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Local democracy in Liechtenstein

Monitoring Committee

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Summary

This is the second report on local democracy in Liechtenstein since it ratified the European Charter of Local Self-Government in 1988. The rapporteurs conclude that Liechtenstein duly implements the principles and requirements of the European Charter of Local Self-Government and has a good level of local democracy.

The report highlights that the healthy financial situation of local authorities due to the high percentage of local tax revenue and well-balanced local budgets could serve as an example of best practice for other countries. The municipalities in Liechtenstein enjoy a wide range of rights of political participation in national affairs. The forms and practice of direct citizen participation in local matters are well developed in Liechtenstein.

The Congress welcomes a close and effective co-operation between the central and local governments in practice, but recommends formalizing in law the mechanism of consulting local authorities. It is also recommended that the Liechtenstein authorities consider ratifying non-ratified provisions of the Charter which are de facto applied in Liechtenstein.

The Congress however expresses its concern regarding the present system of Government's approval of municipal budgets as a legal condition for their validity. It also draws the authorities' attention to the shared competences between central and local government in certain areas and recommends reviewing the division of responsibilities so as to avoid any overlap.

Lastly, Liechtenstein is called on to consider signing and ratifying the Additional Protocol to the Charter on the right to participate in the affairs of a local authority.

¹ L: Chamber of Local Authorities / R: Chamber of Regions
 EPP/CCE: European People's Party Group in the Congress
 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 416 (2018)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. Chapter XVII of the Rules and Procedures of the Congress on the organisation of the monitoring procedures;

d. Recommendation 196 (2006) on local democracy in Liechtenstein;

e. the present explanatory memorandum on local democracy in Liechtenstein, drawn up by Artur Torres Pereira, Portugal (L, EPP/CCE) and Marie Kaufmann, Czech Republic (R, ILDG), as rapporteurs, following a visit to Liechtenstein from 6 to 7 June 2017³.

2. With regard to Liechtenstein:

a. it signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 15 October 1985, and ratified it on 11 May 1988 with the exception of Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3,4,8 and Article 10 paragraphs 2 and 3. The Charter entered into force in Liechtenstein on 1 September 1988;

b. it has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

c. the situation of local democracy in Liechtenstein has already been the focus of Recommendation 196 (2006) adopted by the Congress on 1 June 2006;

d. the Monitoring Committee decided to review the situation with regard to local self-government in Liechtenstein in the light of the Charter and instructed Artur Torres Pereira and Marie Kaufmann, as rapporteurs, to prepare and submit to the Congress a report on local democracy in Liechtenstein;

e. The Congress delegation carried out a monitoring visit to Liechtenstein from 6 to 7 June 2017, visiting Vaduz, Triesenberg and Planken. During the visit the delegation met representatives of national authorities (Prime minister and Minister of General Government as well as Minister of Home Affairs, Education and Environment), President of the Parliament (Landtag), President of the State Court (Staatsgerichtshof), the National delegation of Liechtenstein to the Congress, the representatives of the Association for Human Rights (Verein für Menschenrechte in Liechtenstein) as well as local authorities of the capital city Vaduz and the municipalities of Triesenberg and Planken. The detailed program of the visit is appended.

3. The rapporteurs wish to thank the Permanent Representation of Liechtenstein to the Council of Europe, as well as all the national and local contacts and all those whom the delegation met during the visit for making themselves available and for the information they so willingly provided.

² Debated and adopted by the Congress on 28 March 2018, 2nd sitting (see Document [CG34\(2018\)15](#), explanatory memorandum), co-rapporteurs: Artur TORRES PEREIRA, Portugal (L, EPP/CCE) and Marie KAUFMANN, Czech Republic (R, ILDG).

³ The rapporteurs were assisted by Prof. Zoltan SZENTE, member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Congress Secretariat.

4. The Congress notes with satisfaction:

- a. due general implementation of the principles and requirements of the European Charter of Local Self-Government;
- b. a healthy financial situation of local authorities in Liechtenstein due to the high percentage of tax revenue received by municipalities and their well-balanced budgets;
- c. close and effective co-operation between the central government and local authorities in practice;
- d. highly developed citizen participation in local matters through the municipal assemblies and local referendums;
- e. the compliance de-facto with non-ratified provisions of the Charter.

