe the Constitution or to execute court judgments. Ministry's representatives reported that in 25 years there have been only two cases of dissolution of a council in Latvia.

91. Still at State ministries level, and apart from the MRDEP, Latvian local authorities may be also controlled by the Ministry of Finance. The Ministry of Finance monitors the local government's commitment process related to borrowings and guarantees according to the established procedure, and regularly analyses the financial situation of local governments based on monthly reports. The Ministry of Finance carries out the above-mentioned activities in order to avoid initiating the process of financial stabilization of municipalities in case of extraordinary financial difficulties in which the municipality has come. The stabilization process is carried out according to the Law "On Stabilization of Local government Finances and the monitoring of Financial Activities of Local Governments". The purpose of this Law is to regulate the procedures by which the stabilization of local government finances shall be performed, in order to ensure the continuous fulfilment of the functions of local governments as prescribed by Law in cases when local governments have come into extreme financial difficulties. The procedure set by the law prescribes a strict monitoring process for the arrangement of the financial situation of the local government. Beyond the State ministries, local entities may be also controlled by the State Audit Office (hereinafter, "SAO"), by the Anti-corruption

Agency and even by the Competition Authority. Since the last two bodies exert a marginal influence in this domain, we will focus on the activity carried out by the SAO.

92. The SAO of Latvia performs an important role in the control of local accounting, budgeting and public expenditures, a role that has been reinforced by recent measures adopted in the wake of the economic crisis and the control of deficit. The SAO is an independent agency that reports to the *Saeima*. It audits all the public sector and entities, and of course all the local entities and their commercial companies, foundations or structures. In this sense, art. 74 of the Law on Local Governments provides that “the SAO within the scope of its competence shall supervise the actions of local governments with financial means and property”. In carrying out its functions, the SAO performs financial audits on the one hand, and compliance and performance audits on the other hand.

93. In the field of financial audits, the main form of local government’s financial control is an obligatory audit performed by a private Audit Company. Activities of the SAO are complementary. In Latvia the main forms of financial control of local authorities is two-fold: (a) on the one hand, an internal control performed both by the finance committee, which is one the standing committees that must be set up in every local authority (art. 51 of the Law on Local Governments; art. 60 thereof enumerates its competences) and by the Audit Commission, which is not compulsory, and even more frequent in the cities than in the small municipalities. In this sense, it should be noted that the system relies on the responsibility of the local elected ruler, since there is no internal inspector verifying *ex ante* the regularity of the expenses. (b) However the main form of local governments financial control is an obligatory annual audit, that is performed by a private audit company, which audits the account of local authorities.

94. As concerns other types of audits, the SAO supervises the economy, efficiency and effectiveness of particular sector, field or issue of the local authorities, what is chosen for audit. Legislation permits the SAO to decide on the content of local policy decisions. For instance, the SAO had analysed whether local governments provide some administrative services to residents at reasonable costs. The SAO appraises the ability of municipalities and cities to perform their original competences within their remit, as well as the competences transferred from the State. The SAO though, has no power to paralyse or suspend a public expenditure by a local authority, and it cannot declare or impose responsibilities on the local officials. If criminal behaviour is detected, the case is reported to the criminal prosecutors. The SAO also issues recommendations on budgeting, expenditure process and financial management. The Latvian association of local and regional authorities claimed that the current legislation permits the SAO to decide *de facto* on the content of local policy decisions.

95. In the light of the precedent, the Delegation draws the conclusion that the provisions of article 8 of the Charter are respected in Latvia.

#### 4.8. Article 9: Financial resources

##### Article 9 – Financial resources of local authorities

- 1 Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
- 2 Local authorities’ financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
- 3 Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
- 4 The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
- 5 The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
- 6 Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
- 7 As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
- 8 For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

*Article 9, para 1-4 and 7: Resources*

96. From the outset, it should be noted that the Latvian system of local government finances is homogeneous around the country. Therefore, there are no specificities or differences between regular municipalities and “cities”. Apart from the Law on Local Government, the key pieces of legislation in this field are the Act on the Budgets and Financial Management of 1994, Act on Local Governments Budgets of 1995, as amended, the Act on Local Government finance equalisation of 2015, and the Act on Taxes and fees of 1995, as amended.

97. The main sources of local income are formed by tax revenues, non-fiscal income and transfers. From a technical point of view, there are no “true” local taxes in Latvia, but apportionments in the collection of some State taxes. The structure of local governments revenues (2017 data) is the following: (a) tax revenue: 63.5%; (b) transfers, 29.4%; (c) self-earned revenue: 5.2%; (d) non-tax revenues: 1.8%; (e) donations: 0.1%; and (f) foreign financial assistance: 0.1%.<sup>12</sup> According to the Ministry of Finance, these sources of revenue are sufficiently diverse. During the consultation procedure, the Latvian Association of Local and Regional Authorities stressed that only 40% of these 63.5% goes directly to the local government, whose residents create these taxes (pure own revenue from taxes are 25.4% of all). Other part is redistributed through equalisation system. Therefore the Association considered that fiscal autonomy is not satisfactory.

