

32nd SESSION

CPL32(2017)06final

29 March 2017

Local democracy in Iceland

Monitoring Committee

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Summary

This report follows the second monitoring visit to Iceland since it ratified the European Charter of Local Self-Government in 1991. It shows that the country has a satisfactory level of local democracy. The report praises recent developments fostering local self-government, including the promotion of the involvement of local authorities in national decision-making and increased inter-municipal co-operation and citizen participation in local authorities. In particular, it underlines that the national and local authorities were able to deal with a major financial crisis and its economic and social consequences without undermining local self-government. Nevertheless, the rapporteurs draw the authorities' attention to the absence of a clear division of responsibilities between central government and local authorities, the lack of direct applicability of the Charter in the domestic legal system and the fact that the capital, Reykjavik, has not been granted a special status in accordance with Recommendation 219 (2007). Lastly, local authorities still do not have adequate resources for performing all their functions.

The Congress recommends that the Icelandic authorities clarify the division of responsibilities between central government and local authorities and pass legislation to give the Charter legal force in Iceland's domestic legal system. It also urges them to provide local authorities with adequate and sufficient financial resources and grant the city of Reykjavik a special status to take account of its particular needs compared to other municipalities.

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

RECOMMENDATION 402 (2017)²

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

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

b. Article 2, paragraph 3 of Statutory Resolution CM/Res(2015)9 relating to the Congress, stipulating that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

c. the present explanatory memorandum on local democracy in Iceland, drawn up by the rapporteurs, Mr Jakob Wiene (Netherlands L, EPP/CCE) and Mr Zdenek Broz (Czech Republic L, ECR) following a visit to Iceland from 21 to 23 June 2016;

d. Recommendation 283 (2010) on local democracy in Iceland.

2. The Congress recalls that:

a. Iceland signed the European Charter of Local Self-Government (CETS No. 122) on 20 November 1985 and ratified it on 25 March 1991, without any declaration or reservation; the Charter came into force for Iceland on 1 July 1991;

b. Iceland signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 18 November 2009; since then, it has not been ratified;

c. the Monitoring Committee instructed Mr Jakob Wiene (Netherlands L, EPP/CCE) and Mr Zdenek Broz (Czech Republic L, ECR) to prepare and submit to the Congress, as rapporteurs, the report on local democracy in Iceland;³

d. The Congress delegation carried out a monitoring visit to Iceland from 21 to 23 June 2016, visiting Reykjavik, Garðabær, Reykjanesbær and Dalabyggð.

3. The Congress wishes to thank the Permanent Representation of Iceland to the Council of Europe and the Icelandic authorities at central and local levels, the Icelandic Association of Local Authorities, experts as well as other interlocutors for their valuable co-operation.

4. The Congress notes with satisfaction that:

a. the level of local democracy is globally satisfactory in Iceland, as demonstrated by the low level of conflicts between State and local authorities and by the good level of social services provided by the municipalities;

b. the national and local authorities were able to deal with a major financial crisis and its economic and social consequences without undermining local self-government;

c. the new Local Government Act 138/2011 contains important provisions on State supervision and on the involvement of local authorities in national decision making;

d. the central government actively promotes and largely consults local authorities and recognises the role of the Icelandic Association of Local Authorities;

² Discussed and approved by the Chamber of Local Authorities on 29 March 2017, and adopted by the Congress on 30 March 2017, 3rd sitting (see document [CPL32\(2017\)06](#), explanatory memorandum), co-rapporteurs: Zdenek BROZ, Czech Republic (L, ECR) and Jakob WIENEN, Netherlands (L, EPP/CCE).

³ In their work, the rapporteurs were assisted by Ms Tania Groppi, expert, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress secretariat.

e. a wide range of instruments of inter-municipal collaboration does exist, which can contribute to the possibility for small municipalities to provide modern services;

f. participatory democracy has been improved at local level by the introduction of citizens' meetings and consultative referenda.

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

a. the division of responsibilities between central government and local authorities has not been clarified and several "grey zones" do persist;

b. no legislation has been passed giving the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;

c. local authorities dispose of limited resources, which means that they are unable to undertake tasks other than those stated by the law;

d. local authorities have mentioned the risk of an increase in transferred competences without adequate financial resources;

e. the equalisation fund is a static mechanism, unable to adjust to changing needs, in order to fulfil its purpose to protect financially weaker local authorities and to correct the unequal distribution of potential sources of finance;

f. the city of Reykjavik has not been granted a special status establishing different legal arrangements to take account of the particular situation of the capital city compared to other municipalities.

6. In light of the above, the Congress recommends that the Committee of Ministers call upon the Icelandic authorities to:

a. clarify the division of responsibilities between central government and local authorities on the basis of the subsidiarity principle;

b. pass legislation to give the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;

c. ensure that local authorities dispose of financial resources that are commensurate with their competences and sufficient to allow them to undertake optional tasks for the sake of their communities;

d. modernise the equalisation mechanism, in order to enable it to respond to current needs of local authorities;

e. grant the city of Reykjavik a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements to take into account the particular situation of the capital city compared to other municipalities;

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

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

1. In accordance with Article 2 of Statutory Resolution CM/Res(2015)9 of the Committee of Ministers, the Congress of Local and Regional Authorities of the Council of Europe ("the Congress") regularly prepares reports on the state of local and regional democracy in all Council of Europe member States.
2. Iceland joined the Council of Europe on 7 March 1950. On 20 November 1985 Iceland signed the European Charter of Local Self-Government (CETS No. 122, hereafter the Charter), which was ratified on 25 March 1991, without any declaration or reservation. It came into force for Iceland on 1 July 1991.
3. Iceland signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 18 November 2009. Since then, it has not been ratified.
4. The previous recommendation on local democracy in Iceland was adopted by the Congress on 19 March 2010 (Recommendation 283 (2010)).
5. The Monitoring Committee appointed Mr Jos Wiene (Netherlands L, EPP/CCE) and Mr Zdenek Broz (Czech Republic L, CRE/ECR) as rapporteurs and charged them with drawing and submitting to the Congress a report on local democracy in Iceland.
6. A visit was made by a Congress delegation to Iceland from 21 to 23 June 2016, to examine the situation of local democracy in the light of the Charter.
7. During the visit, the Congress delegation met representatives of authorities' at all territorial levels, as well as representatives of the Icelandic Association of Local Authorities (Samband), experts, mayors and municipal councillors, representatives of the government, ministries and other institutions. The detailed program of the visit is appended to the present report.
8. The rapporteurs wish to thank the permanent representation of Iceland to the Council of Europe as well as all the interlocutors met during these visits for their availability and the information they kindly provided to the delegation.

2. HISTORICAL, POLITICAL AND CONSTITUTIONAL CONTEXT

2.1 *Geographical and historical context of local self-government*

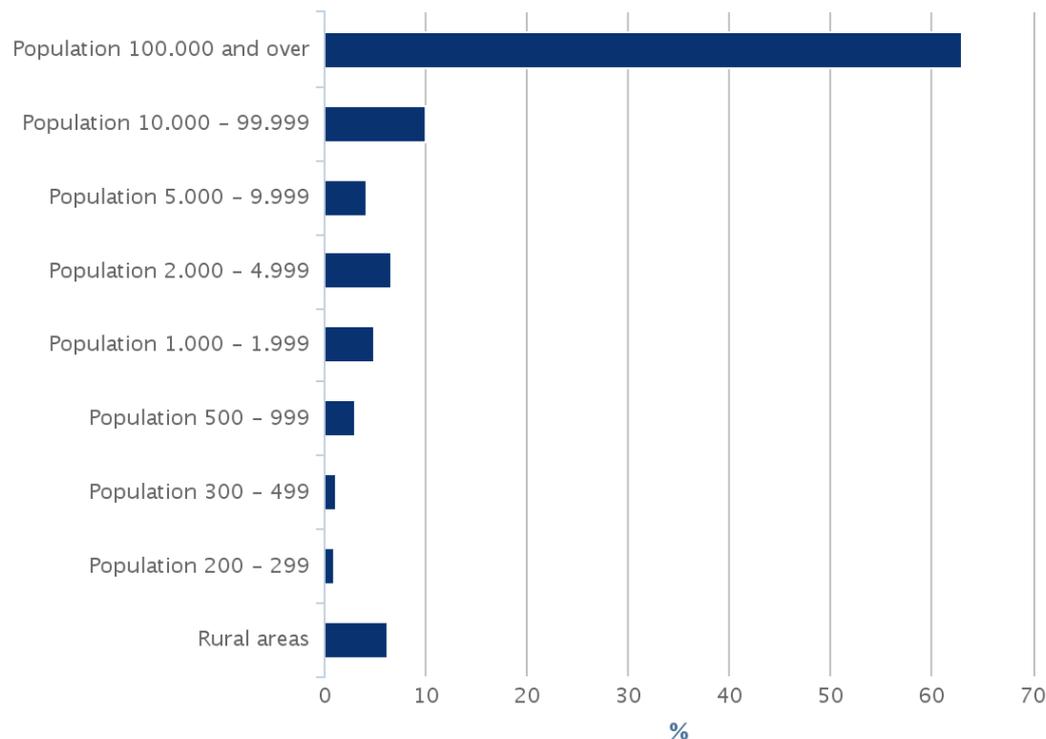
9. Iceland has an area of about 103,000 km² and a population of around 332,000,⁴ with a density of 3.2 people per square kilometer. More than 70% of the Icelandic population lives in the capital city, Reykjavik and its neighboring towns (in 100 km radius) and 90% of the population increase in Iceland in the last decade occurred there.⁵ Actually, 94% of the Icelandic population lives in urban areas (the percentage of Europe is 73,5).⁶

4 At 1 January 2016 according to Statistics Iceland: <http://www.statice.is/statistics/population/inhabitants/overview/>

5 Nordregio, *State of the Nordic Region 2013*, Stockholm, 2014, p. 17, available at <http://www.nordregio.se/en/Publications/Publications-2014/State-of-the-Nordic-Region-2013/>

6 Nordregio, *State of the Nordic Region 2015*, Stockholm, 2016, p. 18, available at http://www.nordregio.se/Global/Publications/Publications%202016/State%20of%20the%20Nordic%20Region%202016/State_of_the_region_Presentation_2016_launch_Nilsson.pdf

Population by size of localities 1. January 2016

Table 1: Population by size of localities (Source: *Statistics Iceland*, 2016)

10. The roots of the actual Icelandic local authorities can be traced back almost to the beginning of the tenth century, soon after the Iceland's settlement in 874, and are strictly connected with the democratic traditions that settlers knew from the Nordic culture of their former homelands.⁷ Since then, local authorities have been the basic unit in the country's governmental system. The first written historical source regarding local authorities (or parishes, as they were called) is *Grágás*, Icelandic book of statutes from the 12th century, according to which there shall be at least 20 farmers in a parish, which is equivalent of requiring at least 400 residents in a parish.⁸ The financial resources of the local authorities were first determined in the "Tithe Law" that was enacted at the end of the 11th century. Parishes were responsible for collecting the tithe and a part of it went to support of the poor.

11. When the Danes took control over Iceland, in 1662, they reduced the parishes' autonomy and then totally abolished them by law. They were re-established as municipalities by law on 4 May 1872 that can be considered as the foundation for the modern local government system in Iceland. At the same time, the Danish government included a regional governmental level (*Amf*), similar to that existing in Denmark. However, the regional experiment was not very successful, and regions were abolished by law in Iceland in 1904. Since then, Iceland has two administrative levels of government, the State and the municipalities. Although Iceland has been a sovereign state since 1918 and an independent republic from 1944, the Danish origins of the local government structure and of the public administration system as a whole are clearly visible.⁹

⁷ See Samband (Icelandic Association of Local Authorities), *Local Government in Iceland*, available at www.samband.is

⁸ See *Laws of Early Iceland: Grágas I: The Codex Regius of Grágas With Materials from Other Manuscripts*, University of Manitoba Icelandic Studies, V. 3, 1980.

⁹ E. M. Hlynisdóttir *The Icelandic Mayor: A comparative analysis of Political and Administrative Leadership Roles at the Icelandic Local Government Level*, Unpublished Ph.D thesis, University of Iceland (2015), p. 16.

12. The main development pattern of local government in Iceland is that the number of municipalities increased slowly until the middle of the 20th century, and then began to decrease, especially after 1990. The main reason for the increasing number of municipalities until the 1950s was the industrialization of fishing, leading people to move from the countryside to the coast in order to work and settle where there were better hopes of earning a decent income. This meant that new fishing villages emerged, and new municipalities were established.

13. The slow decrease in the number of municipalities after the mid-twentieth century is mainly explained by two forces: a number of rural municipalities ceased to exist due to total depopulation; and some municipal amalgamations. The rapid changes since 1990 were indirectly facilitated by two referenda on municipal amalgamations held in most of the municipalities – one in 1993 and the second in 2005 – and their implications. A combining factor was the transfer of primary schools from the State to municipalities in 1996, after which many local politicians realized they needed bigger administrative units to sustain the schools.

14. Ideas on reforming the municipal structure in Iceland can be traced all the way back to the 1940s. The discussion has mainly focused on strengthening the municipal structure through amalgamations. Through the years, however, this never led to any changes until the 1990s. The autonomy of the Icelandic municipalities is constitutionally protected, which has led to the State being reluctant in initiating a mandatory large-scale territorial reform on the local level similar to the territorial reforms that have taken place in the other Nordic countries in past decades.¹⁰

15. In 1991, the Minister for Social Affairs took the initiative to start a process to reduce the number of municipalities. All amalgamations would remain strictly voluntary and all proposals for such changes were to be developed by the municipalities themselves. In November 1993 referenda were held in 185 municipalities out of 196. This process led to a reduction of municipalities to 105 in 2002. In 2003 a new project on the strengthening of the municipal level was launched by the government, requiring also the amalgamation of smaller municipalities (having less than 50 inhabitants). A referendum took place in 66 municipalities out of 97 in 2005: it led to 79 municipalities in 2006. In recent years, few mergers have taken place. The municipalities are currently 74. Focus seems to have shifted from mergers to inter-municipal cooperation which has become widespread, complex and diverse.¹¹

16. At present the municipal geography of Iceland includes:¹²

1. The capital area: Reykjavík, the capital with 119,000 inhabitants, followed by its neighboring towns Kópavogur (31,000), Hafnarfjörður (26,500) and Garðabær (13,000) contains some two-thirds of Iceland's total population. These are the largest municipalities in terms of population: only Akureyri in the mid-north is in the same size group (18,000).
2. Counting all the municipalities within commuting distance of the Greater Reykjavík area (that is, a radius of up to 75 km), one finds three quarters of the island's total population. Here are included municipalities such as Reykjanesbær (14,000), Akranes (6,500) and Árborg (8,000).
3. Apart from Akureyri, only few municipalities outside the capital region have more than 3,000 inhabitants. These include Ísafjarðarbær in the north-west (3,800), Skagafjörður in the mid-north (4,000), Fjarðabyggð (4,600) and Fljótshálsa (3,400); in the east and in the south Vestmannaeyjar (4,200).