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

- a. the present system of Government approval of municipal budgets as a legal condition for the validity of municipal budgets which is not proportionate to the importance of the interest which it is intended to protect (Article 8 paragraphs 2- 3);
- b. overlapping of some competences, in particular as regards municipal budget approval, issuing of the building permits and the approval of community planning and development that does not allow for the powers given to local authorities to be full and exclusive (Article 4 paragraph 4);
- c. the absence of a formal recognition in the law of mechanisms of consultation with local authorities on matters that directly affect them even though systematic and effective consultations take place in practice.

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

- a. abolish the system of government approval of local budgets;
- b. clarify the allocation of competences between the central government and the municipalities related to issuing building permits and the approval of community planning and development so as to ensure that local governments should have full and exclusive powers within the meaning of Article 4, paragraph 4;
- c. formalise in law the mechanism of consulting local authorities that would further safeguard their right to be consulted on all matters that concern them directly;
- d. consider ratifying Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3,4,8, Article 10 paragraphs 2 and 3, which are de facto applied in Liechtenstein;
- e. consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).

7. The Congress calls on the Committee of Ministers to take account of this recommendation on local democracy in Liechtenstein and the accompanying explanatory memorandum in its activities relating to this member State.

EXPLANATORY MEMORANDUM

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1. INTRODUCTION: AIM AND SCOPE OF THE 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. Liechtenstein signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 15 October 1985 and ratified it on 11 May 1988. It considers itself bound by Article 2, Article 3 paragraph 1, Article 4 paragraphs 1-6, Article 5, Article 6 paragraph 1, Article 7 paragraphs 1 and 3, Article 8 paragraphs 1-3, Article 9 paragraphs 1-2 and 5-7, Article 10 paragraph 1 and Article 11 of the Charter.

3. So far one monitoring report has been drawn up on Liechtenstein, namely in 2006 on local democracy in Liechtenstein (Recommendation 196 (2006)).

4. With a view to preparing a monitoring report, the Monitoring Committee appointed a delegation made up of two co-rapporteurs, Mr Artur Torres Pereira, Portugal (L, EPP/CCE) and Ms Marie Kaufmann, Czech Republic (R, ILDG).

5. The monitoring visit to examine the situation of local democracy in the light of the Charter took place from 6 to 7 June 2017 and included stops in Vaduz, Triesenberg and Planken. The delegation was assisted by Professor Zoltan Szente, Member of the Group of Independent Experts on the European Charter of Local Self-Government, and the Secretariat of the Monitoring Committee (hereinafter the “Congress delegation”).

6. During the visit the Congress delegation had meetings with the Prime Minister (who is also the Minister of General Government Affairs and Finance), the Minister of Home Affairs, Education and Environment, the President of Parliament (*Landtag*), the President of the State Court (*Staatsgerichtshof*) and the representatives of the Association for Human Rights (*Verein für Menschenrechte* in Liechtenstein). The delegation also had exchanges with the members of the Liechtenstein National Delegation to the Congress and the local authorities of the capital city Vaduz and of the municipalities of Triesenberg and Planken.

7. The rapporteurs wish to thank the Permanent Representation of Liechtenstein to the Council of Europe, as well as all the national and local contacts and all those whom the delegation met during the visit for making themselves available and for the information they so willingly provided.

8. This report has been prepared on the basis of the information and data collected during the monitoring visit and/or received from the Liechtenstein authorities.

2. GENERAL DATA AND POLITICAL CONTEXT

9. The Principality of Liechtenstein (*Fürstentum Liechtenstein* in German, the country's official language) is a Central European country with a small surface area of 160 square kilometres and bordered by Austria and Switzerland.

10. The population of Liechtenstein is about 36,000 (2015). Almost one-third of residents are foreign-born, primarily originating from Germany, Austria and Switzerland. Most (75.9% of the population in 2010) belong to the Roman Catholic Church, whose dominant status is recognised by the Constitution, which declares that “the Catholic Church is the State Church and as such shall enjoy full protection from the State”. Others follow the Protestant (8.5%) or Muslim (5.4%) faith or other Christian denominations (1.4%).