98. The different sources of financing for Latvian local governments may be presented as follows:

**i. Tax revenue**

This is the most important source of revenue for local authorities. In quantitative terms, the total amount of tax revenue for local authorities was 1,174.4 M € in 2012; 1,256.2 M € in 2013; 1,316.4 M € in 2014; 1,362.8 M € in 2015; 1,469 M € in 2016 and 1,548 M € in 2017 (expected). As noted *supra*, there are no local taxes in the technical sense of the meaning. Local authorities receive a percentage (share) of some State taxes, which in the case of the real estate tax is 100%. That is, each local authority receives a percentage of the total tax collected in its territory. These *shared* taxes are:

a. The personal income tax: this is a State tax, regulated and collected at State level. Since 2015, the State Revenue Service is responsible for collecting personal income tax in Latvia. The total collection of this tax in a given local entity is later partially redistributed to that local authority, based on residence criteria (number of “*de iure*” inhabitants). In 2017, each local authority will receive 80% of the tax collected in its territory (expected).<sup>13</sup> As a consequence, a local authority with wealthy residents will receive more money than a similar authority with the same number of inhabitants but having less economic capacity. Therefore, it could be argued whether this type of revenue is in reality true “tax revenue” in the technical meaning of the word, or rather “transfers” from the State. In any case, this is the most important source of “tax revenue” for local authorities, in quantitative terms. This receipt represents 84.8% of the total tax revenue in the local governments budgets.

b. Real estate tax: this State tax hits all land slots and buildings, either used for commercial or housing purpose (since 2010). The limits for tax rate is determined by State laws and regulations on the basis of the cadastral value of the slot or construction. Municipalities collect the real estate tax, and they have a limited power to determine the tax rate. For instance, they may decide to reduce the general tax rate up to a certain amount, something that is used by some local entities to revitalise business activities or to attract new local residents. Local authorities receive 100% of the tax collection. Consequently, this is probably the only tax that is the closest to the notion of “local tax”. In 2017, this receipt represents roughly 13.8% of the total tax revenue in the local governments budget.

c. Taxes on lotteries and gambling: Local authorities receive a share of 25% of this tax. In 2017, this source of tax revenue represents 0.5% of the total tax revenue in the local governments budget.

d. Natural resources tax: Local authorities have a share on different taxes, such as the tax on pollution (60%), the tax on radioactive waste (30%) and 100% from the tax on incineration of dangerous waste. In 2017, this source of tax revenue represents 0.9% of the total tax revenue in the local governments budget.

<sup>12</sup> Data provided to the Delegation by the Ministry of Finance.

<sup>13</sup> Percentages for previous years are: in 2009: 83%; in 2010: 80%; in 2011: 82%.

Apart from true “tax revenue”, municipalities and cities (under the Taxes and Fees Act), can collect revenue of fiscal nature such as different fees and charges, of which they can determine the rate. Charges or fees may be imposed on different activities, such as: services rendered by the local administration; the issuance of official documents and certificates; conducting trade in public places; the ownership of animals; the placement of advertisements, the delivery of construction permits or of other licenses, etc.

## **ii. Transfers**

### *Transfers and subsidies from the State budget:*

99. In Latvia, most of the State grants received by local authorities are earmarked, that is, they are granted for specific purposes. In general, these “specific” purposes are functions that the local authorities are obliged to deliver on the basis of legal mandates. Those transfers include, in particular, grants for the remunerations of teachers, for school transportation, for road maintenance and construction and for the co-financing projects under EU funds. The only non-earmarked grant is the State contribution to the Local Government Finance Equalisation Fund, which is presented *infra*.

100. In recent years, the share of transfers in the total structure of local financing has been above 20% (29.4% in 2017, expected). In 2014, State budget transfers to local governments’ budgets (including funding for the EU policy instruments and other external financial assistance projects) were in the amount of 605 million €. This means 2.6% of the GDP. In 2015, this figure was 603 million €, which meant 2.5% of the GDP.

### *EU Funds*

101. Local authorities may benefit from the several EU funds established in the domain of urban development, rural development and other fields related to the municipal life. However, these revenues are in no way stable or periodic and depend on a large series of factor which mainly stand outside the municipalities reach. Moreover, some local representatives told the delegation that in most of the cases they don’t apply to EU funding for projects because they are required to co-finance a percentage of the project, something which is out of their financial means.

## **iii. Non-tax revenue**

102. Latvian local authorities may obtain and collect revenues that do not have taxing nature. Among those sources of income (that are *per se* variable) stand the following ones:

- Revenue from commercial activities of local companies and revenue from the ownership of property (sale of movable and immovable property).
- Revenue from property (rents).
- Donations received.
- Collection of traffic fines and other administrative offences due to the violation of local binding regulations. For instance, in the case of Riga this revenue represents roughly 5 M € (2016 figures).
- Financial operations: local authorities may ask for loans from the public banking sector (see below).

103. Once the different sources or revenues have been presented, it should be assessed whether the principles of sufficiency and commensurability of the local finances are recognised in domestic legislation. Apparently, those principles are not proclaimed explicitly neither by the Constitution nor by regular legislation. However, the Law on Local Governments includes different important provisions in this sense. For instance, this statute provides that whenever a new “autonomous” competence is transferred to the local authorities, “*the law which determines the performance of such functions shall concurrently determine the new source of revenue for the local governments*” (art. 7). It is difficult to ascertain whether this provision is properly followed in every case of assignment of new competences.

According to a Latvian scholar: “in practice, however, these procedures are not always followed, thus not allowing the local governments to fulfill all compulsory tasks”.<sup>14</sup>

104. Another example is the provision regulating “delegated functions”. In this case, the Law provides that the resources that were so far are provided for in the State budget for the performance of such functions shall be transferred to local governments concurrently (art. 9). Therefore, there is a mild and partial recognition of those principles.

105. According to the Ministry of Finance, local governments are provided with stable tax revenue in the long term period and the central government tries to ensure the sufficiency of local finances by different means, apart from the equalisation mechanism. For instance, the Minister of Finance told the Delegation that in the next years it is expected that the tax revenues of local governments (especially those stemming from the Personal Income Tax) will decrease due to tax relief reforms aiming at boosting the economy. Thus, in order to compensate for this loss of revenue the Government is going to establish a “special compensatory transfer” for the local governments, with a planned budgetary allocation of 13.3 M € in 2018, 135.9 M € in 2019 and 224.7 M € in 2020.<sup>15</sup>

106. In order to appraise the sufficiency of local government finances, several indicators may be used. To begin with, we can identify the share of local government tax revenue in the general government tax revenue. This indicator is pretty favourable to Latvian local authorities, for this percentage was calculated (by Eurostat) in 19.4% for the year 2015, while the average for the EU was 10.4%.<sup>16</sup> This is the fourth bigger in the EU (only surpassed by Finland, Denmark and Sweden).<sup>17</sup> The Minister of Finance told the Delegation that with the adoption of the “compensatory” measure mentioned supra, the local government will keep the percentage around 19.5%, even in a scenario or decrease in tax collection.