17. In spite of all attempts to amalgamate, the main characteristic of the Icelandic system remains: more than half of the municipalities in the country have less than 1000 inhabitants and 1/3 have less than 500. As a consequence, they have a limited capacity to provide modern services. The small size of many municipalities contributes to explain why local government in Iceland has relatively few functions, in comparison with other Nordic countries, where local and regional governments are entrusted with wide and important functions and a strong welfare state was built on

10 S. Traustadóttir, *Iceland leads the way*, (2015), <http://www.nordregio.se/en/Metameny/Nordregio-News/2015/Reforms-sweeping-over-the-Nordic-countries/Iceland-leads-the-way/>

11 G. T. Eythórssón, E. Gløersen, V. Karlsson, *West Nordic municipal structure. Challenges to local democracy, efficient service, provision and adaptive capacity. Report from a project supported by the Arctic Co-operation Programme 2012-2014*, September 2014, available at [http://www.kanukoka.gl/Portals/0/PDF/Kommunestruktur/West%20Nordic%20Municipal-slutmanus\(200614\).pdf](http://www.kanukoka.gl/Portals/0/PDF/Kommunestruktur/West%20Nordic%20Municipal-slutmanus(200614).pdf) p. 18.

12 Ivi, p.21, for this part and for the data.

strong local government.¹³ According to the information provided by the Icelandic Association of Local Government during the visit, the municipalities are responsible for approximately 30% of the public sector. In other Nordic countries the local government budget (that includes the regional level that does not exist in Iceland) is approximately 2/3 of total government expenditure.¹⁴

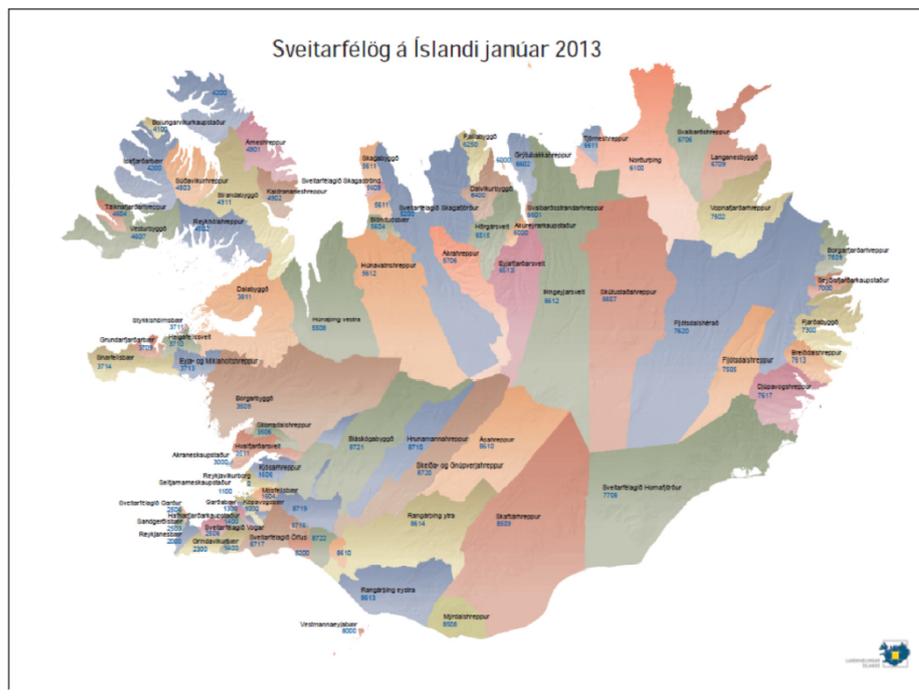


Table 2: Municipalities in Iceland (Source: *West Nordic Municipal Structure*, 2014)

2.2 Economic situation and impact on local self-government

18. Iceland was one of the early casualties of the financial crisis of 2008. Following serious turmoil on financial markets worldwide, some 85% of the Icelandic banking sector collapsed in October that year. Much of the remainder of Icelandic financial institutions followed early in 2009. So did the Icelandic currency, the *króna*. From the beginning of March 2008 to December 2008, the currency index of the *króna* went from 130 to 250, thus losing half its value. The Icelandic stock market lost 98 per cent of its value in less than two years. Iceland's GDP, which had been growing rapidly in the pre-crisis years contracted by 6.6 percent in 2009 and 4.2 percent in 2010.¹⁵

19. The crisis had severe consequences not only for Icelandic population, but also for Icelandic municipalities, many of which had been investing in infrastructure in the pre-crisis years, trying to attract new companies and inhabitants. This was especially true in the Capital Area, (the capital city Reykjavík and the 6 municipalities around it) and in Suðurnes, a peninsula close to the capital. Many municipalities had amassed debt in foreign currency, and when the *króna* collapsed, their debts multiplied. High inflation was also an important factor in this respect, since most loans in Iceland are indexed to inflation. It burdened them financially, especially the municipalities that had invested heavily in the pre-crisis years. A small group of municipalities had also taken the drastic move of selling all their real estates, such as school buildings and renting them back through contracts. These contracts proved disastrous after the crisis and many of those municipalities experienced severe problems as a result. Most of these municipalities have now bought these buildings back or are in the process of doing so.¹⁶

13 G. H. Kristinsson, *Political control and perceptions of corruption in Icelandic local government*, in *Icelandic Review of Politics and Administration*, 2015, n.1, p. 6.

14 G. H. Kristinsson, *Staðbundin stjórnmál*. Reykjavík: Háskólaútgáfan, 2001, p. 46, cit. in G. T. Eythórsson, E. Gløersen, V. Karlsson, *West Nordic municipal structure*, cit., p.39.

15 M. Á. Skjöld Magnússon *Weathering the storm – Icelandic municipalities' handling of an unprecedented economic crisis*, (2016) Strategic Public Management Journal, No. 3, April, available at <https://bifrost.academia.edu/MagnusArni>

16 E. M. Hlynisdóttir, *The Icelandic Mayor: A comparative analysis of Political and Administrative Leadership Roles at the Icelandic Local Government Level*, cit., p. 142.

20. Other municipalities that are facing financial challenges are small municipalities that are experiencing a process of depopulation. In Iceland there are 22 municipalities that lost at least 15% of population in the decade 1996-2006. Some communities, in amalgamated municipalities, lost 50% of their inhabitants in the period 1998-2013. One of the municipalities visited by the rapporteurs (Dalabyggð) lost 13,16% of its inhabitants (22,92% in rural areas) in those years. Percentages are higher when one considers the young population.¹⁷ These problems are more related to demographical changes within the population than directly with the crisis.

21. Overall most municipalities were affected by the crisis as the costs went up. As a large portion of the municipal expenses are salaries, it has been said that half of the municipalities foresaw downsizing staff.¹⁸ According to surveys conducted by the Icelandic Association of Local Authorities, municipalities explicitly refrained from laying off staff: the municipal workforce increased by 2.2% between 2007 and 2008 and by 2.7 from 2008 to 2009. It decreased by 1% from 2009 to 2010 and again increased by 2,2% from 2010 to 2011. Municipalities that faced the most serious economic consequences cut down working hours and special payments, temporarily after the crisis. In relation to services, almost all municipalities went through cuts, however no local government institutions having to be closed down completely. The most affected municipality, Álftanes was merged into Garðabær in 2013. There is now one more that is having serious problems, Reykjanesbær, that is one of the municipalities visited by the rapporteurs.

22. Icelandic local authorities have until recently benefited from a large degree of fiscal autonomy, especially in their budget and borrowing activities. As one of the financial difficulties was considered the lack of auditing on the part of the central government, one of the responses was to impose stricter fiscal rules in the new Local Government Act 138/2011.¹⁹ These rules have helped to lower the overall debt of the municipal sector, as well as improving the municipalities' overall financial performance.

23. It must be pointed out that the Icelandic economy quickly recovered after the crisis. As underlined by the International Monetary Fund in 2015, "Iceland has rebounded after the 2008/9 crisis and has already surpassed pre-crisis output level with strong performance in tourism and fisheries. Debt ratios are on a downward path and balance sheets have broadly been restored. The financial sector is back on track though with some important items remaining on the docket".²⁰

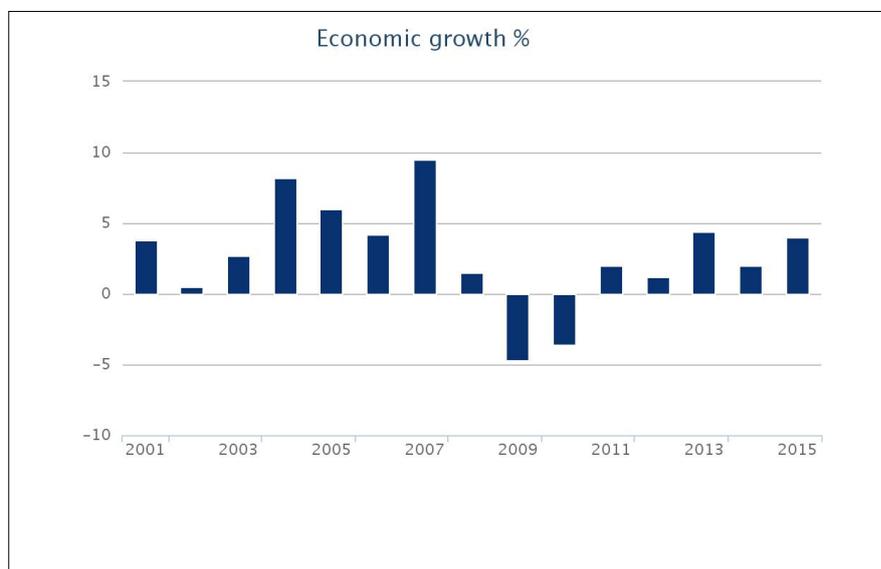


Table 3: Economic Growth (Source: *Statistics Iceland*, 2016)

17 See *Fragile communities*, available at <http://ec.europa.eu/epale/it/node/16370>

18 See M. Á. Skjöld Magnússon *Weathering the storm*, cit., p. 6.

19 Ivi, p. 6.

20 See IMF Survey, *Iceland Makes Strong Recovery from 2008 Financial Crisis*, available at <http://www.imf.org/en/News/Articles/2015/09/28/04/53/socar031315a>

2.3 *Internal political situation and elections*

24. Municipal elections take place in Iceland every fourth year, the last one being in 2014. When looking at the results of the four elections that have taken place in the 21st century, it is possible to see democratic reactions to the crisis. In the first wave in the municipal elections in 2010, when the severity of the crisis had not materialised into serious actions on behalf of the municipalities, in many of the largest municipalities, there was a reaction towards voting “anti-establishment.”²¹

25. The Independence Party (IP), long the dominating force in Reykjavík politics and holding a majority in the capital city from the 1930s until the mid-1990s (with a four year interval in 1978-1982), had been in the city ever since losing its majority to the opposition parties, unified in the Reykjavík-list (*Reykjavíkurlistinn*). The parties split up again before the elections in 2006 and this provided an opportunity for the return of the IP. It did not regain its majority, however, it managed to form a majority with its long-standing government partner, the Progressive Party (PP), previously part of the Reykjavík-list. The majority split up because of disputes over Reykjavík’s geothermal company, and the opposition parties managed to form a majority again with the support of the Progressives. It was destined to be short-lived, since the Liberal Party defected after around 100 days and formed a majority with the IP. The Liberal Party proved to be an unreliable partner for the IP which managed to form a new majority with the Progressive Party.

26. At this time voters were starting to view Reykjavík city politics as rather chaotic, and adding to it the commotion around the financial crisis and the subsequent “Pots-and-Pans Revolution” that saw the ousting of a government led by the Independence Party, the time was ripe for something different in Reykjavík, that was one of the municipalities in Iceland that had the highest debts per capita in the country, especially as a consequence of the financial situation of the municipality owned company Reykjavík Energy, that had initiated a large scale investment project just before the crisis, financed by foreign borrowing.

27. In 2010 municipal elections, a new party, jokingly named “The Best Party” and headed by the comedian Jón Gnarr, took the elections by storm and got 34,7 per cent of the votes and 6 city council members, out of fifteen. It went on and formed a majority with the Social Democratic Alliance (SDA) with Gnarr as the mayor. In Akureyri, Iceland’s “second city” outside the capital area, the so called “List of the People” (*Listi fólksins*) got a pure majority of 6 council members out of eleven. It was not an entirely new party, it had council members in the two previous elective terms, and was perhaps not as “anti-establishment” as The Best Party, but the result was considered an enormous blow to the traditional parties, especially the centre-right Independence Party (IP) that lost 3 out of its previous four council members and was relegated into minority.