11. Liechtenstein consists of 11 municipalities, with the two largest ones (Vaduz and Schaan) having over 5,000 inhabitants each. The capital city is Vaduz, where the institutions of government are located.

12. The country is divided into two geographic areas (the smaller *Unterland* in the northern part, and the larger *Oberland* in the southern part). These form Liechtenstein's two electoral districts.

13. The Principality of Liechtenstein is a constitutional, hereditary monarchy. The Head of State is the reigning Prince, in accordance with the principle of dynastic succession to the throne of the Princely House of Liechtenstein. The rights of the monarch are exercised in accordance with the Constitution of Liechtenstein of 1921 and ordinary laws.

14. Legislative power is vested in a unicameral parliament (the *Landtag*) and the Reigning Prince. The Parliament consists of 25 members, who are elected for four years by universal, equal, secret and direct suffrage under the system of proportional representation. As mentioned above, the territory of the Principality is divided into two electoral districts, *Oberland*, with 15 seats in the Parliament, and *Unterland*, with 10 seats. At present, there are four parliamentary parties: the Progressive Citizens' Party (FBP), the Patriotic Union (VU), the Independents (DU), and the Free List (FL). The FBP and VU have formed a coalition government.

15. The supreme executive authority is the Government, comprising the Prime Minister and four ministers. The ministers are appointed by the Reigning Prince on a recommendation from Parliament. The Government is a collegial body and is accountable to the Parliament and the Reigning Prince.

16. Judicial power is exercised by the ordinary courts, the Administrative Court and the Constitutional Court. The ordinary courts are competent for the administration of justice in civil and criminal matters on the basis of three tiers of judicial authority. The Administrative Court rules on complaints against decisions and orders of the Government, while the Constitutional Court hears individual constitutional complaints, reviews the constitutionality of laws and ordinances and settles jurisdictional disputes between public authorities.

17. In accordance with Article 3 of the Law on the Nomination of Judges all judges are nominated by a joint commission consisting of the Reigning Prince, one representative of each electoral group represented in Parliament (delegated by Parliament), the Minister of Justice and additional members, corresponding in number to the representatives of Parliament (appointed to the Commission by the Reigning Prince). The judges are elected by the Parliament. The Constitution guarantees the independence of the judiciary.

18. Liechtenstein has been a member of the Council of Europe since 1978, signed the Charter in 1985 and ratified it in 1988. The country has made a number of reservations and considers itself not bound by Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3-4 and 8, and Article 10 paragraphs 2-3.

19. Under the Liechtenstein legal system international conventions ratified by the country are directly applicable at domestic level without the need for a law to transpose them into domestic legislation.

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

3.1. *The Constitution and the basic legislative framework*

20. Chapter X of the Constitution of 1921 deals with the municipalities. Article 110 establishes a general mandate for the Parliament to determine the territory, organisation and responsibilities of municipalities, the basic principles of municipal law to be adopted and the principles of local elections.

21. According to these principles, the law on municipalities must guarantee the free election of municipal assemblies and mayors, the autonomous management of municipal assets under the supervision of central government, the right of municipalities to grant citizenship and the freedom of citizens of the Principality to reside in any municipality.

22. All citizens who have reached the age of 18 and are not deprived of their voting rights are eligible to vote on local affairs relevant to the municipalities where they reside.

23. A change in municipal boundaries, the creation of a new municipality or the merging of existing municipalities may take place by operation of law and requires a majority decision of the citizens who live in the municipalities concerned. The Constitution provides that every municipality shall have the right to secede from the Principality within the limits of the law or an international treaty. A local referendum must be held on both the initiation of such a procedure and the final decision.

24. Article 25 of the Constitution requires that public services for the poor shall be administered by municipalities under the conditions laid down by law. At the same time, it does not prevent the state from granting subsidies to local authorities for this purpose.

25. The Constitution provides for a wide range of rights of political participation by local government bodies in national affairs. According to Article 42 municipalities are entitled to submit petitions to Parliament in order to make known their views and opinions. In addition, a minimum of three local authorities may request the convening of Parliament, and a minimum of four may initiate a popular vote on its dissolution (Article 68 paragraphs 2 and 3). By adopting concurring resolutions, at least three municipal assemblies may oblige the Parliament to consider the enactment, amendment or repeal of a specific law (Article 64 paragraph 2). A petition to amend the Constitution can be lodged by a minimum of four municipal assemblies (Article 64 paragraph 4). Article 66 provides for further rights for municipalities to initiate popular votes on specific laws.