107. Another indicator is the share of the local government total revenue in the general revenue of the public sector. In this sense, this proportion in 2015 was 26.7%, while the average in the EU was 24.5% (Eurostat data).<sup>18</sup> Here, the indicator is the ninth higher in the EU, although the same caveat should be made here (absence of other territorial levels in the country). That indicator was identified at 23% by the 2011 monitoring report on Latvia. Therefore, a certain progress is visible.

108. For what concerns the position of the local leader on the matter of financing, most of them stated that in general terms they were satisfied with the present arrangements, although the system has some negative aspects and perspectives: first, they complain that in too many cases, the law attributes new competences to local authorities, without providing for adequate and “fresh” new financial resources. Second, sometimes the law attributes new competences but does not clarify what “type” of competence is the new one (among the different types regulated in the Law). This apparently has a negative financial impact because some competences are financed in one way and others are financed differently.

109. Third, local representatives expected a reduction of income due to the tax relief measures that have been adopted by the Government. Since the tax rates for the personal income tax have been reduced (from 23% to 20%), the national tax collection will be lower and they fear that their revenue will be reduced accordingly. It remains to be seen whether the “compensatory” measures that the Minister of Finance presented to the Delegation are finally adopted and they compensate “adequately” for this loss of income. Fourth, the LPS also expressed dissatisfaction about the current equalisation mechanism, because they understand that it is not fair and that the State should contribute with more monies. In the present situation, the equalisation Fund is mostly financed by the local authorities themselves and this does not help reducing the strong disparities among rich and poor local entities in the country. Fifth, LPS complained that the present system of local government financing is too dependent on governmental annual decisions and on periodic negotiations. This means that the total resources, the different percentages and elements of the revenue may change from year to year. This situation, according to LPS does not allow the local governments to conduct long-term planning,

14 I. Vilka: *Local government in Latvia...* op. cit., page 381.

15 These figures could be adjusted in the light of the evolution of economic macro-indicators and potential agreements between the Government and the LPS.

16 Figures from previous years: 19,2% (in 2012) and 19,8% (in 2016).

17 However, it should be kept in mind that in Latvia there are no regions, while in many of the countries placed after Latvia in that ranking do have regions. Therefore, the national scenarios are hardly comparable.

18 Figures from previous years: 26,9% (2004); 25,7% (2006); 29,3% (2008); 28,7% (2010).

because they cannot be sure of what resources they will have during the following years. Consequently, they ask that all these different variables be laid down into a legal rule.

110. In the domain of budgeting and expenditures, municipalities and cities are free to draft and to approve their own budgets, but they must respect the budget structure established by the Law. The local council is the competent authority to approve the budget. Local authorities are in theory autonomous in deciding their spending priorities, and the central government or other State authorities cannot in principle interfere with the municipalities budgetary autonomy. In this sense, the Ministry of Finance respects the autonomy of local authorities and does not address binding instructions or guidelines in the domain of budgeting. State institutions are not allowed to interfere with the drafting and execution of the local budgets. However, in practice many of their expenditures aim at paying obligatory functions. Thus, in the year 2014 the total expenditure of local governments was 2,192.4 million €. The major expenses (40.8 % of the total expenses) were for education: 894.6 million €. Expenses for some other fields were: economic activities: 374.7 million € (17.1%); social protection: 204.1 million € (9.3%); recreation and culture: 194 million € (8.8%); general public services: 182.2 million € (8.3%); environmental protection: 46.2 million € (2.1%).

111. According to the Law on Local Governments, the local council must call at least once a year a private sworn auditor or auditing company, for the revision of the budget implementation and the preparation of the annual report. Besides it, local authorities may set up their own internal auditing commissions. Based on the report of the auditor (which has to be published) the State Audit Office issues an annual statement on the reports on the local government budget what is the part of report on state budget and local government budgets (see point 4.7, *supra*).

112. Finally, and as far as municipal property is concerned, Latvian local authorities have their own property, goods and assets. The right to own land and real estate property is fully recognised to local authorities, and they freely manage their own assets and properties. For instance, they own the local streets, roads, parks, cemeteries, administrative buildings and facilities, schools, kindergartens, culture clubs, libraries, sport halls etc. The key piece of legislation in this field is again the Law on Local Governments, which lays down general guidelines at arts. 77 and 78.

113. Consequently, the Delegation concludes that article 9, paragraphs 1 to 4 and 7 of the Charter are respected in Latvia.

#### *Article 9.5: Equalisation*

114. As in many other European countries, the Latvian system of local finances includes an equalisation mechanism, called Local Government Finance Equalisation Fund. This fund aims at reducing the disparities between local entities. The legal rule governing this instrument is the Local Government Financial Equalisation Act of 2015. Since 2016 a new system was set up. The purpose of the new equalisation mechanism purpose is to provide similar opportunities to local governments to fulfill their statutory functions and to promote their initiative. The equalisation system equalises the revenues of local governments deriving from the personal income tax and the real estate tax and uses indicators which characterised local government expenditures. The local government financial equalization is carried out against the average estimate revenues and the state budget grant reduces the income gap between the poorest local governments and the most prosperous local government, which means that a larger state budget grant is allocated to the municipalities with lowest revenue, consequently, to the municipality with the most unfavourable situation.