28. The mayor Jón Gnarr decided to leave politics at the end of the 2010-2014 term and the Best Party – now rebranded as Bright Future, a new party making inroads in national politics in the general elections the previous year – did not manage to hold on to its 2010 gains. The majority had to join hands with the Left Greens and the newcomers in the Pirate Party to retain power. The Progressive Party made serious gains in the city and got two city council members, up from none in the previous term. It however did not suffice since the Independence Party lost again and has now only four council members in the Reykjavík City council, its smallest mandate ever.²²

29. Electoral participation has also gone down dramatically (66.5% in 2014, against 78,7% in 2006), especially in the city of Reykjavík (62.9% in 2014, against an average of 82,7 in the period 1990-2006).²³

2.4 *Previous reports and recommendations*

30. The first visit to Iceland to monitor the situation of local democracy took place in 2009. It resulted in the adoption of Recommendation 283 (2010). The Recommendation recognized the efforts made and the ability of the national and local authorities in dealing with a major financial crisis and its economic and social consequences without undermining local self-government. It expressed the hope that the

21 For this part, see M. Á. Skjöld Magnússon *Weathering the storm*, cit., p. 10.

22 Ivi, p. 11.

23 G. Þ. Eypórsson, M. Kowalczyk, *Explaining the low voter turnout in Iceland’s 2010 local government elections*, Samtíð 1 (2013), available at www.samtid.is

Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) would be ratified.

31. The recommendation focused on the need to:

- clarify some issues: the division of responsibilities between central government and local authorities; the central government's supervision over local authorities; the involvement of local authorities in national decision making;
- pass legislation giving the European Charter of Local Self-Government legal force and introduce a right of appeal against national decisions infringing the Charter;
- grant the city of Reykjavik a special status;
- set up a support fund for those local authorities significantly affected by the crisis;
- raise the minimum threshold below which the merger of local authorities is compulsory and make provision for a combination of criteria based, in particular, on economic and geographical rationality and on the preservation, to the maximum extent possible, of the inhabitants' "municipal identity" before consideration is given to mergers.

3. HONOURING OF OBLIGATIONS AND COMMITMENTS

3.1 Level at which the Charter is incorporated

32. Iceland ratified the European Charter of Local Self-Government on 25 March 1991 and the Charter came into force for Iceland on 1 July 1991. However, the Charter was never incorporated in the Icelandic legal system: for this purpose, an act of the Parliament (*Alþingi*) is required.

33. Actually, with respect to the relation between domestic law and international law, Iceland adheres to the principle of dualism. Therefore, ratified international treaties do not assume the force of domestic law, but rather are only binding according to international law: they cannot be directly applied to individuals or entities without implementing legislation.²⁴

34. The Supreme Court of Iceland has sought to interpret Icelandic law, as far as possible, in conformity with Iceland's international obligations. The Court has made several references to international obligations undertaken by Iceland, and it has interpreted both the Constitution and other laws in coherence with such obligations. These references include also instruments which have not been incorporated into Icelandic law, such as the United Nations Convention on the Law of the Sea and the International Covenant on Civil and Political Rights.

35. No data have been found on the impact of the Charter on the Icelandic legal system. According to the President of the Supreme Court during the meeting with rapporteurs, it has never been mentioned by the Courts in their rare decisions on local self-government, that are rather based on Article 78 of the Constitution.

36. The Charter is mentioned in Article 3.4 of the Local Government Act 138/2011, according to which "intervention by other government authorities in the affairs of the municipalities will at all times take account of the municipalities' autonomy under the Constitution and the European Charter of Local Self-Government". Although this mention does not seem sufficient to incorporate the Charter in the Icelandic legal system, it opens the doors, according to several interlocutors met during the meetings, to more direct references by the Courts.

3.2 Constitutional and legislative developments

37. According to Article 78 of the Icelandic Constitution (1944): "The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities and the right of the municipalities to decide whether and how to use their sources of income shall be regulated by law."

²⁴ R. Tryggvadóttir, T. Ingadóttir, *Researching Icelandic Law*, available at http://www.nyulawglobal.org/globalex/Iceland.html#_3.9_International_Law; D. T. Björgvinsson, *The Intersection of International Law and Domestic Law, A Theoretical and Practical Analysis*, Cheltenham, Edwar Elgar, 2015, p. 53.

38. This article is included in the part of the Constitution (Chapter VII) dedicated to rights and freedoms, as a consequence of a conception of local autonomy as part of self-determination of the individuals. It is the only legal provision on local government in the Constitution of Iceland.

39. The proposed Bill of a new Constitution has been subject to a question put in the framework of a popular referendum in 2012. The question was about whether or not the Constitutional Council's suggestions could be used as a base on which the Bill of a new Constitution should be drafted. However, since then it was never voted by the Parliament and never entered into force. The proposed Bill contains a full chapter (Chapter VII) on "Municipalities". The four articles of the Chapter seem to echo among other factors Congress Recommendation No. 283 (2010):

- Article 105 (Independence of municipalities) would provide that "Municipalities shall manage their own affairs as laid down by law. Municipalities shall have sufficient capacity and income to undertake their statutory responsibilities. The sources of revenue of municipalities shall be decided by law, as well as their right to decide whether and how to use them".
- Article 106 (Subsidiarity) would establish that "Municipalities, or associations acting for the municipalities, shall be charged with the aspects of public service that are regarded as best discharged locally, as further provided for by law".
- Article 107 (Election of local government and public participation) would provide that "Municipalities are governed by local governments working under a mandate from residents and elected in by secret ballot in general elections. The right of the residents of a municipality to request a referendum on its affairs shall be determined by law".
- Finally, Article 108 (Obligation to consult) would establish that "Local governments and their associations shall be consulted in the course of the preparation of legislation concerning the affairs of municipalities".

40. There is no administrative or constitutional court in Iceland. District Courts and the Supreme Court are empowered to review the constitutionality of all laws and may decide that legislation that they find incompatible with the Constitution cannot be applied. It is not easy to assess the influence of the sole constitutional provision, Article 78, on the safeguard of the local autonomy in the country. The President of the Supreme Court, in the meeting with rapporteurs, stated that there have been 6-8 cases in which the Court referred to Article 78.

41. As for the legal framework, the chief laws defining the legal arrangements governing local authorities, in pursuance of the principles of the Constitution were, according to the 2010 Report: the Local Government Act (Law 45/1998, subsequently amended); the Local Government Elections Act (Law 5/1998, subsequently amended); the Local Government Financing Act (Law 4/1995, subsequently amended). The previous Report on Iceland was based on those sources. The last two acts are still in force.

42. A new Local Government Act entered into force on January 1, 2012 (Law 138/2011) repealing Law 45/1998.

43. The main area of change touches upon the involvement of local authorities in national decision making, central government financial and administrative supervision on local government, inter-municipal cooperation and citizen participation.

44. Chapters VII and VIII address financial issues, concerning both the overall framework as well as auditing or surveillance on the behalf of the central government. Budgeting is now much more professional and the possibilities for the State to regulate the finances of local government are better than before. By the new act municipalities must adhere to two fiscal rules. The first, the balance rule pertains to budgetary balance. Municipalities are required to balance their consolidated budget (A- and B-parts)²⁵ over every three-year period. By the second rule, the debt ratio of municipalities (A- and B-parts) should not be higher than 150 per cent of annual revenues. In Chapters VIII and XI there are articles that explain when the minister responsible for local government may exercise supervision. Chapter X addresses citizen participation and provides for citizen initiative based on referendums (20% of voters) and public meetings (10% of voters). Local authorities are also obliged to provide their citizens with information on local government issues and procedures.

²⁵ The accounts of the municipalities are divided in two parts according to the Local Government Act. The A-part consists of undertakings financed chiefly by taxation. This is the proper municipal functions as laid down in legislation. The B-part consists of companies and other independent organisational units owned totally or at least 50% by the municipality.

45. The Icelandic Association of Local Authorities was directly involved in the preparation of the proposal for the new law as well as in the creation of the new framework for local government finances. After the proposal was introduced in Parliament, the Association, as well as both individual citizens and local authorities, were able to send in suggestions for changes.

46. The new law on public finance (Public Finance Act, Law 123/2015, 28 December 2015) also includes relevant provisions for local government. It provides for the first time new rules on fiscal strategy, including both the State and the municipalities, based on a "Fiscal Strategy Plan" that forms the basis for the drafting of the Budget Bill and local government budgets for the upcoming budget year. The law (Article 11) determines in detail the procedure for the local authorities to participate to the formulation of the Plan. The Icelandic Association of Municipalities has signed an agreement with the State, on behalf of the municipalities, about balanced municipal finances for the next five years and no debt increase. The State will on its part work on lowering public debt. The State and municipalities will jointly define municipal revenues, their origin and distribution and the development of municipal expenditure sector.

3.3 Local authorities: territorial structures and powers

47. Iceland has two administrative levels of government, the State and the municipalities (*Sveitarfélög*), to which Article 78 of the Constitution refers.

48. According to Article 1 of the Law 138/2011, "1. Iceland is divided into municipalities which are in charge of their own affairs, at their own responsibility. 2. Administration of municipalities is exercised by municipal councils which are elected in democratic elections by their residents in accordance with the Local Government Elections Act".

49. In this section their territorial structures, their basic organisation, their competences, the financial system, the State supervision will be shortly described, whereas the more recent developments will be dealt with in the sections on the corresponding articles of the Charter.

3.3.1 Territorial structures

50. There are nowadays, after the mergers of 1990s and 2000s, 74 municipalities in Iceland. They are ruled according to the principle of uniformity: all municipalities possess the same legal status, without any significant differences in either the responsibilities assigned or resources. On the contrary, they have a high level of autonomy in setting their administrative organization structures.

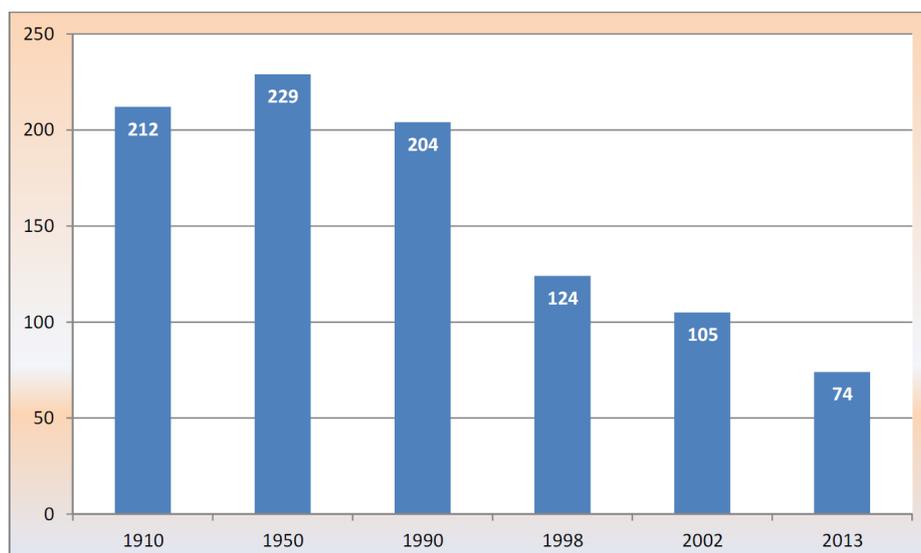


Table 4: Number of municipalities in Iceland (Source: *West Nordic municipal structure*, 2014)

51. The 74 municipalities are very diverse in size and population, as it is shown by Table 5.

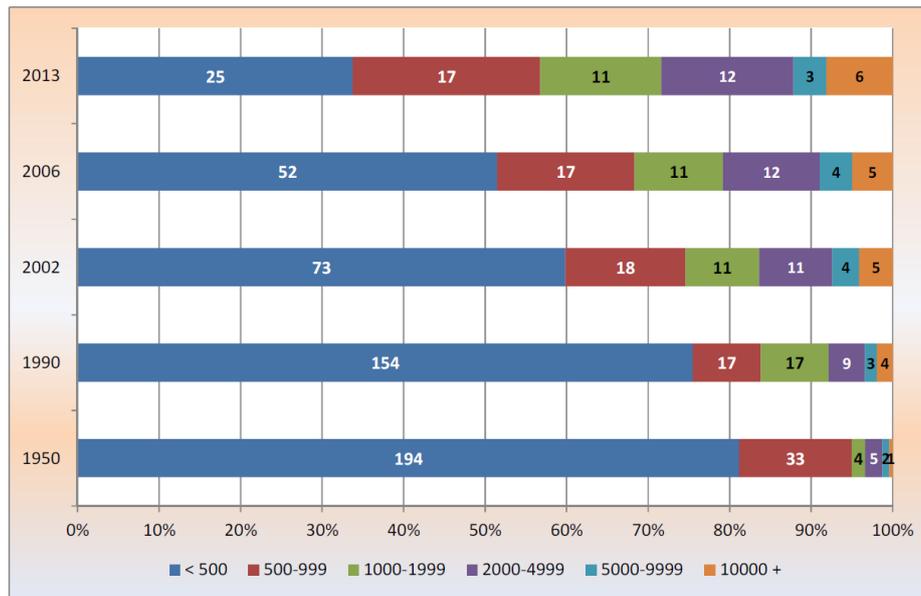


Table 5: Municipalities in Iceland in different size categories 1950-2013 (Source: *West Nordic Municipal Structure*, 2014)

52. While the number of very small municipalities (blue below 500) has gone down the number of small (red 500-999) has remained more stable. A recent research has shown that the main problem in this is that the administrative capacity of these small municipalities is still very low. The capacity (as in number of trained and skilled professionals) does not increase until around 2500 residents.²⁶

Population	Average number of staff	Number of Municipalities
500-999	5	14
1000-2499	10	13
2500-4999	24	9
5000-9999	34	3
Total	13	39

Table 6: Number of administrative staff in the city hall (Source: E. M. Hlynsdóttir, 2015)

53. It is rare for municipalities in the smallest size category to hire professionals to work at the town hall. The staff in this size category typically consists of an office manager, property supervisor, book keeper, and payroll clerk. Legal, technical or another kind of administrative support are received through other channels. Mainly there were three types of supporting channels. The first possibility is to receive the service from an institution built on a cooperation scheme. In such cases, the institution is built on cooperation between several municipalities but the office is semi-independent, i.e., is not in house. The second type is when municipalities buy the service from another municipality or a private firm, such as legal assistance. The third possibility is that the Regional association of Municipalities provides the services.

²⁶ See E.M. Hlynsdóttir, *Administrative capacity and long-term policy making at the Icelandic local level*, paper under review in *Icelandic Review of Politics & Administration*. The mayors were asked to indicate how much immediate staff they had in the city hall.