26. The legal status, tasks, functions and organisation of municipalities are regulated by the Municipalities Act (*Gemeindegesetz*) of 1996. Other relevant legislative instruments are the Financial Equalisation Act (*Finanzausgleichsgesetz*) of 2007 and the Act on the Financial Budget of the Municipalities (*Gesetz über den Finanzhaushalt der Gemeinden*) of 2015.

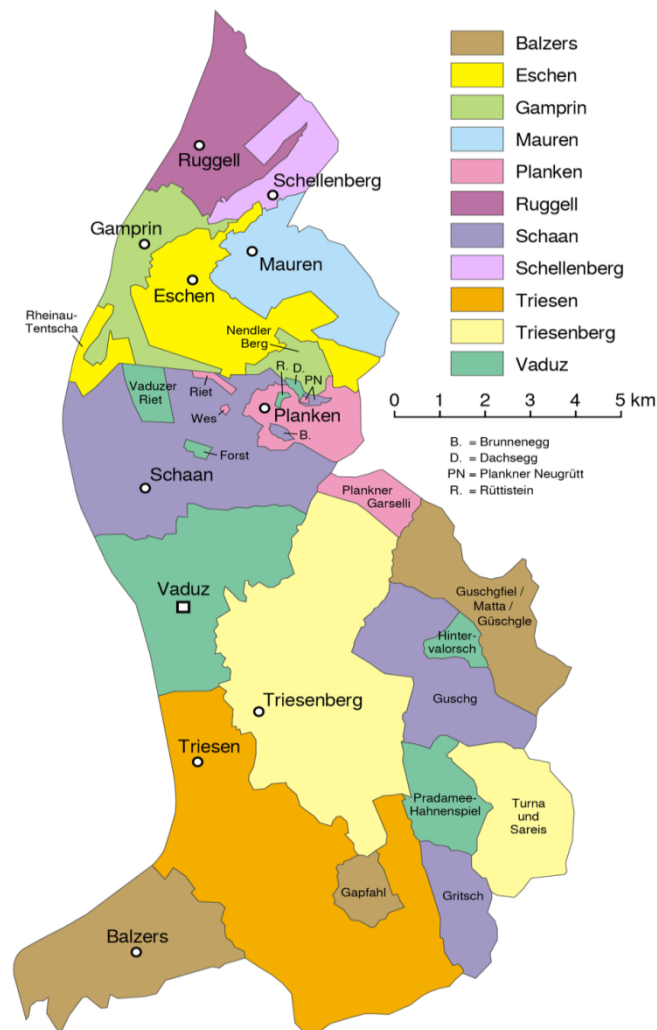
3.2. Local government system

27. Although Article 1 paragraph 1 of the Constitution reads “the Principality of Liechtenstein is a union of two regions with eleven municipalities”, no regional governments or administrative regions exist in Liechtenstein. The country has a unitary structure with a single-tier local government system. Five of its eleven municipalities (*Gemeinden*) - Ruggell, Schellenberg, Gamprin, Mauren and Eschen- are located in *Unterland* and six (Schaan, Planken, Vaduz, Triesenberg, Triesen and Balzers) in *Oberland*.

28. The population of the municipalities varies from about 450 (Planken) to about 6,000 (Schaan).

29. According to the Municipalities Act, municipalities are public-law bodies which regulate and administer local affairs in an autonomous way under the supervision of the government. From a legal point of view, as local self-governing entities all municipalities have the same rights and administrative status.

30. Municipalities may establish consortia or join an existing consortium to jointly deliver public services. These are voluntary inter-municipal co-operative arrangements approved by the Government.