115. In order to calculate the equalisation mechanism for each local authority, the system uses a complex formula that takes into account several variables and coefficients. In this sense, the new regulation incorporates new criteria, indicators and coefficients, mostly of demographic nature, which allow determining the apportionment that is eventually due to each local entity. According to the Minister of Finance, the new system is simpler and more transparent. Five criteria are used: (a) the number of inhabitants: a coefficient of 1 applies; (b) the number of children up to 6 years (a coefficient of 2.34 applies); the number of children and youth from 7 till 18 years (coefficient of 3.26); the number of inhabitants above working age: a coefficient of 0.74 applies; and the size of the local territory, expressed in square kms: here, a 1.52 coefficient applies. The total budgetary allocation of the Fund is 162.9 M € in 2017, while the Latvian Association contradicts this data. The Latvian Association of Local and Regional Authorities said to the delegation that in reality the fund is much greater (60% of shares from Individual Income Tax and revenues from Real Estate Tax + small input

from national budget). The figure of 162.9 M is the redistributed part, other part of the Fund returns to local governments that have made an input.

116. The Fund is financed jointly by the State and by local authorities. According to data provided by the Ministry of Finance, the State budget grants a contribution of 35.7 M € per year, while local governments contribute with a joint effort of 127.2 M €. The specific contribution of every local entity to the Fund depends of its "wealth". Therefore, there are "net payers" to the Fund and "net receivers" (authorities that do not contribute to the fund). In this sense, the Delegation was told at the *Saeima* that there are only 15 net contributors, while there are 104 local authorities that receive monies from the Fund. In this sense, the LPS made the claim that the equalisation system is not fair in three aspects: (a) the contribution of the local authorities to the Fund is excessive, and the contribution of the State is too low; (b) the number of net contributors is too reduced, therefore the redistribution effort is made by too few local authorities; and (c) the situation and distinguishing features of small, rural municipalities are not adequately taken into consideration.

117. In light of the precedent, the Delegation is of the opinion that article 9, paragraph 5 of the Charter is respected in Latvia, although the situation could be certainly improved (see recommendations).

*Article 9.6: Consultation on financial matters*

118. Latvian local authorities are extensively consulted by State bodies and institutions in the remit of financing. At point 4.3, *supra*, the general system for local governments consultation and participation in the decision-making of State bodies was already presented. At this point we should specify this consultation pattern in the area of financing. Thus, in accordance with the Law on Local Governments (art. 86), the Cabinet of Ministers shall agree with the municipalities on the following financial issues:

- the amount of subsidies and earmarked grants to be allocated to municipalities in the next economic year;
- the procedure for equalisation of municipal finance resources, if this is not provided by the law;
- the sources of financing for new autonomous functions attributed to local authorities by the sectoral laws;<sup>19</sup>

119. In those consultations, talks and negotiations, the local authorities are represented by the LPS, under art. 96 of the Law on Local Governments.<sup>20</sup>

120. On the other hand, and in accordance with the Cabinet regulation No. 585 (see *supra* point 4.3), the Minister for Finance shall represent the Cabinet in coordinating the following issues: the amounts of earmarked grants to be transferred to the local governments for the current financial year; the procedures for equalisation of financial resources of local governments; and the sources of financing necessary for the performance of "new" autonomous functions attributed by fresh sectoral laws. The results of the negotiations are written down in a "protocol on agreements and disagreements", which is an integral part of the State budget.

121. Apart from this formal, legal recognition, this negotiation-consultation pattern seems to work well, in an effective a fruitful way. According to figures provided by the Ministry of Finance, in the year 2017 an agreement between the local authorities and the government was reached in 80% of the issues that had been included in the program of negotiations. Since the visit, the Delegation was informed by national authorities that the protocol contained only one point of disagreement which was solved by the Parliament in 2018 the State budget process. On the other hand, the Delegation did not hear complaints about the system on the part of local representatives.

122. Consequently, the rapporteurs believe that article 9, paragraph 6 of the Charter is clearly respected in Latvia.

<sup>19</sup> In this sense, art. 8 of the Law on Local Governments provide that "By means of a law, local governments may be assigned the performance of autonomous functions that are not provided for in this Law, *concurrently determining in the relevant law supplementary sources of financing if the performance of the functions involves increased expenditures.*" (italics added).

<sup>20</sup> "A local government association, in which in accordance with procedures laid down by law and its articles of association more than half of all republic city local governments, as well as more than half of all municipality local governments have joined as members, is entitled to represent local governments in their discussions with the Cabinet".

*Article 9.8: Borrowing*

123. As noted at the beginning of this document, Latvia is not bound by article 9.8 of the Charter. The interlocutors met by the Delegation supported different view about the convenience of Latvia ratifying this provision. For instance, the Minister of Finance declared that the initiative should come from the LPS. The SAO expressed the views that, before ratifying that provision and opening the capital market, it would be necessary to improve the financial responsibility and accountability of the local authorities. The MEPRD expressed a negative position in this field and the same applies to the national Parliament, since the MPs met by the Delegation had a negative view of that possibility. For instance, they stated that when a local authority asks for a loan, the Republic of Latvia is guaranteeing or backing these financial responsibilities, therefore the State should have some control. Furthermore, they said that the present arrangements are necessary to fight effectively against the public deficit. For what concerns the local representatives, some said that they were in favour of that possibility, while others understood that this was not necessary because the present arrangements work well, in particular the financial assistance provided by the public credit institution.

124. Independently from the prospect of ratifying article 9.8 of the Charter, the present situation in the field of local governments borrowing may be summarily presented as follows: to begin with, since 2009 (due to the economic crisis) Latvian local governments are limited to borrow or to take on long-term liabilities. There are strict restrictions imposed regarding all kind of borrowing operation for local authorities. Thus, local authorities can only carry out long-term borrowing to finance investment projects (infrastructures), not operational costs, and they can apply for a short term loan to be paid back by the end of the fiscal year.