54. The second population category is the 1000-2499 size. Here the average number of personnel reaches ten individuals. There is a considerable variation within this category as some of the municipalities have a disproportionately large administration due to having taken over service responsibilities through local government cooperation schemes. In this category, the number of core staff e.g. book keepers and clerks increases and experts such as engineers, planners or social workers begin to appear. In this size category, it is also common to have divisions within the administration even though in some cases the units only consist of one or two employees. Support staff such as legal advisers is still non-existent in this category.

55. The third category consists of municipalities in the size group of 2500-4999. On average the municipalities in this group have 24 staff members in city hall. These municipalities are more likely to be the service provider in cooperation schemes and thus have all or many of the experts in-house. They rely on different divisions in their organisation and often have numerous staff members in each. Moreover, supporting staff like lawyers and supporting experts are rarely found in this category.

56. The fourth category is 5000-9999 inhabitants; municipalities in this category have on average 34 employees in city hall. There are many similar aspects to the third category except in the number of personnel. These municipalities usually have more than one person with similar knowledge or expertise and are thus not as dependent on individuals.

57. Municipalities with over 10,000 inhabitants are not included in the table. The main reason for this is that overall the administration in these municipalities is much more complicated and much larger than in the other municipalities. The most significant differences are in the presence of support staff as there are numerous lawyers and technical experts plus the support staff that other municipalities have no capacity to employ.

58. Local authorities have organized regional associations (*landshlutasamtök*) since the early 1940s. Gradually eight such regional associations, roughly based on parliamentary constituencies prior to 2003, took form. The regional associations (that now have a legal basis in the Article 97 of the Law 138/2011) are a platform where municipalities cooperate and coordinate their efforts to their mutual benefit. Many topics have been discussed and evolved in this platform such as (amongst others) communication and power infrastructure, educational matters, housing, reform of the constitution, regional development, employment issues, coastal plans, increased independence of municipalities against the State, the allocation of resources and tasks, merging of municipalities and the distribution of government institutions around the country to name a few.²⁷

3.3.2 Basic organisation

59. The administrative organisation of the municipalities varies to some extent from one municipality to another, according to the 'ordinance on the governance of the municipality', that is passed by each municipal council and confirmed by the Ministry of Interior (Article 9). It should be pointed out that the Minister of Interior is also the Minister of Municipal Affairs.

60. Local government in the Nordic countries (including Iceland) adheres to a monistic rather than a dualistic model. In the monistic model, 'all powers of local government rest with the elected council (and its committees)', and this applies to deliberations on policy as well as control of the local administration.

61. Municipalities are governed by municipal councils (*sveitarstjórn*, that can use the name of *hreppsnefnd*, 'parish council', or *bæjarstjórn*, 'town council', providing such usage is based on tradition), elected every 4 years and are the supreme democratic decision makers within the municipality. While proportional representation is used in local elections, the combination of a formula advantageous to large parties (D'Hondt) and a small district magnitude (5–15) creates a substantial advantage for large parties and, in some cases, makes local elections direct contests between alternative majorities.²⁸

62. According to Article 8 of the Law 138/2011, "The municipal council has the power to decide the use of its sources of revenue, the taking of loans and the disposition of its assets and on the execution of functions by the municipality".

²⁷ E. M. Hlynsdóttir, *The Icelandic Mayor: A comparative analysis of Political and Administrative Leadership Roles at the Icelandic Local Government Level*, cit., p. 171 ss.

²⁸ G.H. Kristinsson, *Political control and perceptions of corruption in Icelandic local government*, cit., p.8.

63. The number of representatives in each municipality varies, depending on the population. The “ordinance on the governance of the municipality” establishes the number, within the following limits (Article 11):

- “Where there are fewer than 2,000 residents: 5–7 principals.
- Where there are 2,000–9,999 residents: 7–11 principals.
- Where there are 10,000–49,999 residents: 11–15 principals.
- Where there are 50,000–99,999 residents: 15–23 principals.
- Where there are 100,000 residents or more: 23–31 principals.”

64. One of the main characteristics of local authorities is that multiple authorities, i.e. committees, councils and boards (according to Chapter V of the Law 138/2011) deal with matters and make decisions. Size and quantity may vary significantly, usually influenced by the number of inhabitants in the community and more sparsely populated municipalities may have problems in finding representatives for their committees. A municipal council selects its representatives for committees to deal with particular matters, such as planning and construction, school affairs, social affairs, etc., most often in proportion to the number of politically elected representatives in the municipal council. This thus ensures representation for political viewpoints in proportion to their political following in municipal elections. Important transparency of the governmental system accompanies this arrangement. Decisions are made at meetings and entered into minutes, which are made public. It should be easy to trace the information underlying the decision process and to hold those who have made the decision or worked on its preparation accountable.

65. The committees’ main tasks are to deal with requests and matters within their purview and present proposals. Final approval of their proposals is generally the responsibility of the municipal council. Nevertheless, a municipal council may entrust individual committees or employees with final decision-making power in demarcated issue areas.

66. The executive board (*byggðaráð*, that may be referred as ‘executive parish board’, *hreppsráð*, or ‘executive town board’, *bæjarráð*), is also a common feature for municipalities with 7 or more councillors, even though many of the smaller municipalities choose not to have such a body. In a coalition government at the local level the leadership of the council and the executive board is often divided between the parties holding the majority. The executive board, together with the chief executive officer, shall see to the management and financial management of the municipality to the extent that these responsibilities are not entrusted to others. The executive municipal board is elected for one year by the municipal council: its members shall come from the councillors of the municipal council (Article 36). It shall supervise the administration and financial management of the municipality, compile draft budgets and supplements thereto and submit these to the municipal council. In addition, the executive municipal board shall ensure that the annual accounts of the municipality are compiled in accordance with the rules and submitted to the municipal council for discussion and approval. (Article 35).

67. After the elections the council usually appoints a chief executive or a mayor (rural mayor, *sveitarstjóri*; town mayor, *bæjarstjóri*; city mayor, *borgarstjóri*) in order to handle the implementation of the municipal council’s decisions and the tasks of the municipality. The period of engagement of the chief executive is normally four years. Two or more municipalities may engage a joint chief executive officer (Article 54). Those councils who choose not to appoint a mayor are usually situated in small rural municipalities. When appointing the mayor it is possible to hire him from within the council, then usually it is the leader of the leading party. It is also possible to hire the mayor from outside the council (with or without party connections). The mayor is the head of the administration and he manages the municipality on a daily basis. He prepares and attends council meetings and the meetings of the executive board but without the right to vote (except those who also hold a seat in the council). Although only a small number of the Icelandic mayors would count as a political figure in the classical meaning of the phrase as a substantial number of them are not elected by the public; their role is highly political as they are hired and fired by the council and their persona is very often closely knitted to the majority in the council.²⁹

68. Apart from the small rural communes, some of which are without a mayor, there are, in practice, two types of mayors in Iceland, although legally they are the same. Some of the municipalities are led administratively by the mayor-manager, who is a non-elected professional hired by the council

29 E. M. Hlynisdóttir, *The Roles And Priorities Of The Icelandic Mayor* (2012), available at <http://www.uio.no/forskning/tverrfak/demokrati/aktuelt/arrangementer/konferanser/2012/papers/eva-marin-hlynisdottir.pdf>, p.3.

majority. Others are run by a political mayor, who is both the effective leader of the council majority and the hired CEO of the town administration. In both cases, the mayor co-exists with the chairman of the council, who, in a council with a mayor-manager, may be first among equals, but in a council with a political mayor, usually plays a smaller role.

3.3.3 Competences

69. The competences of municipalities are not provided by the Local Government Act, but by sectorial laws. They follow the principle of uniformity, with the sole exception of the recently transferred competence on services for people with disabilities (2011). Since the Ministry of the Interior defined the minimum size for running disability services as a population of 8,000 units, the transfer could not comprise every single municipality. Only six municipalities in the whole country are administering this task by themselves and in nine cases it is run by inter-municipal cooperation projects (*byggðasamlög*) with two to thirteen municipalities involved. It should be noticed that according to recent legislation Regional Associations of Municipalities have been given the task of preparing regional development plans for their regions and the responsibility of implementing the plans.³⁰

70. According to Article 7.1 of the Local Government Act, "Municipalities are obliged to carry out the tasks entrusted to them under law. Each year, the Ministry shall issue a summary of the tasks entrusted to the municipalities by law, classified according to whether they are obligatory or not". There is also a general residual provision (Article 7.3), according to which "Municipalities may undertake any task relating to the residents of the municipality, providing it is not assigned to others by law".

71. Services of the following main categories are provided by local government in Iceland, according to legislation:³¹

- Social services and child protection
- Education
- Culture
- Sports and youth welfare
- Fire department and public disaster protection
- Hygiene
- Planning and construction
- Traffic and transportation
- Environmental affairs, including waste management³²

72. Local governments are responsible for basic social services and both basic and advanced services for handicapped people. The objective of the social services provided by municipalities is to offer the citizens in need financial and social security, including provision of housing. It includes social and financial counseling and assistance, as well as social home care. Moreover, law on municipal social services address the welfare of children, youth, people with disabilities, the elderly, the homeless, alcoholics and drug addicts. ("Lög um félagsþjónustu sveitarfélaga nr. 40/1991," n.d.1, 2).

73. Health care is mainly provided by the central government in Iceland which paid 87% of total health care expenses in Iceland 2010. Municipalities, however, provide health surveillance.

74. Education: municipalities in Iceland offer primary schools and preschools while the central government runs upper secondary schools and universities. Primary schools are provided without demanding any tuition fee from parents while the parents are charged for the service of preschools but a limited amount since service charges are only 16% of the total operational cost of preschools and the rest is financed by local government.

75. Culture: by law, all citizens of Iceland shall have access to a public library and it shall be provided by the municipalities ("Lög um almenningsbókasöfn nr. 36/1997," n.d.1). This service is part of cultural affairs. Furthermore, some municipalities provide cultural museums and community centers as well as arranging festivals which form part of the local culture.

30 See Lög um byggðaaætlun og sóknaráætlanir (Law on regional development plan for Iceland and development plans for the regions), nr. 69/2015.

31 Expenditures of local authorities represent a significant part of total general government expenditures in the fields of recreation culture and religion (65%), education (59%), environmental protection (45%), housing and community amenities (31%) and social protection (29%): see <https://portal.cor.europa.eu/divisionpowers/countries/Candidates/Iceland/Pages/4-Fiscal-Powers.aspx>

32 See for this part, G. T. Eythórsson, E. Gløersen, V. Karlsson, *West Nordic municipal structure*, cit., p. 44 ss.

76.Sports and youth welfare: municipalities, together with the central government, are obliged to support youth recreation such as sports and cultural activities in collaboration with youth organizations (“Æskulýðslög nr. 70/2007,” n.d.3). This obligation includes running and providing playgrounds, youth centers, swimming pools, sports centers and sport arenas amongst other services of a smaller scale.

77.Fire department and public disaster protection: every municipality shall provide a fire department and fire control (“Lög um brunavarnir nr. 75/2000,” n.d.10).

78.Hygiene: according to law, all municipalities shall implement a public health control and pay for its cost. The health control shall provide the citizens with healthy life conditions such as a low level of pollution, absence of vermin, housing conducive to good health, waste disposal, and related issues. The health control issues health licences for running selective types of businesses as well. (“Lög um hollustuhætti og mengunarvarnir nr. 7/1998,” n.d.1, 4, 10).

79. Planning and building inspection is the responsibility of local governments. The Minister of the Environment governs planning in Iceland through the Icelandic National Planning Agency (INPA). The municipalities shall, implement planning under the surveillance of INPA. INPA assists and consults municipalities in the planning process. (“Lög um mannvirki nr. 160/2010,” n.d.1, “Skipulagslög nr. 123/2010,” n.d.3, 4).

80.Traffic and transportation: construction and maintenance of municipal roads falls under this category. Roads in Iceland are divided into state roads and municipal roads. Municipal roads are roads in urban areas which do not constitute part of the state road network whose function is to connect all urban areas in Iceland. State roads in urban areas are part of that connection. (“Vegalög nr. 80/2007,” n.d.3, 8, 9, 13) Construction and maintenance of traffic lights and sewers also comes under this category (Rekstur og stjórnun sveitarfélaga: starfsumhverfi, sveitarstjórnir, stjórnunarhættir, skatttekjur og verkefni og fjármál, 1998, p. 100) together with snow removal and de-icing of roads, footpaths and pavements (“Borgarbyggð: Sundurliðanir ársreiknings 2011,” n.d., p. 9).

81.Environmental issues: when it comes to environmental issues, municipalities run public parks, clean and cultivate road surroundings, and manage public decorations.

Summary of municipal operations in 2014

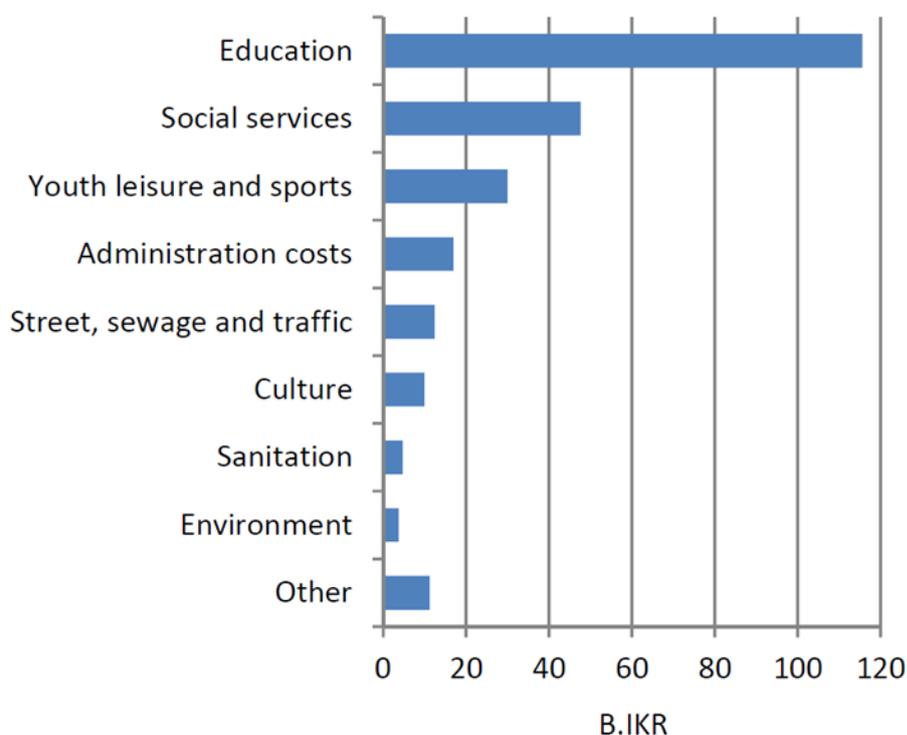


Table 7: Municipal Expenditures (Source: Icelandic Association of Local Authorities, 2015)

3.3.4. *Financial resources*

82. According to Article 78 of the Icelandic Constitution, “The income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law.”