The Municipalities of Liechtenstein (© Maximilian Dörrbecker)

31. The Municipalities Act distinguishes between local government's "own" tasks and functions (*eigener Wirkungskreis*) and delegated powers. The first group of responsibilities includes regulatory and administrative powers with regard to all public affairs which directly affect municipal interests and are dealt with by the municipalities. These are:

- the election of municipal bodies;
- the organisation of municipalities;
- the granting of local citizenship;
- the management of municipal property, public buildings and institutions;
- the establishment and levying of tax surcharges;
- the promotion of social, cultural and religious life;
- the establishment and maintenance of kindergartens and primary schools;
- the maintenance of security and public order;
- local planning;
- water supply as well as sewage and waste disposal.

32. The Congress delegation was informed that local authorities may undertake voluntary tasks, which are paid for using their freely disposable financial resources, although the Municipalities Act does not refer explicitly to this possibility. In particular, such voluntary activities concern the fields of leisure, culture and sport.

33. Delegated tasks and functions cover those powers of state administration transferred by the central government to municipalities. In a country with such a small surface area, this way of distributing responsibilities appears inevitable. Delegated tasks are carried out under the supervision of the state authorities in terms of legality and expediency. According to the law, with regard to all

mandatory functions it must be stated whether they are “own” or delegated powers. Delegated powers include, for example, issuing building permits, waste disposal, sewage and social care (e.g. family care or maintenance of retirement homes).

34. The Municipalities Act determines the organisational structure of the municipalities. According to this Act's inherent logic, local self-government is based on a well-balanced combination of direct and representative democracy.

35. This approach is reflected in the provision of the Act, which states that “the Municipal Assembly (*Gemeindeversammlung*) is the highest authority of the Municipality”. The Municipal Assembly consists of all eligible local residents. It has broad functions ranging from electing the chairperson and members of the municipal council and its committees to deciding on participation in inter-municipal co-operation initiatives.

36. The Assembly is chaired by the mayor and can be convened by the Municipal Council. It is quorate if at least one-sixth of local voters are present at a meeting, and it adopts decisions by a simple majority.

37. The Municipalities Act of 1996 also provides for other forms of citizen participation. A minimum of one-sixth of local voters may initiate a local referendum regarding certain decisions of the Municipal Council (if the cost of executing the decision exceeds certain limits), the levying of tax surcharges, building regulations, and so on.

38. The Municipal Council (*Gemeinderat*), which is made up of the mayor (*Gemeindevorsteher*) and the councillors, is the representative body of the municipality. The number of councillors varies according to the size of the municipality:

- between 6 and 8 in municipalities with less than 1,500 inhabitants;
- between 8 and 10 in municipalities with more than 1,500 but less than 3,000 inhabitants;
- between 10 and 12 councillors in municipalities with more than 3,000 inhabitants.

The exact number of councillors must be determined in a municipal by-law.

39. Among other things, the Municipal Council is responsible for:

- organising the municipal administration;
- preparing all decisions falling within the remit of the Municipal Assembly;
- preparing and managing the annual budget;
- the establishment of building regulations and approving land-use plans;
- awarding public works;
- enacting municipal decisions (if they do not fall within the remit of the Municipal Assembly);
- appointing and paying local government officials.

40. Council meetings are convened and chaired by the mayor. The Municipal Council may take decisions if at least half of its members are present.

41. The mayor is elected by the Municipal Assembly. He or she is responsible for implementing the decisions of the Council and for the daily administration of the municipality. As the leader of the local police, the mayor is also responsible for security and public order in the municipality. Under the supervision of the state authorities, the mayor is also in charge of the delegated administrative functions.

42. No later than six months after the local elections, the Municipal Assembly elects a three-member committee (*Geschäftsprüfungskommission*) for the continuous supervision of the local administration and of the municipality's financial management. The Municipal Council may elect other committees and transfer tasks and functions to them, providing they do not come within the exclusive authority of the Council.

43. As mentioned above, municipalities may form consortia in order to perform their tasks and functions more efficiently and more effectively. The Agglomeration Werdenberg-Liechtenstein initiative is an example of trans-border co-operation with the participation of all the Liechtenstein municipalities (together with Swiss and Austrian municipalities) and the Government of the Principality. This is a

multifunctional consortium that covers public transport and local and regional development. Municipal co-operation also concerns specific areas such as waste disposal or water supply services (as in Triesenberg, which was visited by the Congress delegation).