125. All borrowings must be approved by a special commission created at the Ministry of Finance. Local governments are supposed to borrow preferentially from the State Treasury. This means that they do not have access to the free private financial markets. They can only ask for credits from (national) private banks if the lending conditions are more favorable than the lending conditions offered by the State treasury. In this case, too, the contract requires permission from the Minister of Finance. During the consultation process, national authorities informed the rapporteurs that a special commission set up by the Minister of Finance, which assesses the capacity of the municipality to assume new obligations and the compliance of the loan demand with the statutory borrowing conditions, approves all borrowing requests. Municipalities, after receiving a positive decision from the Commission, may borrow from the Treasury or the Commercial Bank if the terms of the loan are more favourable than the terms of loans granted from the state budget. At the same time municipalities, as well as state institutions and capital companies, have to comply with the law On Prevention of Squandering of the Financial Resources and Property of a Public Person, which stipulates that a public person, as well as a capital company shall administer the financial resources and property rationally, that is:

a. actions shall be such as to achieve the objective with the minimum utilization of financial resources and property;

b. property shall be alienated and transferred to the ownership or use of another person at the highest price possible;

c. The ownership or use of property shall be acquired for the lowest price.

Consequently, the legislative act ensures that local governments can borrow in a commercial bank, strictly adhering to the conditions, including the rational and economical use of financial resources.

126. On the other hand, the local borrowing in a given year cannot exceed 20% of the current local government budget revenues. Every year, the Law on the State Budget determines the limits for local governments borrowing, and the purposes for which loans and credits may be asked for by local entities. These "purposes" are discussed and eventually agreed between the Minister of Finance and the LPS. For instance, in 2016 the total available resources for local governments to borrow were established in around 200 million €, and in 196 M € for 2017 (initial planning). During 2017, local governments have been able to borrow financial resources for investment projects related to the following "purposes" and goals: educational institutions investment programs (roughly 79 M €); projects co-financed by the EU (aprox. 55 M €); roads and streets projects (roughly 30 M €); or for sports infrastructures (3.6 M €). At the same time, the Law on the State Budget for 2017 states that a

local authority could borrow between 250 000 € and 400 000 € for the implementation of a freely chosen project.

127. For what concerns the debt of the local authorities, in 2015 it was estimated in 1,456.2 million €, which represented 6% of GDP. In 2014, that figure was 1,426 million €, which represented also 6% of GDP. In order to assess the relevance of the situation, it would be pertinent to have in mind the general debt of Latvian government: at the end of 2015 it was 8,953.3 million € (36.9% of GDP), and at the end of 2014 that figure was 9,668.5 million € (40.9% of GDP). Therefore, the local debt does not seem to represent a very acute problem.

128. In the light of the precedent lines, the Delegation considers that the requirements of article 9.8 of the Charter are not respected in Latvia. However, this provision is not ratified by Latvia and will not be subject to recommendation.

#### 4.9. Article 10: Local authorities' right to associate

##### Article 10 – Local authorities' right to associate

- 1 Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
- 2 The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.
- 3 Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

##### *Article 10.1: Intermunicipal cooperation*

129. In Latvia, the right of local authorities to associate among themselves, to form common platforms and structures for the joint provision of local services is fully recognized in the domestic legal system. As a matter of fact, the Law on Local Governments includes a full chapter (articles 95 to 100), whose title is “cooperation among local governments”. Concretely, art. 95 provides that, “in order to perform tasks in which all or several local governments have an interest, they have the right to co-operate as well as to establish local government associations...”. There are basically two ways to crystallise such a cooperation: by way of creating a new common establishment or body, and without creating such new organisation. In the latter case, it is enough to sign a co-operation agreement, where the respective obligations of the agreeing municipalities will be written down.

130. Alternatively, local entities, in order to resolve common tasks, can “institutionalise” their cooperation by establishing a new organisation, which is called “joint institution” in the Law of Local Governments (art. 99). In this case, a by-law must be approved by the council of the constituent local entities. This by-law must regulate in detail the procedures for financing, supervision, liquidation and also the withdrawal from the “joint institution”. A supervisory council, made of representative of all the founding local authorities, is supposed to supervise the functioning of the “joint institution”.

131. Local representatives told the Delegation that inter-municipal cooperation works well in the country, and that it is mainly used in the fields of cultural services, education and in transportation services. This form of cooperation is also used to organise sport competitions and culture festivals. Finally, we should not forget that the planning regions can also be depicted as true structures for inter-municipal cooperation, since they were incepted on the proposal of local entities and one of their functions is to coordinate the delivery of local public services.

132. Consequently, article 10.1 of the Charter is fully respected in Latvia.

##### *Article 10.2: Associations of local authorities*

133. This second paragraph of article 10 of the Charter is clearly and fully respected in Latvia, as local authorities are entitled to set up associations for the protection and promotion of their common interest. Latvian local authorities are also free to join international associations of local authorities. In the country there is one and comprehensive association of local authorities, called Latvijas Pašvaldību savienība in Latvian (LPS),<sup>21</sup> which stands for Latvian association of local and regional authorities,

<sup>21</sup> See: [www.lps.lv](http://www.lps.lv)

LALRG in English (although the word “regional authorities” may be here misleading for the reasons advanced at point 3.2). There is also the Latvian large cities Association of (founded in 2001), but this is not so formal and relevant as the LPS, and its activities are much more limited and there are also other associations of specific groups of local governments.

134. Based on the principle of voluntary adherence, LPS was founded on December 15, 1991 and its members currently include 118 of the existing 119 local authorities in the country (all the 9 republican cities and 109 *novads*). The LPS is regarded as “the” national association that defends and represents the interests of local authorities. The association acts as a local interlocutor with the government and conducts lobby in the defense of the local interests. Furthermore, and under art. 96 of the Law on Local Governments, LPS invested with the authority to represent local governments in the negotiation with the Cabinet of Ministers. The most important stages and scenarios where the LPS carries out its representative and negotiation activities have been described in the present report (see *supra*). The LPS also follows closely any legislative initiative being discussed in the *Saeima* which affects the interests of local governments. In this sense, the LPS works in close contact with several parliamentary committees and performs lobby.