83. Local authorities in Iceland enjoy a great deal of fiscal autonomy compared to local authorities in most countries. However, after the financial crises, stricter fiscal regulation has been imposed, as part of the new Local Government Act (Chapter VII).

Municipal revenues

84. The Local Government Financing Act, Law 4/1995, establishes the rules on municipal revenues, providing that “The revenue bases of municipalities are the following:

- a) property tax,
- b) contributions from the Equalisation Fund,
- c) municipal income tax.” (Article 1).

85. In addition to the income provided for in Article 1, municipalities have income from their assets, their own business operations and institutions operated as public services, such as water, electricity and heating utilities etc.; furthermore, various other revenues, such as from sewage disposal fees, lot rental, license fees etc., all as prescribed in Acts and Regulations (Article 2).

86. By far the biggest part of Icelandic local authorities’ income (57% according to the data provided by the Icelandic association of Local Authorities during the visit) is based on municipal income tax. Various service fees account for 16% of the income, property taxes 13%, other taxes 2% and income from the Municipality Equalisation Fund accounts for 12% of total revenues.

87. By national law, the local authorities have some leeway in determining taxes. The municipal income tax percentage can vary from one municipality to another. The municipal council determines annually the income tax level between 12.44% and 14.52% (Article 23 Law n. 4/1995), the average tax level in 2016 is 14.45%.

88. The municipalities also have some flexibility in levying property taxes on residential and commercial buildings (Article 3, Law 4/1995). The property tax percentage for residential housing (A tax) has been as much as 0.5% and that on commercial premises (C-tax) up to 1.32%. Local authorities are authorised to levy a special A and C tax of 25%. Up until 2006, various government buildings like schools and hospitals were exempt from property taxes. This exemption has been abolished in stages, and a 1.32% property tax (B tax) is levied on these properties.

89. On average, about 12% of local authorities’ total revenues come from the Equalisation Fund. The share varies greatly from one municipality to another. During the monitoring visit, the rapporteurs were told by several interlocutors that the repartition formula does not encourage mergers, as it prizes small municipalities.

90. The Local Authorities’ Equalisation Fund operates on the basis of the Law 4/1995, with subsequent amendments, its role being to pay out to the local authorities’ contributions to equalize their possibilities to provide services to their inhabitants according to law.³³ The Minister of the Interior is in charge of the Equalisation Fund, assisted by a seven members advisory committee which is appointed to a period of four years in the wake of municipal elections. While six of the committee members are nominated by the Association of Local Authorities, one is appointed, without being nominated, by the Minister of the Interior, and he is the chairman of the committee.

91. The Local Authorities’ Equalisation Fund has operated continuously since 1937. When changes were made in the division of responsibilities between the state and the local authorities in the beginning of 1990, the operations of the fund were subjected to a throughout review, greatly increasing its equalisation role. The main changes made to the fund since that time have been connected to the transfer of costs of running the elementary schools from the state to the local authorities on 1st August 1996, when its equalisation role was increased still further, and the transfer

³³ <http://www.jofnunarsjodur.is/english/>

of costs of services to disabled people on 1st January 2011. So as to be able to shoulder its equalisation burden, the fund receives annual appropriations from the State, and a specific share of the municipal tax base of each local authority. In 2015 the fund paid out ISK 40.200 million transfers directly to municipalities and ISK 1.3 million to municipal institutions on the basis of a special law in form of fixed appropriation.

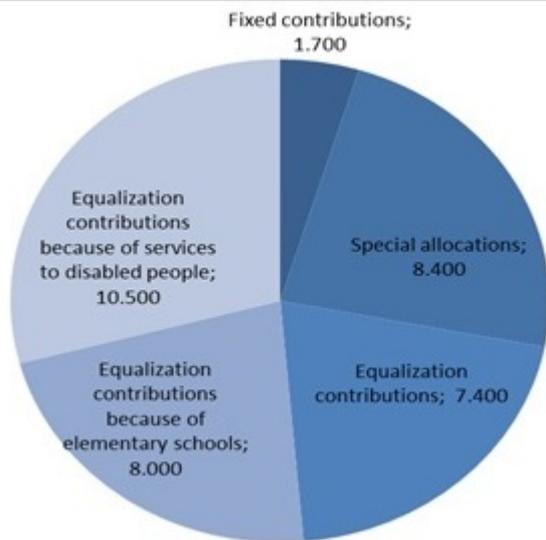


Table 8: The Local Authorities' Equalisation Fund (Source: Ministry of the Interior, 2016)

92. Other municipal income derives from various smaller income bases like land rental, in addition to service fees, for example, for garbage disposal and sewage. The service fees are subject to the limitation that they may not exceed the cost incurred in providing the service. Revenues from municipal service fees vary greatly, depending i.e. on the degree of service provided.

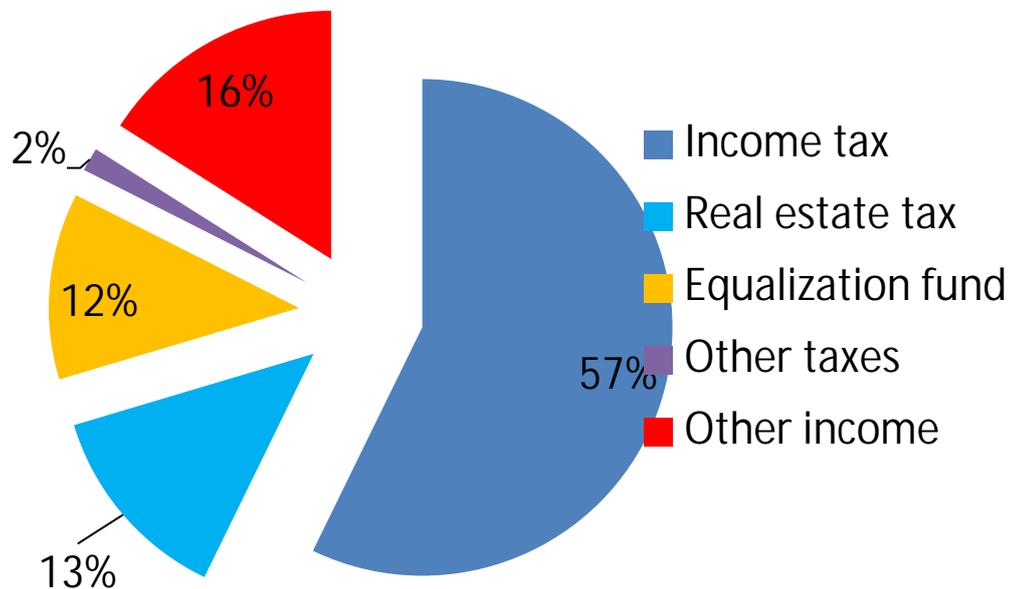


Table 9: Municipal Income Sources (Source: Icelandic Association of Local Authorities, 2016)

Municipal budget and expenditures

93. The annual budget creates the financial frame for the activities of each local authority. It is on the basis of the budget that money is allocated to certain issue areas and to operations or construction projects.

94. According to the new Local Government Act No. 138/2011, stricter fiscal rules have been imposed on municipalities (Chapter VII). Budgeting is now much more professional and the possibilities for the State to regulate the finances of local government are better than before. By the new act municipalities must adhere to two fiscal rules. The first, the balance rule, pertains to budgetary balance. Municipalities are required to balance their consolidated budget over every three-year period. By the second rule, the debt ratio of municipalities should not be higher than 150 per cent of annual revenues (Article 64).

95. Supervision rules of municipal finances have been introduced in Chapter VIII. According to Article 77, "Each municipal council is responsible for the finances of the municipality. It shall be obliged to ensure compliance with the provisions of this Act regarding the finances of municipalities. If a municipality runs into financial difficulty with the result that the municipal council considers it is not able to meet its liabilities, it shall announce this to the Municipal Finances Monitoring Committee. Similarly, the council shall inform the Municipal Finances Monitoring Committee if it considers that the municipality's finances, or individual financial measures, are not in conformity with this Act or that the municipality's finances are heading in a dangerous direction in other ways. If the conditions of Article 86 are met, the announcement shall include a request for the appointment of a financial management board".

96. Article 78 provides: "The Minister points a three-man Municipal Finances Monitoring Committee for terms of five years at a time. Members of the committee shall have a special knowledge of municipalities' financial affairs. One representative on the committee shall be appointed in accordance with a nomination by the Association of Local Authorities in Iceland and two without nomination; one of these two shall be a certified public accountant".

97. According to Article 79, "The Municipal Finances Monitoring Committee shall monitor the finances of municipalities, including their accounts and budgets, and compare them with criteria set under this Act and regulations issued under this Act. The committee shall monitor in general ways to ensure that municipalities' finances and financial management are in compliance with the law and regulations".

98. As for the remedial measures, Article 83 establishes: "When, in view of the finances or financial management of a municipality, there is reason to do so, the Minister and the municipal council in question shall, on the basis of a reasoned proposal from the monitoring committee, enter into an agreement on the municipality's finances. The agreement shall state its purpose and criteria regarding finances, as necessary, including operations, investment and the assessment of levies and taxes.

99. The Minister may also enter into an agreement under this Article at the request of the municipal council in question. In such cases, the opinion of the Monitoring Committee shall be sought before the agreement is concluded. If an agreement as provided for under Article 83 fails to produce results, or if it does not prove possible to make an agreement, or if it cannot be considered that making an agreement would put the municipality's finances in better order, the Minister may, after receiving a reasoned proposal from the Monitoring Committee:

- make the municipality a grant or loan from the Local Authorities' Equalisation Fund in order to put the municipality's finances in order, providing that the Association of Local Authorities in Iceland, and the consultative committee as provided for under Article 15 of the Local Government Finance Act, No. 4/1995, with subsequent amendments, are consulted regarding this measure;
- permit, or require, the municipal council to impose a surcharge on municipal taxes and/or property taxes of up to 25% over the maximum determined in the Local Government Finance Act;
- set the municipality conditions regarding its operations and administration".

100. Those conditions are listed in Article 85: the Minister may, among other conditions, ask the municipality to submit monthly information, providing, as a minimum, an overview of its revenues, expenses, operating capital, assets and liabilities; ask the municipality to prepare, and approve, a budget for a period of up to 10 years; ask that budgets, meet specific criteria regarding: reduction in operations; limits on investment; limits on borrowing and other obligations; the utilisation of revenue sources.

101. The next step is provided in Article 86: “Where a municipal council has neglected its duties under this Act repeatedly and substantially, the Minister may, after receiving the recommendation of the Municipal Finances Monitoring Committee, deprive the municipal council of financial control and appoint a financial management board for the municipality (consisting of three members, one of whom shall be appointed in accordance with a nomination by the Association of Local Authorities in Iceland. Members of the board shall have a knowledge of municipal affairs.). The same shall apply if the payment burden of a municipality is so far in excess of its solvency that it is clear that the situation will not be rectified in the near future”.

102. Finally, “ If the measures described above are not sufficient to put the finances of the municipality and its institutions in good order, the Ministry may also decide to seek an agreement with neighbouring municipalities on amalgamation with the municipality which is under the financial management board, or with part of it” (Article 90).

103. The Public Finance Act (123/2015) is an important step forward, introducing a rules based medium-term fiscal framework that includes the municipalities. According to Article 11, “The Minister shall ensure formal and regular co-operation with the local governments on the formulation of the Fiscal Policy and Fiscal Strategy. Preparation for the conclusion of agreements with the local governments takes place in consultation with the minister responsible for local government affairs. During the formulation of the Fiscal Strategy Plan, before it is submitted to the Althingi, the Minister shall seek an agreement with the Association of Local Authorities in Iceland, acting on behalf of the local governments, which shall cover the following matters among other things:

- A target for the fiscal balances and balance sheet position of municipalities for the next five years, broken down by year.
- Measures to ensure the achievement of the municipal fiscal performance targets.
- The funding of municipal public services and municipal revenues.
- The division of responsibilities between central and local government.

104. The agreement between central and local government under paragraph 2 shall be subject to the Althingi’s approval of the fiscal strategy.

105. The central government and local governments shall have a mutual duty to submit full and clear information on their fiscal performance, liabilities, long-term obligations and assets for the immediately preceding two years and on the projected development of these over the next five years. The Association of Local Authorities in Iceland shall be responsible for collecting information on the finances of municipalities and municipally owned agencies and enterprises.

106. Co-operation under this Article shall be discussed by the Co-operation Forum between Central and Local Government and the Co-operation Committee between the same parties, cf. Article 128 of the Local Government Act”.

3.3.5 *State supervision of local government*

107. General rules on administrative supervision of municipalities have been introduced in the new Local Government Act, in Chapter XI.

108. The Minister of Interior has the power to monitor individual decisions taken by the municipalities or by other entities to which administrative municipal functions have been commissioned, to ensure that municipalities discharge their legal obligations and comply with other lawful instructions. Article 110 provides the categories of matters under monitoring: when the rules of the municipalities are approved; in the processing of matters relating to municipalities’ finances (Chapter VIII); in the processing of appeals lodged within three months of the date on which the party to the case was informed of the administrative decision concerning rights and obligation of individuals (Article111); in the processing of monitoring on which the Ministry takes the initiative (Article112).

109. The Minister may apply remedial measures (listed by the Act). He shall choose the measure that is most likely to produce the desired result, taking into account the autonomy of the municipalities. Among those measures, there is also the possibility for the Ministry to annul decisions, either in their entirety or in part. It is stated that the Ministry may not take new decisions in a case on behalf of a municipality. When there are particular reasons in favour of doing so, the Ministry may also decide to postpone the legal effects of a decision taken by a municipality.

110. When the Ministry decides at its own initiative to examine a matter (Article 112) it may: 1. issue guidelines on the interpretation of legislation and on other aspects of the administrative functions of the municipality, 2. issue an opinion on the legality of actions, or the failure to act, by the municipality, or another party being monitored, 3. issue instructions to the municipality to take a decision on a matter, rescind a decision or put matters into lawful order by other means, 4. apply other remedial measures under this Chapter if there is occasion to do so.

111. According to Article 116, "If a municipality neglects its obligations prescribed by law, e.g. to submit information or to comply with decisions taken by the Minister under Chapter VIII, a ruling under Article 111 or instructions under Article 112, the Ministry may, after giving a caution, stop payments from the Local Authorities' Equalisation Fund or impose penalty payments calculated on a daily basis on the municipality until the matters in neglect have been properly attended to. The Minister shall, in a regulation, determine minimum and maximum amounts of penalty payments calculated on a daily basis. Decisions involving penalty payments calculated on a daily basis shall take account of the gravity of the violation and the number of people in the municipality".

112. According to Article 118, "The Ministry may institute proceedings against a municipality or other entity which is subject to monitoring by the Ministry under this Act and which has taken a decision which the Ministry considers unlawful, or neglected to fulfil an obligation prescribed by law or implement a decision by the Minister under Chapter VIII or comply with a ruling under Article 111 or instructions under Article 112".

113. Finally (Article 117), "If a municipality, co-owned agency or private entity which is subject to monitoring by the Ministry under Article 109 and to which a ruling or instructions by the Ministry under this Chapter or Chapter VIII is directed is not willing to accept the decision, the party in question may refer the matter to the courts according to the ordinary rules. If, in view of ordinary rules, a court action is not to be brought against the Ministry, the Ministry shall be summonsed to protect its legal interests. Court proceedings shall be instituted within six months of the date when the party in question became aware, or can be expected to have become aware, of the Ministry's decision".

3.3.6 *The status of the capital city*

114. Recommendation 283 (2010), paragraph 5, lett. *b*) invited the Icelandic authorities to "grant the city of Reykjavik a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements to take account of the particular situation of the capital compared with other municipalities".

115. The Charter does not directly cover the situation of capital cities, but Recommendation 219 (2007) on the status of capital cities, establishes that "the Congress considers it justified, in view of specific problems which capital cities face, that they are rewarded with a special constitutional or legal status, such as granting the municipality of the capital city regional or provincial status or giving it the power to enact specific regulations".

116. Seven years after the previous monitoring visit, the municipality of Reykjavik remains governed by the same legal arrangements as other Icelandic municipalities, with no differentiation in either the responsibilities assigned or the resources available. The financing system takes no account of the additional costs that the city might have to bear owing to the presence of national bodies (Parliament and the central government) and external entities (embassies and diplomatic offices).

117. The Mayor of Reykjavik pointed out also the relevant expenses that the municipality had to face during and in the aftermath of the economic crisis and the need for a more direct dialogue with the central government, since often the interests of the capital city differ from those of the Association of municipalities. As regards representation, the Mayor also complained that, for the election of the Parliament, voting rights are not equally distributed, since, according to the existing constituencies, the countryside is overrepresented (in the 2013 elections, in the Reykjavik area there was 1 seat for 4139 electors, while in the North West constituency 1 seat for 2665 electors).³⁴ This would explain the lack of urban policy at national level and the fact that urban areas are totally neglected.

34 T. Helgason, *Apportionment of Seats to Althingi, the Icelandic Parliament. Analysis of the Elections On May 10, 2003, May 12, 2007, April 25, 2009 and April 27, 2013*, The National Electoral Commission, Reykjavik, 2015, available at <http://www.landskjor.is/media/frettir/AnalysisIcelandElection2013.pdf>

118. During the monitoring visit, the rapporteurs were told by several sources that a growing tension has developed between the capital area and the rest of the country, especially on the allocation of the equalisation fund, and that granting a special status to the capital city should be done in a very diplomatic way, in order to not increase those tensions.

119. The provision introduced in Article 10.2 of the new Local Government Act, according to which "Reykjavík is the capital of Iceland [cannot be considered sufficient to grant a special status to the Capital city]. In the City of Reykjavík, the municipal council is termed 'the city council' (*borgarstjórn*), the executive municipal board 'the executive city board (*borgarráð*)', the chief executive officer is termed 'the mayor' (*borgarstjóri*) and the chairman is termed 'the president of the city council' (*forseti borgarstjórnar*)".

120. Taking into consideration Recommendation 219 (2007) on the status of capital cities, the rapporteurs consider that recognition of a special status for the municipality of Reykjavik is warranted.

4. ARTICLE-BY-ARTICLE ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY IN THE LIGHT OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

4.1 Article 2 and 3 – Principle and concept 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.

121. Consistently with a long tradition of local autonomy, deeply rooted in the Icelandic history, the principle of local self-government is included in Chapter VII – on Rights and Freedoms – of the Icelandic Constitution, enacted at the very moment of the independence from Denmark, in 1944. According to Article 78 of the Constitution, "The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities and the right of the municipalities to decide whether and how to use their sources of income shall be regulated by law."

122. Article 1 (Autonomy of municipalities) of the Local Government Act 138/2011 establishes that "1. Iceland is divided into municipalities (local government areas) which are in charge of their own affairs, at their own responsibility. 2. Administration of municipalities is exercised by municipal councils which are elected in democratic elections by their residents in accordance with the Local Government Elections Act". Article 2 (Overall administration of local government affairs) provides that "2. The Minister responsible for local government affairs shall take account of, and respect, the autonomy of the municipalities, the tasks they deal with and their finances". Article 3, setting out the aim and the premises of the Act, provides that: "the municipalities are independent government authorities" and that they "have independent sources of revenue and an independent right to determine the tariffs they are permitted to set".

123. As for the legal status of the European Charter of Local Self-Government (considered in Recommendation 283 (2010), lett. c), according to which Icelandic authorities were invited to pass legislation to give the Charter legal force in the domestic system), this is still uncertain in Iceland, notwithstanding the mention of the Charter contained in article 3, para. 4 of Law 138/2011.

124. During the meeting with the rapporteurs, the President of the Supreme Court pointed out that there are few cases dealing with local autonomy, referring to Article 78 of the Constitution as a standard for the judgment. While currently there are no judgments in which the Charter has been cited, municipalities can nevertheless refer to the Charter as an interpretative tool, even if the Charter has not been ratified. According to the President, the new provision opens the door to more indirect references.

125. The rapporteurs believe that appropriate legislation to give the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system should be passed and that the previous recommendation should be reiterated.

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

126. The main question that must be addressed under this heading is whether, in the present situation, Icelandic municipalities regulate and manage a “substantial share of public affairs under their own responsibility and in the interests of the local population”. This provision requires an assessment which takes into account the rather “subjective” and relative nature of the concept of “a substantial share of public affairs”, since no official or universal method of measuring such substantial character has yet been developed. The question must be addressed considering the historical evolution, the culture and the constitutional traditions of the country under analysis.

127. In order to assess compliance with this provision, both legislative and factual aspects should be taken into consideration.

128. Icelandic laws and regulations entrust municipalities with a series of competences and powers that can be depicted as “fair” or “reasonable” in the light of the “unitary” constitutional characterisation of the country and of the geographical characteristics of the country, with a small population scattered very unevenly across the territory. In spite of all attempts to amalgamate, the municipalities are generally wide spread and thinly populated, except in the Reykjavik region: more than half of the municipalities in the country have less than 1000 inhabitants and 1/3 have less than 500. As a consequence, they have a limited capacity to provide modern services. The small size of many municipalities contribute to explain the difficulties to launch a wider decentralisation process, although some new transfers of competences are under discussion (such as elderly care, health and home nursing), depending on the possibility to increase municipal co-operation.

129. The representatives of the smaller municipalities expressed some concerns about their capacity to fulfil all the tasks entrusted to them, but the Congress delegation did not hear any substantial or recurrent claim from local representatives that the present local competences were either insufficient or non-substantial. As a matter of fact, most interlocutors seemed satisfied by the current situation on this point. Even the economic and financial crisis seems mostly overcome and it does not impact on the ability of municipalities to manage a substantial share of public affairs.

130. In conclusion, the rapporteurs consider that the requirements of Article 3 para.1 of the Charter are satisfied by the present legal and factual situation in Iceland.

Article 3.2 Municipal form of government

131. Iceland (as other Nordic countries) follows the monistic model of local government, in which, all powers of local government rest with the elected council. Municipal council are elected every 4 years in democratic elections by their residents in accordance with the Local Government Elections Act (Article 1.2 Law 138/2011).

132. Apart from this fundamental feature, the administrative organization of the municipalities varies to some extent from one municipality to another, according to the “ordinance on the governance of the municipality”, that is passed by each municipal council (Article 9).

133. After the elections the council usually appoints (normally for the entire electoral term) a chief executive (or a mayor) that can be hired from within the council (then usually it is the leader of the leading party), or from outside the council (with or without party connections). S/he is the head of the administration and manages the municipality on a daily basis. S/he prepares and attends council meetings and the meetings of the executive board but without the right to vote (except those who also

hold a seat in the council). Although only a small number of the Icelandic mayor would count as a political figure in the classical meaning of the phrase as a substantial number of them are not elected by the public; their role is highly political as they are hired and fired by the council and their persona is very often closely knitted to the majority in the council.

134. The municipal council (with 7 or more councillors) may elect, for one year, an executive board, that, together with the chief executive officer, shall see to the management and financial management of the municipality to the extent that these responsibilities are not entrusted to others. It shall supervise the administration and financial management of the municipality, compile draft budgets and supplements thereto and submit these to the municipal council.

135. One of the most important changes introduced by Law n. 138/2011 addresses citizen participation (Chapter X). According to Article 102, "1. The municipal council shall strive to ensure the residents of the municipality and those who receive its services the chance to participate in, and influence, the governance of the municipality and the preparation of its policies. 2. Residents' influence may be ensured by means including: 1. the active provision of information to the residents, 2. consultation with the residents, e.g. at citizens' meetings or residents' conferences and in referendums, 3. the appointment of residents' and consumers' councils, 4. the structuring of the operation of the municipality according to local premises and conditions, 5. collaboration with, or assistance of another type for, residents who wish to make a contribution towards municipal affairs". New rules (Article 108) provide for citizen initiative based on referendums (on request of 20% of those who have the rights to vote) and public meetings (10% of those who have the right to vote). Local authorities are also obliged to provide their citizens with information on local government issues and procedures (Article 103).

136. The rapporteurs consider that the requirements of Article 3 para. 2 of the Charter are fully satisfied in Iceland.

4.2 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 who 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.

137. Although Icelandic municipalities hold many powers and responsibilities in several domains of local life, it should be pointed out that there is no comprehensive or codified set of competences for municipalities in the legal system of Iceland. The Local Government Act does not contain such a list and, although article 7, para.1 of the Act stipulates that each year the Ministry shall issue a guideline survey of the functions entrusted to the municipalities by law, classified according to whether they are obligatory or not, the Ministry has not yet issued such guidelines. The actual competences of municipalities in the different sectors of governmental action are identified by the applicable laws and regulations in each of those sectors. Therefore, a "hard core" of essential or "inherent" competences

for municipalities is entirely absent from the legislation; nor could this “hard core” be derived by interpretation from article 78 of the Constitution, which refers to the “affairs” of municipalities, without defining them. Accordingly, the competences granted to local authorities in the different sectors of governmental activity may be increased or reduced by the State legislature.

138. In general, no major complaints were raised during the meetings about the attitude of the State legislature. The number and importance of powers and competences currently enjoyed by Icelandic municipalities are generally regarded as “fair” or “reasonable” by local representatives. Nothing would support the idea that municipalities do not truly represent a “key” and vigorous actor of public life. Accordingly, Article 4, para. 1 of the Charter which establishes that “The basic powers and responsibilities of local authorities shall be prescribed by the Constitution or by statute”, should be considered as complied with in Iceland.

139. As for Article 4, para. 2 of the Charter, according to which “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”, this principle seems to be fully accepted in Iceland. Article 7, paras. 2 and 3 of the Local Government Act provides that “2. Municipalities shall work for the common welfare of their residents to the extent they consider practicable at any given time. 3. Municipalities may undertake any task relating to the residents of the municipality, providing it is not assigned to others by law”.

140. Article 4, para. 3 of the Charter articulates the general principle of subsidiarity. It establishes that “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”. Article 4, para. 4, touches on the problem of overlapping responsibilities. In the interest of clarity, it provides that “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”.

141. Recommendation 283 (2010), paragraph 5, lett. a), invited Icelandic authorities to “clarify their fundamental legislation on the basis of the subsidiarity principle, making provision for a clear division of responsibilities between central government and local authorities”.

142. Since then, this issue has not been addressed by Icelandic legislation. No provisions have been introduced in Law 138/2011. During the meetings which took place with the delegation, local government representatives underlined that this is still an issue of concern and that too many grey zones still exist, as a recent report made by the Icelandic Association of municipalities has revealed. Unclear burdens affect employment services, children’s affairs, social security and social assistance, health services, elderly people’s affairs, disabled people, and other groups, such as immigrants and prisoners applying for municipal financial support. According to this document, the consequences of these grey zones adversely affect a relevant number of individuals.

143. Finally, Article 4 para. 6 of the Charter provides that “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”. Recommendation 283 (2010), paragraph 5, lett. e), provided that Icelandic authorities should “clarify the situations, and also the related procedures, in which local authorities may be involved in national decision making that concerns them, by envisaging, for example, the right for local authorities to be consulted, to which the state would be bound”.

144. The new Local Government Act fully addressed this issue, since Article 2, para. 4, establishes that “No matters specifically concerned with the interest of a municipality may be resolved without consultation with the municipal council”. Article 98.3 provides that “At all times when issuing government edicts on the basis of this Act, the Minister shall consult the Association of Local Authorities in Iceland regarding their contents”. Actually, the association has been involved in the process of writing the new local government act.