135. Apart from its purely representative tasks, the LPS carries out many different activities of common interest and provides assistance and help to local governments. For instance, the LPS is instrumental in developing a “local” opinion in public policies affecting local governments. It secures local governments with information and other services and organizes training for local government rulers and employees. Furthermore, the association facilitates cooperation between Latvian local governments and the local governments of other countries. It really fosters international cooperation (through the encouraging of twinings, for example), and in this sense the LPS has a very developed and active international relations department, with a permanent representation in Brussels. The LPS is a member of the Council of European Municipalities and Regions (CEMR).

136. The highest decision making body of the LPS is the Congress, which meets annually. The Council and the Board run the regular administration of the LPS. The financial sources of LPS come from the contribution of its members.

137. Consequently, article 10.2 of the Charter is fully respected in Latvia.

#### *Article 10.3: Transfrontier co-operation*

138. Latvia has signed and ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities and the addition protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, of 9 November 1995 (although it has not signed Protocol n°2). This, in connection with article 10.3 of the Charter, which fully applies in Latvia, provides for a robust legal and political basis for Latvian local governments in engaging in transfrontier co-operation. The situation may be depicted as being fairly positive, and local leaders and associations told the Delegation that they do not perceive limitations or constraints from the State in this domain.

139. As a matter of fact, many municipalities have established numerous partnerships, agreements and twinning with towns and cities in other countries. This activity is usually conducted, facilitated or fostered by the LPS, as noted *supra*, through its international department. A great deal of this transnational cooperation takes place with local entities based in the two other Baltic republics, Lithuania and Estonia. The capital city Riga is very active in the area of international cooperation. For instance, it is a partner of the USEACT project framework (embracing 12 European cities), in the field of urban development.

140. Article 10.3 of the Charter is also respected in Latvia. Therefore, article 10 is fully respected in Latvia.

#### 4.10. Article 11: Legal protection of local self-government

##### Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

141. Latvian local authorities, as legal entities, do have the right to go to courts in order to defend their rights, ownerships or interests, just as another entity would do. Therefore, municipalities and cities can have access to the regular courts, where they can defend their interests and rights.

142. The same is true concerning litigation in the Constitutional Court. Each and every local authority may have access to the Constitutional Court when it believes that a measure adopted by a State authority and addressed to it violates the rights of that local authority. As a matter of fact, the Latvian system is in this respect one of the most advanced, progressive and liberal of all Europe. In very few countries a single local authority has the right to appeal in the Constitutional Court to defend local autonomy, since in the majority of the countries individual local entities are barred from this possibility. Moreover, litigation in the Constitutional Court is free for the plaintiff local authority, and there are no litigation fees associated.

143. This reality is the most remarkable from the fact that, as seen *supra*, the Latvian Constitution does not contain in its written text recognise explicitly the principle of local self-government. The architect or craftsman of this state of facts is the Constitutional Court, which has played a key role not only in the guarantee of the applicability of such principle but also in recognising the direct invocability in courts of the Charter.

144. The Constitutional Court is regulated by art. 85 of the Constitutional and among other functions, it reviews cases concerning the conformity of laws with the Constitution and with international treaties ratified by Latvia (like the Charter). According to data provided to the Delegation by some Justices of the Constitutional Court, between 1997 and 2015 the local authorities have submitted 38 applications in the Constitutional Court. In most of these proceedings, the local authorities claimed that a given piece of national legislation had violated the principle of local autonomy; that the contested measure violated the Law on Local Governments; or that it violated the Charter. Local authorities can complain not only against acts of the Parliament, but also against governmental regulations and against the suspensive order issued by the Minister of Environmental Protection and Regional Development when he suspends local binding regulations. Thus, in 16 cases the local authorities complained about regulations of the Cabinet of Ministers, and in nine of the cases, the local authorities complained about the suspensive decisions of the Minister. In some of the appeals directed against governmental regulations, the Cabinet had accepted to amend the contested regulation during the judicial procedure, therefore the appeal did not lead to a final ruling of the merits, for the case became moot. Out of those 38 appeals lodged by local authorities, 13 have resulted in a ruling on the merits and in four of these cases the Constitutional Court has found that the contested measure is contrary to a legal norm of a higher legal force.

145. The controlling provisions of the Constitution that are used by the Constitutional Court to adjudicate the appeals are: art. 1 (the principle of democratic state, as according to the case-law of the Constitutional Court it includes also the local authorities); art. 25 (reference is made to local governments); art. 104<sup>22</sup> and, especially, art. 101.<sup>23</sup> From these articles, the Constitutional Court has declared that the principle of local government is an inherent constitutional principle of the country.

<sup>22</sup> "Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply. Everyone has the right to receive a reply in the Latvian language".

<sup>23</sup> "Every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service. Local governments shall be elected by Latvian citizens and citizens of the European Union who permanently reside in Latvia..."

146. For what concerns the legal status of the Charter, the Constitutional Court has the competence to declare that an Act of Parliament or a regulation of the Cabinet of Ministers is not in conformity with the Charter, since it is an act of International Law that has been ratified by Latvia, and the acts of international law take precedence over domestic legislation and regulations. Therefore, the Constitutional Court understands that any violation of the Charter would be at the same time a violation of the Constitution. In defending and articulating this position, the Latvian Constitutional Court is probably the champion of all European constitutional courts in the guarantee of the applicability and effectiveness of the Charter.

147. Among the different cases where the Constitutional Court has analysed the applicability of the Charter stand the following ones:

— Case n° 2007/2101: this case deals with an Act that regulated the transport services between Riga and the neighbouring local authorities.

— Case n° 2008/08.0106: this case pertains to the administrative reform of municipalities.

— Case n° 2009/04.06: 32 local councils challenged in this case the Act establishing the territorial reform of 2008, claiming that there was no provision for the local authorities to be heard, and thus that article 5 of the Charter had been violated. Once the proceedings were open, the *Saeima* amended the rule in order to introduce provisions on local governments consultation, thus making the case moot.

— Case n° 2016/2303: in this case the Constitutional Court analysed whether the Cabinet of Ministers can adopt a regulation that provides for a minimum number of pupils at a particular grade who have to attend a particular school in order for that school to be able to deliver education at the said grade, and if this could be binding on the affected local authorities. The local authority won the case.

— Case n° 2009/2406: in this case the Constitutional Court noted that the power of the Minister of Environmental Protection and Regional Development to suspend a local regulation does not violate the principle of self-government.

— Case n° 2013/1005: this case was discontinued since the Minister of Environmental Protection and Regional Development changed his decision during the course of the procedure.

148. During the visit, the LPS made the claim that they would like to be recognised by the law as a legitimate actor in proceedings in the Constitutional Court, in representation of the whole group of Latvian local governments whenever a piece of parliamentary legislation or a Cabinet regulation does not comply with the principle of local self-government. Currently this is not possible because the appeal must be filed by the affected local authority/ies.

149. The Delegation asked the Constitutional Court representatives about their opinion on this matter, and the Justices said that they were not, in principle, against this possibility, something that would lead to an “abstract” control of constitutionality. Other interlocutors, though, were not convinced about the convenience of that arrangement. The MPs that the Delegation met at the *Saeima* were clearly reluctant about this proposal, because they consider that the current situation is sufficient, in which any local authority may lodge an application to the Constitutional Court. The representatives of the Ministry of Environmental Protection and Regional development were also asked about this possibility, but they replied that they did not have a clear position on that.

150. In the light of the precedent, the Delegation understands that Latvia complies with article 11 of the Charter.

## 5. CONCLUSIONS

151. In the last twenty years, Latvia has made an important effort in the domain of decentralisation: almost full and unreserved ratification of the Charter; comprehensive modification of the internal legal order aimed at the inception of the local level of government; devolution of competences to local authorities, coupled with fiscal decentralisation, etc.

152. As a consequence of this ambitious endeavour, the present situation of local self-government deserves an overall positive assessment, in the light of the history of Latvia, taking into consideration the political and social context of the country, and with due attention to Latvia's size, population and current political priorities.

153. Local authorities are endowed with a large remit of self-government. The State intervention in local affairs is strictly limited and regulated by the law, therefore fulfilling the requirements of the Charter.

154. Local authorities enjoy an extensive autonomy and a notable realm of competences. Furthermore, the expenses at local level account for roughly 23.4%% of the consolidated budget of the whole public sector. This figure which is provided by the Government was however contradicted by the Latvian Association which claims that the figure is only 23.1% of the consolidated public expenditure.

155. There is an honest, fruitful and vigorous dialogue and negotiation pattern between the central government and the local authorities.

156. The Charter is seen as a binding and operational rule, and the case-law of the Constitutional Court includes frequent references to the Charter, thus ensuring its applicability. Moreover, there is a liberal and progressive system of *locus standi* for any local government to litigate in the Constitutional Court.

157. When needed, inter-municipal cooperation is good in general terms.

158. There is a system of equalisation in place, aiming at reducing the economic disparities between the rich and the poorer local authorities.

159. The precedent conclusions are compatible with the existence of some weaknesses and unsatisfactory points in the system, detected by the Delegation. They are presented in the following recommendations, respectfully addressed to the Latvian central authorities:

160. The landscape of local finances is unstable and the revenues lack predictability in the long range. According to the government, the Medium Term Budget Law includes tax revenues forecasts for the next three years, the proportion of personal income tax between the state and municipalities and the agreement of 19,6% is also fixed in this law. However, the share of local authorities in the State taxes is calculated and determined for short periods of time and the income of local authorities fluctuates almost from year to year. In this sense, it would be advisable to set up a fixed share of the Personal Income Tax in a piece of parliamentary legislation, as claimed by the national association. Until now, this percentage is not established in a legal rule.

161. The fiscal autonomy of local authorities should be enhanced. In this sense, there is not a real system of "local taxes" in the technical sense of the term.

162. The system of equalisation could be improved, since the contribution of the State to the equalisation Fund is too low. Furthermore, there are too few local authorities that are net contributors to the Fund (19 out of 119). On the other hand, the system should be amended in order to fully take into account the specific situation of small, rural municipalities, which are not adequately taken into consideration in the current system.

163. Transfers are evaluated as unpredictable, because they are calculated according to forecasts, that may change from time to time.

164. The system of consultation is good in general terms, but in too many cases the deadline for receiving the local authorities' comments and suggestions on proposed measures is too short, thus limiting the capacity of local authorities to make meaningful and reasoned comment. The Government should grant longer time-spans and deadlines.

165. In the field of "autonomous" functions, there is a pattern of "over-regulation" on the part of the Cabinet, which reduces *de facto* the discretion and autonomy of local authorities in discharging their competences.

166. The system of local competences should be clarified. On the one hand, situations of overlapping between local and central competences should be avoided, as it apparently happens in the domain of education. On the other hand, any attribution of new competences to the local authorities should specify in a clear way which type of competence is the new one, thus allowing for its proper financing. A concomitant financing should be always determined for any new competence attributed to the local authorities.

167. The possibility of the local authorities to bring claims in the administrative courts against decisions of central government agencies should be recognised. At present, local authorities cannot sue in the administrative courts in the interest of the local population.

168. Latvian authorities are also recommended to grant *locus standi* to the LPS in order to act in the Constitutional Court in representation of the whole group of Latvian local authorities, in case where a parliamentary Act or a Cabinet regulation undermines local autonomy.

169. The current status of local government personnel should be made more flexible, so that local authorities will be able to recruit high-quality staff for specialised positions.