145. Chapter XIII of the Act is dedicated to “communication and consultation between central government and the municipalities”. According to Article 128, “The Government shall ensure formal and regular collaboration with the municipalities regarding important issues of governance relating to the position and responsibilities of the municipalities. Formal collaboration shall take place regarding, amongst other things, the presentation of draft legislation with a bearing on the municipalities and on the control of public finances, the division of responsibility between central government and the

municipalities and other important issues with a bearing on the interests or finances of the municipalities”.

146. Two main collaborative bodies have been established: a State and Municipal Collaborative Council and a State and Municipal Collaborative Committee. The first, that shall meet at least once each year, is integrated by the Minister responsible for local government and the chairman of the Association of Local Authorities in Iceland. Other Ministers shall attend meetings of the collaborative council as the occasion arises at any given time. The latter is composed by the permanent under-secretaries of the Ministry responsible for local government and by three representatives nominated by the committee of the Association of Local Authorities in Iceland. If necessary, the collaborative committee may decide to summon representatives from more ministries. The collaborative committee shall function under the auspices of the collaborative council, and be the forum for regular discussion and communication between the state and the municipalities. The collaboration agreement between the Association of Local Authorities and the Government establishes structures for the consultation and collaboration procedures between the association and the ministries. There is at least one annual consultation meeting with the Minister of Finance and the Minister of the Interior, and other ministers if relevant. Two standing subcommittees have been set up by the new collaboration agreement, with representatives from the association and the mentioned ministries. One deals with financial affairs and the other with labour market affairs. These committees collect data on development in their respective spheres and present them at the annual ministerial meetings. Parallel to these structures, informal contacts between the association and the State institutions play an important role in the collaboration procedure.³⁵

147. In addition, Article 78 establishes that one out of three members of the Municipal Finances Monitoring Committee appointed by the Minister of Finance shall be appointed in accordance with a nomination by the Association of Local Authorities.

148. In conclusion, although the number and importance of the powers and competences currently enjoyed by Icelandic municipalities could be considered in compliance with Article 4 of the Charter, the rapporteurs believe that the recommendation included in lett. a) of the Recommendation 283 (2010) should be reiterated and that Icelandic authorities should be invited again to clarify the division of responsibilities between central government and local authorities, in the light of the principle of subsidiarity.

4.3 Article 5 – Protection of local authority 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.

149. As Iceland is one of the most sparsely populated countries in the world, it is easy to understand why the process of mergers of municipalities has been a prominent feature of the Icelandic territorial landscape in the last twenty years: the number of municipalities has been reduced from 196 to 74. In spite of all the attempts to reform, the main feature characterizing the Icelandic system is still very much present: more than half of the municipalities in the country have less than 1000 inhabitants and 1/3 of them have less than 500 individuals, a circumstance that has been considered as the main problem over the decades; too many, too little municipalities with limited capacity to provide modern services.

150. Mergers have always been voluntary (with the exception, in the past, of those municipalities whose population fell under 50 inhabitants; this threshold, however, has now been abandoned by Law 138/2011), since it is against the law to merge municipalities without the prior consent of the majority of citizens, which must be consulted by means of a referendum.

151. Law 138/2011 dedicates the Chapter XII to “Amalgamation of municipalities”, setting detailed rules on the amalgamation procedure. Article 120 establishes that “No municipality may be

³⁵ See <https://portal.cor.europa.eu/divisionpowers/countries/Candidates/Iceland/Pages/1-Systems-of-multilevel-governance.aspx>

amalgamated with other municipalities unless more voters in a referendum [...] are in favour of the amalgamation than are opposed to it”.

152. Recommendation 283 (2010), paragraph 5, lett. f), invited Icelandic authorities to “raise the minimum threshold below which the merger of local authorities is compulsory and make provision for a combination of criteria based, in particular, on economic and geographical rationality and on the preservation, as far as possible, of inhabitants’ “municipal identity” before consideration”. Although in the last few years local leaders and state politicians seem to have begun to believe that the most realistic way to strengthen the municipal level so that it can continue taking over significant tasks from the state is by developing more cooperation projects, and a form of surrender to voluntary amalgamations appears to have taken place, during the meeting with rapporteurs the Icelandic Association of Local Authorities expressed its opposition to compulsory mergers provisions.

153. Therefore, the rapporteurs consider that Article 5 of the Charter is now fully respected in Iceland.

4.4 Article 6 – Appropriate administrative structures and resources for the tasks of local Authorities

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.

154. Article 6, para. 1 of the Charter provides that local authorities shall be able to determine their own internal administrative structure.

155. With regard to internal organization, Icelandic municipalities enjoy a fair degree of autonomy. According to Article 9 of Law 138/2011, within the limits of State legislation, municipal councils are allowed to pass special ordinances on the governance and administration of their municipalities and the procedures applying to the matters handled by the municipality. Provisions must also be made in the ordinance on meeting procedure for the municipal council and its committees. Important aspects of the municipal organisation (such as the committees, councils, boards, including an executive board to be established, the appointment and the qualities of the chief executive officer etc.) are left in the hands of the municipal council: a circumstance that explains the variety of models of administrative organization existing among the Icelandic municipalities.

156. As regards Article 6 para. 2 of the Charter, Icelandic municipalities have the power and the autonomy to recruit high-quality staff on the basis of merit and competence. There is no centralised system for recruitment, in the sense of a nationwide, French-type territorial public service. Law 138/2011 lays down specific provisions dealing with the engagement of the employees (Article 56). According to Article 57, “The terms of service, rights and obligations of municipal employees shall be subject to the provisions of collective agreements at any given time and to the provisions of their employment contracts”.

157. During the meetings, rapporteurs were told that in small municipalities it is difficult to recruit high-quality staff: the level of capacity (in terms of the number of trained and skilled professionals) increases only upon reaching around 2,500 residents. In any case, this difficulty is only part of the broader question on the size of municipalities and on the search of effective solution to guarantee a stronger local government: certainly, it cannot be considered a consequence of “the conditions of service of local government employees”, as indicated by Article 6, para. 2 of the Charter.

158. Consequently, the current Icelandic system fully meets the requirements enshrined in Article 6 of the Charter.

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

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.

159. As for Article 7, para 1 of the Charter, under Icelandic law, the conditions of office of local elected representatives do provide for the free exercise of their functions. This point has never been put into question by facts or reality, as Iceland is an advanced democratic country. Article 24 of the Local Government Act provides that “Municipal councillors are independent in their work. They are bound solely by the law and their own convictions in their positions on individual matters”.

160. Municipal councillors are entitled to unpaid mandatory special leave throughout their term of office (article 33 Law 138/2011) and employers may not dismiss employees because they have stood as candidates in municipal elections or been elected to a municipal council. If an employee who has stood as a candidate in a municipal election or been elected to a municipal council is given notice of termination of employment, the employer shall demonstrate that the termination cannot be attributed to these events.

161. As for Article 7, para. 2, of the Charter, according to Article 32 of the Local Government Act, municipal councils are obliged to determine appropriate stipends to municipal councillors for their work. Travelling costs, accommodation and maintenance costs, if needed, shall also be covered. The representatives met by the rapporteurs shared very different views on the appropriateness of financial compensation for councillors. Some interlocutors pointed out the low level of the remuneration, others seemed to be satisfied. An explanation could be that the level of remuneration for councillors falls within the autonomy of municipal councils. Nevertheless, the fact that the law refers to an obligation of municipal council to determine “appropriate” stipends and the lack of strong complaints may be considered sufficient indicators of the fact that Article 7, para 2 of the Charter is complied with.

162. As for Article 7, para. 3, of the Charter, the Local Government Act provides for disqualification from participation to the examination of, and final decisions regarding, individual matters (Article 20). In those cases, the alternate should be summoned for the examination and final decision of the matter. To the knowledge of the delegation, no rules exist on the disqualification from the holding of local elective office. According to Article 2 of Local Government Election Act, Law 5/1998 with subsequent amendments, “Every Icelandic national who has reached the age of 18 years when an election takes place and who is legally domiciled in the municipality is entitled to vote in municipal elections. According to Article 3 “ Any person who is eligible to vote in a municipality, as provided for in Article 2, and who has not been deprived of legal competence shall be eligible to stand for election to a municipal council.”. If a councillor on a municipal council loses his or her eligibility for election, he shall step down from the municipal council (Article 30 Law 138/2011). In that case, his alternate should take his seat (Article 31).

163. Consequently, the rapporteurs consider that Article 7 of the Charter is respected in Iceland.

4.6 **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.

164. Article 8 of the Charter deals with supervision of local authorities' activities by other levels of government. Recommendation 283 (2010), para.5 lett. d), invited the Icelandic authorities to "stipulate in domestic legislation the cases in which the minister responsible for local government may exercise supervision over local authorities' performance, and set out the related procedures, which must be based on the principle of local authorities being given a due hearing". At that time, basic legislation from one hand did not provide for general and systematic controls of the acts of local authorities; on the other hand, it established the monitoring by the Ministry of the performance of the local authority, opening the doors, in case they neglect their duties, to financial penalties.

165. The new Local Government Act clarified the rules on administrative supervision and financial supervision, by introducing detailed regulation in Chapter XI (administrative supervision) and in Chapter VIII (financial supervision), especially on categories of matters under monitoring and on the consequences of the monitoring. Nevertheless, the principle of local authorities being given due hearing is still missing from the legislation.

166. Considering that Article 110 of the Law 138/2011 provides that the Minister "shall choose the measure that is most likely to produce the desired result, taking into account the autonomy of the municipalities" and that during the meetings no complaints have been raised about the supervision system, the rapporteurs consider that Article 8 of the Charter is respected in Iceland.

4.7 **Article 9 – Financial resources of local authorities**

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.

167. Local authorities in Iceland enjoy a great deal of fiscal autonomy if compared to local authorities in most countries.³⁶ They have their own resources thanks to local taxes (property tax, municipal income tax), central government contributions from the Equalisation Fund and charges levied on users of public services (water supply, waste collection, child care, etc.): those resources are of a sufficiently diversified and expanding nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks, in compliance with Article 9, para. 4 of the Charter.

168. Local taxes cover about the 70% of the financial resources of the local authorities. Municipal councils have the power to determine the rate of local taxes: they determine annually the income tax level (between 12.44% and 14.52%) and the property tax level (up to 0.5% on residential housing, up to 1.5% for commercial premises: those rates may be increased of 25%), in full compliance of Article 9, para. 3 of the Charter.

169. The protection of financially weaker local authorities (Article 9, para. 5 of the Charter) is assured by the Equalisation Fund. On average, about 12% of local authorities' total revenues come from that Fund. The share varies greatly from one municipality to another. The Minister of the Interior is in charge of the Equalisation Fund, assisted by an advisory committee of 5 members, 4 of them being nominated by the Association of Local Authorities.

170. During the meetings, the rapporteurs were told by several interlocutors that the Equalisation Fund needs to be revised to take into account the evolving necessities of local authorities, especially in urban areas, and also to stimulate more mergers, as at the moment it encourages fragmentation, by supporting especially the smallest rural municipalities. The Ministry of the Interior assured the delegation that they are working on reviewing the system, to incorporate different criteria, but they need at least one more year to be ready to implement the new system.

171. As for Article 9, para. 6, of the Charter, on consultation of local authorities on the way in which redistributed resources are allocated, it should be considered respected. As we said, 4 out of 5 members of the advisory committee on Equalisation Fund are nominated by the Association of Local Authorities. The Association of Local Authorities plays a task also in the formulation of the Fiscal Strategy Plan, according to Article 11 of the Public Finance Act (123/2015): before it is submitted to the *Althingi*, the Minister shall seek an agreement with the Association of Local Authorities in Iceland, acting on behalf of the local governments.

172. As for Article 9, para. 7 of the Charter, grants for specific projects do exist, as consequence of agreements between central government and municipalities (like in the recent case of asylum seekers) but they do not represent an important part of the financial resources of local autonomies and do not seem to constitute a problem for their autonomy.

173. Local authorities have access to the national (and international) capital market, within the limits of the law, with the ceiling raised after the 2008 crisis so that the debt ratio of a municipality should not be higher than 150 per cent of its revenues (Article 64 Law n. 138/2011) (see further paragraph 95 *infra*). Thus Article 9, para. 8, of the Charter is respected.

174. During the visit, two main points of concern emerged, related to the fulfilment of Article 9, para. 1 and 2 of the Charter.

175. Those concerns are not related to the financial crisis that hit the country (local authorities included) in 2008: by now, the crisis is completely over and Iceland is experiencing not only a

³⁶ Revenue autonomy (own revenues relative to total resources available) at the local level is very high (89%), which entails a rate of dependency on central government transfers that is much lower than the EU average (11% versus 47%). Local own revenues represent 27% of total government revenues, which is higher than the EU average (13%): see <https://portal.cor.europa.eu/divisionpowers/countries/Candidates/Iceland/Pages/4-Fiscal-Powers.aspx>

recovery, but also a brisk economic growth. Recommendation 283(2010) lett. g) invited the Icelandic authorities to “set up a support fund for local authorities particularly hard hit by the crisis so that they are able to continue delivering certain public social services”. According to the Association of Local Authorities, this recommendation is “no longer relevant in the current situation”, although there are still some municipalities that are facing serious problems (Reykjanesbær).

176. As for Article 9, para. 1, local authorities dispose freely of their financial resources, within the framework of their powers, as stated in Article 78, para. 2 of the Constitution, according to which “The income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law”. Nevertheless, as the resources they dispose of are limited, some local authorities are unable to do anything except what is stated in the law. This could be a threat to the self-governing capacity, since if the local authorities can only do what is stated by the law then their role is de facto akin to that of a service delivery agency for the central government.