170. During the consultation process, Latvian authorities indicated that their position concerning the voting rights of "non-citizens" currently remains unchanged - the right to vote being an integral right of citizenship. At the same time the Government of Latvia will keep the Congress informed should there be any change to the current policy. The rapporteurs consider that it would be advisable to grant these individuals the right to vote in local elections, as it happens now with the citizens of EU member states.

171. Latvian authorities are encouraged to sign the additional Protocol to the Charter on the right to participate in the affairs of a local authority.

172. During the consultation process, national authorities highlighted that according to the Law on Local governments, article 61.1, public discussions must be organized for: amendments to the administrative territorial boundaries of the local government. The case of amalgamation or division of the local governments is the case when the administrative territorial boundaries of the local government are changed. So, this decision, according current legislation, should be taken in consultation with inhabitants of the relevant administrative territory. Public discussions are not just a formality but a real example of cooperation between local government and inhabitants and its goal is to ensure that a decision is balanced. Thus, in this way Latvia ensures that inhabitants of local government territory could express their opinion about amalgamation or division. However, the rapporteurs are on the opinion that it would be relevant to introduce into the domestic legislation a specific legal norm providing that a local referendum is mandatory in the case of amalgamation or division of the local governments.

**APPENDIX I - Programme: Congress monitoring delegation visit to Latvia**

**CONGRESS MONITORING VISIT TO LATVIA**

**Riga, Ventspils, Daugavpils and Nereta (12-14 September 2017)**

**DRAFT PROGRAMME**

**Congress delegation:**

**Rapporteurs:**

Mr Xavier CADORET

Rapporteur on local democracy  
Chamber of local authorities (SOC)<sup>24</sup>  
Member of the Monitoring Committee  
Mayor of Saint-Gérand-le-Puy (France)

Mr Marc COOLS

Rapporteur on local democracy  
Chamber of local authorities (ILDG)<sup>25</sup>  
Member of the Monitoring Committee  
First Deputy Mayor of Uccle (Belgium)

**Congress Secretariat:**

Ms Stéphanie POIREL

Secretary to the Monitoring Committee

**Consultant:**

Dr Angel M. MORENO

Chair of the Group of Independent Experts on  
the European Charter of Local Self-Government

**Interpreters:**

Ms Astra SKRABANE

Mr Aivars VAIVODS

**Photographer:**

Mr Sandro WELTIN

*The working language of the meetings will be Latvian. Interpretation from and into French will be provided.*

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<sup>24</sup> SOC: Socialist Party Group in the Congress

<sup>25</sup> ILDG: Independent and Liberal Democrat Group of the Congress

**Tuesday 12 September 2017**  
**Riga**

**Joint meeting with the Latvian Delegation to the Congress and the representatives of the Latvian Association of Local and Regional Governments:**

**- Latvian Delegation to the Congress:**

- **Mr Andris RAVINS**, Full member, Deputy Head of Delegation, Chairman of Jelgava City Council
- **Ms Māra JUZUPA**, Full member, Chairwoman of Priekuli Municipal Council
- **Mr Aleksandrs BARTASEVICS**, Alternate member, Chairman of Rezekne City Council, Member of Latgale Planning Region Development Council
- **Mr Harijs ROKPELNIS**, Alternate member, Chairman of Mazsalaca Municipal Council
- **Ms Inara SILICKA**, Alternate member, Chairwoman of Karsava Municipal Council

**- Independent Experts:**

- **Ms Iveta REINHOLDE**, Full member of the Group of Independent Experts on the European Charter of Local Self-Government

**- Latvian Association of Local and Regional Governments:**

- **Mr Gints KAMINSKIS**, Chairman of the Latvian Association of Local and Regional Governments, Chairman of the Regional Development and Cooperation Committee, Chairman of Auce Municipal Council
- **Mr Andris RAVINS**, Deputy Chairman of the Cities, Chairman of Jelgava City Council

**Parliament:**

- **Mr Sergejs DOLGOPOLOVS**, Chairman of the Public Administration and Local Government Committee
- **Mr Jānis VUCĀNS**, Chairman of the Budget and Finance (Taxation) Committee

**Ministry of Environmental Protection and Regional Development:**

- **Mr Janis EGLITS**, Parliamentary Secretary of the Ministry
- **Mr Aivars DRAUDINS**, Deputy State Secretary of the Ministry

**Ministry of Finance:**

- **Ms Dana REIZNIECE-OZOLA**, Minister
- **Ms Jolanta PLŪME**, Deputy Secretary of State on Budget Issues

**Ombudsman:**

- **Mr Juris JANSONS**, Ombudsman

**Wednesday 13 September 2017  
Riga and Ventspils**

**Riga City Council:**

- **Mr Nils UŠAKOVŠ**, Chairman of Riga City Council

**State Audit Office:**

- **Ms Elita KRŪMIŅA**, Auditor General
- **Ms Marita SALGRĀVE**, Adviser to Auditor General on Strategic Issues
- **Mr Edgars KORČAGINS**, Council Member, Director of the Fifth Audit Department

**Constitutional Court:**

- **Judge Sanita OSIPOVA**, Vice-President
- **Judge Daiga REZEVSKA**, Judge
- **Ms Alla SPALE**, Representative from the Court's Legal Department

**Joint meeting with the Ventspils City Council and the Ventspils Municipal Council:**

- **Mr Aivars LEMBERGS**, Chairman of Ventspils City Council
- **Mr Aivars MUCENIEKS**, Chairman of Ventspils Municipal Council

**Thursday 14 September 2017  
Daugavpils and Nereta**

**Joint meeting with the Daugavpils Municipal Council and the Daugavpils City Council:**

- **Mr Rihards EIGIMS**, Chairman of Daugavpils City Council
- Representatives of the administration of Daugavpils City Council

**Nereta Municipality:**

- **Mr Arvīds KVIESIS**, Chairman of Nereta Municipal Council