177. As for Article 9, para 2, according to which financial resources are in general commensurate with the responsibilities provided for by the constitution and the law, the rapporteurs were told by local government representatives that although funds have been cut after the crisis, State agencies have nevertheless passed several competences to local authorities, without the corresponding allocation of adequate financial resources (e.g. public transportation, that has been transferred to the Regional Associations of Municipalities). In addition, municipalities have had to incur new expenses in conjunction with the touristic boom (that helped Icelandic economy to recover). The rise in tourism has put a pressure on various services offered by the municipalities. Infrastructure investments are needed in many popular tourist places. Municipalities, led by the Association of Local Governments, have lobbied for local tourist taxes or a share in tax revenues from tourism levied by the State. In the more remote areas, municipalities are facing significant depopulation and need more funds for maintaining social services and for encouraging local development. The only tool that local authorities can use to fulfil the new tasks is the increase of local taxes. The measures under discussion are a re-thinking of the Equalisation Fund, in order to make it more dynamic, and the introduction of new municipal taxes, like a tax on tourism. State representatives focused on more efficient expenditures (especially for primary schools, that are very expensive) and on the possibility for local authorities to raise real estate tax or to fully collect the taxes that they already could collect (such as the real estate tax on bed-and-breakfasts).

178. In the light of the above, the rapporteurs conclude that special attention has to be paid to the allocation to local authorities of adequate financial resources, especially when new competences are transferred.

4.8 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.

179. In Iceland, inter-municipal co-operation plays a growing role in the attempts to strengthen local government capacities to manage their own affairs and to get more competences from the central government.

180. According to many interlocutors, inter-municipal cooperation has been seen recently as a replacement for large scale merging, although this raises important questions on democracy. Since there is no formal elected intermediate stage between state government and municipalities, this would mean transfer of power from the elected representatives at the local level to a cooperative organ – not elected but under a board of directors comprising representatives from the municipalities involved.

A delegation or endorsement of power of that kind could weaken local democracy rather than strengthen it.

181. In the new Local Government Act, Chapter IX is dedicated to "Collaboration between municipalities on the execution of functions". It provides co-owned agencies (*byggðasamlag*), the possibility that a municipality undertakes tasks for other municipalities, regional municipal associations.

182. Co-owned agencies are legal entities that municipalities may establish to undertake the execution of specific tasks of municipalities, such as the operation of schools or fire-prevention measures. They are subject to the provisions of Local Government Act, as regards procedure, the rights and obligations of board members, their employees, finances, budgets and the auditing of annual accounts, administrative supervision and other general rules applying to the functions of the municipalities and other public authorities (Article 94). Provisions on the election of the board, quorum at the meetings, the board's authority to bind the municipalities, the cases in which the approval of the municipal councils is required for the board's decisions to be valid etc. shall be included in the agreement.

183. Another form of collaboration directly provided by the Law 138/2011 is the agreement by which one municipality undertakes tasks for other municipalities. When one municipality undertakes tasks for one or more other municipalities, it may be decided that those municipalities which are regarded as purchasers of services may nominate observers to attend meetings of the relevant committee in the municipality which is regarded as the service provider, with the right to address meetings and propose motions when matters covered by the joint task are under discussion. All the details shall be covered by an agreement of collaboration (Article 96).

184. Regional Associations of Municipalities, established in each region of the country, may, by agreement or in accordance with authorisations in separate legislation, undertake tasks or other activities connected with their role as defined in the first paragraph, such as tasks related to regional development or other common interests of the municipalities (Article 97).

185. Additional forms of collaboration may be established by agreements between municipalities on the execution of specific functions that must be approved by the municipal councils in question (Article 92). Those If a collaboration agreement between municipalities involves the assignment of final decision-making authority regarding individuals' rights and obligations, the collaboration may only proceed within the framework of a co-owned agency or in such a way that one municipality takes over tasks for another municipality or other municipalities, unless provisions in law grant special authorisation for some other form of collaboration. In that case, the approbation of the Ministry is required for those agreements to become valid (Article 93).

186. An especially important role is played by the Icelandic Association of Local Authorities, founded in 1945: under the Local Government Act (Article 98), "the Association of Local Authorities in Iceland is the common representative of the municipalities in Iceland". It defends their interests in dealings with the government and other parties both in Iceland and abroad. It formulates common policy on individual issues and therefore works closely with the government and the Althing. A special co-operation agreement is in force between the association and the government, containing formal provisions covering relations between them. According to Article 98.3, The Association shall be consulted by the central government when issuing government edicts on the basis of the Local Government Act. All municipalities may be members of the Association of Local Authorities in Iceland. All municipalities now belong to the Association, but their participation in its activities is voluntary.

187. As for Article 10, para 3, of the Charter, local authorities may set up international and European collaborations: the Icelandic Association of Local Authorities plays an important role in international collaboration, specifically on the basis of the EEA Agreement.

188. In conclusion, rapporteurs consider that Article 10 is fully respected in Iceland.

4.9 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.

189. Concerning the protection of local self-government, as legal persons, municipalities enjoy the substantive and procedural rights which apply to such entities and can challenge any act in courts.

190. A recent example of those judicial remedies was presented to the rapporteurs during the monitoring visit: a case involving Reykjavik municipality, that had to sue the Ministry of Interior before the Supreme Court to have a contract enforced, relating to the third strip of the city airport. The case showed that those remedies are effective.

191. In addition, as Iceland follows the diffuse model of judicial review of legislation, the municipalities – as any other person or entity – can directly challenge legislation in court on the grounds of unconstitutionality. As in other Nordic countries, the judicial review of legislation is only seldom exercised and courts are not seen as the main remedy to avoid violations of the constitution. The focus is much more on collaboration rather than on litigation.

192. During the meeting with the rapporteurs the President of the Supreme Court was unable to quote any case of unconstitutionality for violation of Article 78 of the Constitution. According to him, Article 78 was quoted in 6 or 8 cases in the entire history of the Supreme Court. As regards the Charter – which, as previously indicated, has never been incorporated in the Icelandic legal system – no data have been found on its impact. According to the President of the Supreme Court during the meeting with rapporteurs, it has never been mentioned by Courts in their rare decisions on local self-government that are rather based on Article 78 of the Constitution. In his opinion, the reference contained in the Article 3.4 of the Local Government Act could open the doors to more direct references by the courts.

193. Recommendation 283 (2010), para.5 lett. *h*), invited Icelandic authorities to “introduce appropriate legislation to give local authorities a right of appeal against decisions taken at national level which could infringe principles of local self-government enshrined in the charter”. This issue has not yet been addressed in a general way. Nevertheless, in the new Local Government Act there are specific provisions giving the municipalities the right of appeal against decisions adopted at national level in the exercise of administrative or financial supervision (Article 117).

194. Taking into account the recent legislative developments and the Icelandic tradition, the rapporteurs maintain that Article 11 should be considered respected in Iceland.

4.10 Article 12: Undertakings – reservations formulated by States, if any

Article 12 – Undertakings:

1 Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:

- Article 2,
- Article 3, paragraphs 1 and 2,
- Article 4, paragraphs 1, 2 and 4,
- Article 5,
- Article 7, paragraph 1,
- Article 8, paragraph 2,
- Article 9, paragraphs 1, 2 and 3,
- Article 10, paragraph 1,
- Article 11.

2 Each Contracting State, when depositing its instrument of ratification, acceptance or approval, shall notify to the Secretary General of the Council of Europe of the paragraphs selected in accordance with the provisions of paragraph 1 of this article.

3 Any Party may, at any later time, notify the Secretary General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

195. Iceland ratified the Charter without reservations.

4.11 On the ratification of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)

196. In relation to the possibility to ratify the Additional Protocol to the European Charter of Local Self-Government, signed by Iceland on 16 November 2009, during the meeting with the rapporteurs the Ministry of Interior noted that there are no reasons for not ratifying the Additional Protocol and that they would immediately contact the Ministry of Foreign Affairs for the ratification process to start.

5. CONCLUSIONS

197. Since the last monitoring visit, in 2009, the Icelandic scenario has deeply changed. On one hand, Iceland has brilliantly recovered from the financial and economic crisis that hit the country in 2008, on the other, a new Local Government Act (Law 138/2011) has entered into force, introducing important changes to the involvement of local authorities in national decision making, State financial and administrative supervision on local government, inter-municipal cooperation, citizen participation.

198. National and local authorities were able to deal with a major financial crisis and its economic and social consequences without undermining local self-government. Notwithstanding the crisis, the level of local democracy is globally satisfactory in Iceland, as demonstrated by the low level of conflicts between State and local authorities and by the good level of social services provided by the municipalities.

199. As for the territorial structure, only few mergers have taken place since the last monitoring visit: the number of municipalities has passed from 77 to 74. In spite of all attempts at amalgamation, the main characteristic of the Icelandic system is still very much present: more than half of the municipalities in the country have less than 1000 inhabitants and 1/3 have less than 500 individuals. The small size of many municipalities and the lack of a sub intermediate level in Iceland contribute to explain why municipalities in Iceland have fewer functions, then their Nordic counterparts, where local and regional governments are entrusted with wide and important functions and a strong welfare state was built on strong local and regional government. Nevertheless, a wide range of instruments of inter-municipal collaboration does exist, which can contribute to the possibility for small municipalities to provide modern services.

200. Therefore, some points raised by Recommendation 283 (2010) could be considered fulfilled, such as those included in para.5, *lett. d*) (“stipulate in domestic legislation the cases in which the Minister responsible for local government may exercise supervision over local authorities’ performance and set out the related procedures, which must be based on the principle of local authorities being given a due hearing”) and e) (“clarify both the situations in which local authorities may be involved in their national decision-making, by envisaging, for example, the right to consult the local authorities to which the state would be bound, and also the related procedures”). The *lett. f*) (“raise the minimum threshold below which the merger of local authorities is compulsory and make provision for a combination of criteria based in particular on merger processes being economically and geographically rational and on inhabitants’ “municipal identity” being preserved as far as possible before consideration is given to merger”) and g) (“set up a support fund for local authorities particularly hard hit by the crisis so that they are able to continue delivering certain social services”) are outdated and no longer correspond to the actual Icelandic reality.

201. Despite this positive evaluation, some elements of concern persist: the division of responsibilities between central government and local authorities has not been clarified and several “grey zones” remain, with a negative impact on several population groups; no legislation has been passed giving

the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system; the city of Reykjavik has not been granted a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements, to take account of the particular situation of the Capital compared to other municipalities.

202. During the monitoring visit, the rapporteurs noticed that some issues of concern still remain in the field of local finances: many municipalities, due to their limited resources, are unable to undertake tasks other than those stated by the law and to support local development. Local authorities have also mentioned the risk of an increase in the competences transferred without adequate financial resources. Finally, the Equalisation Fund is a static mechanism, unable to adapt to the changing necessities of the municipalities and, according to most interlocutors, needs to be revised.

203. With regard to the right to participate in public affairs at local level, rapporteurs note that Iceland has a good practice in this respect and that the new Local Government Act 138/2011 introduced even more participative instruments. However, Iceland has not ratified the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207). As there is a full compliance with the Additional Protocol, rapporteurs encourage the national authorities to ratify the instrument in the near future.

APPENDIX – PROGRAMME OF THE CONGRESS' MONITORING VISIT TO ICELAND

**CONGRESS MONITORING VISIT TO ICELAND
Reykjavik, Dalabyggð, Garðabær, and Reykjanesbær (21 - 23 June 2016)**

PROGRAMME

Congress delegation:

Rapporteurs:

Mr Jos WIENEN

Rapporteur on local democracy
Chamber of local authorities, EPP/CCE³⁷
Member of the Monitoring Committee of the Congress
Mayor of Katwijk (Netherlands)

Mr Zdenek BROZ

Rapporteur on local democracy
Chamber of local authorities, CRE/ECR³⁸
Member of the Monitoring Committee of the Congress
Mayor of Sempurk (Czech Republic)

Congress secretariat:

Ms Stéphanie POIREL

Secretary to the Monitoring Committee of the Congress

Consultant:

Ms Tania GROPPi

Member of the Group of Independent Experts on the
European Charter of Local Self-Government (Italy)

The working languages, for which interpretation is provided during the visite, will be Icelandic and English.

³⁷ EPP/CCE: European People's Party Group in the Congress
³⁸ CRE/ECR: European Conservatives and Reformists Group

**Tuesday 21 June 2016
Reykjavik**

- **Members of the Icelandic Delegation to the Congress:**

Mr Halldór HALLDÓRSSON, Head of Delegation, Head of the Icelandic Association of Local Authorities, Councillor of Reykjavik City

Mr Gunnar Axel AXELSSON, Full member, Councillor of Hafnarfjörður

Ms Elin R. LINDAL, Full member, Councillor of Hunathing Vestra

Mr Sigurdur Bjorn BLONDAL, Alternate member, Councillor of Reykjavik

Ms Aldis HAFSTEINSDOTTIR, Alternate member, Mayor of Hveragerði

Ms Halla Sigridur STEINOLFSDDOTTIR, Alternate member, Councillor of Dalabyggo

- **Members of the Icelandic Association of Local Authorities:**

Mr Halldór HALLDÓRSSON, President, Councillor of Reykjavik City, Head of the Icelandic Delegation to the Congress

Mr Karl BJÖRNSSON, Director

- **Independent Expert:**

Ms Dr. Eva Marín HLYNSDOTTIR, Faculty of Political Science, University of Iceland

- **Reykjavik City Hall**

Mr Dagur Bergþóruson EGGERTSSON, Mayor

- **Ministry of Interior**

Mr Hermann SÆMUNDSSON, Deputy Secretary General of the Ministry of the Interior

- **Ministry of Finance and Economic Affairs**

Mr Sigurdur H. HELGASON, Director General for the Department of Public Management and Reform

- **Office of the Althing (Parliament) Ombudsman**

Mr Tryggvi GUNNARSSON, Althing Ombudsman

**Wednesday 22 June 2016
Reykjavik, Garðabær and Reykjanesbær**

- **Parliament**

Mr Guðlaugur Þór Þórðarson, Vice-chairman of the Budget Committee

Mr Steindór Dan Jensen, Secretary to the Environment and Communications Committee

Mr Jón Magnússon, Secretary to the Budget Committee

- **Supreme Court**

Mr Markús SIGURBJÖRNSSON, President

- **Garðabær Town Hall**

Mr Gunnar EINARSSON, Mayor

- **Reykjanesbær Town Hall**

Mr Kjartan Már KJARTANSSON, Mayor

Thursday 23 June 2016
Dalabyggð

- **Dalabyggð Town Hall**

Mr Sveinn PALSSON, Mayor