44. Although the constitutional provision referring to “the autonomous management of municipal assets” seems to be a guarantee of substantial budgetary autonomy for the municipalities, the other part of this provision (“under the supervision of central government”) is in practice implemented through a procedure based on central government approval of local budgets. This means that each municipality has to submit its annual budget to the Government for approval, so that Government consent is required in order for local government budgets to be valid.

45. In accordance with the established procedure, each municipality adopts its annual budget by mid-November, and submits it to the Government for approval, which must be given by the end of the year if the budget is to be valid.

46. During the consultation procedure the Government informed the rapporteurs that such approval implies checking the local budgets in terms of their form and legality in accordance with the Act on the Financial Budget of the Municipalities (Gesetz über den Finanzhaushalt der Gemeinden) which provides a binding set of accounting rules for the municipalities.

47. The opinion of the rapporteurs on this issue will be presented in detail under the analysis of Article 8 of the Charter (see *infra* paragraphs 89-91).

48. During the visit the Congress delegation was informed that no legally binding consultation procedure exists between the central and local governments. However, this does not mean that municipalities have no opportunity to express their interests and views in the central government decision-making process. In practice, local authorities are involved in policy-making where their primary interests are at stake.

49. As far as the legislative process is concerned, municipalities do not have any institutionalised rights to be involved or heard. However, the common practice is for the Government to send draft laws to all interested groups and institutions (stakeholders), including municipalities. In spite of the lack of a legally guaranteed consultation process, the representatives of municipalities with whom the Congress delegation met during the monitoring visit did not raise any issues in relation to the existing consultation practice.

50. In this field, considerable importance attaches to the Conference of Mayors (*Gemeindevorsteherkonferenz*), which is an informal co-ordination body of the municipalities.

3.3. Status of the capital city

51. Article 1 of the Constitution states that Vaduz is the capital of the Principality of Liechtenstein and the seat of the Parliament and of the Government. It has 5,652⁴ inhabitants (including 2,516 foreign residents). It covers a surface area of 17.3 km².

52. The Vaduz Municipal Council consists of the Mayor and twelve councillors, who are elected in two separate direct elections by the citizens of the municipality for a four-year term. The councillors are elected by proportional representation and the Mayor by a simple majority.

53. Vaduz is among the European capitals which do not have a special administrative status recognising their specific (and additional) role as the seat of government institutions and venue for state ceremonies, etc. Although the financial situation of Vaduz is good, the rapporteurs noted that the city has to finance additional tasks associated with its role as the capital city which distinguish it from other municipalities. It appears that the costs of such additional functions are not reimbursed by the central authorities. However, it emerged from the exchange of views that the Mayor of Vaduz does not see any particular need to request a special status for Vaduz or additional financial compensation for the extra functions the city carries out.

4 As of 31.12.2015 at <https://www.vaduz.li/vaduz-aktuelles/portrait/zahlen-und-fakten/>

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

4.1. Article 2: Foundation of local self-government

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

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

54. Article 2 of the Charter requires signatory countries to recognise the principle of local self-government in their domestic legislation. In Liechtenstein, while the Constitution does not contain a definition of local government, the Municipalities Act sets out the fundamental elements of the municipalities' legal status (section 3 of the Municipalities Act of 1996). According to its provisions, they are “public law bodies” (thus legally recognising that they exercise public authority), which regulate and administer local matters (reference to their functions) in an autonomous way (providing self-government for the local communities).

55. In the rapporteurs' opinion, Liechtenstein is in compliance with the requirements of Article 2 of the Charter.

4.2. Article 3: Concept of local self-government

Article 3 – Concept of local self-government

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

56. Article 3 paragraph 1 requires that local authorities should have “a substantial share of public affairs under their own responsibility”. Although the Charter does not specify which tasks and functions must fall within the remit of local government, it should regulate and administer primarily those public affairs which affect the local community most and which it can carry out more effectively.

57. Municipalities play a crucial role in local democracy in Liechtenstein and have wide-ranging powers. It is worth recalling that in 2006 Congress Recommendation 196 suggested increasing local government's role in the welfare services, and regional and town planning. During this monitoring visit, no similar problems were raised, except for community-level planning and development.

58. The democratic character of local authorities, based on their direct legitimacy and the holding of free elections, which are core values of the Charter entrenched in Article 3 paragraph 2, is indirectly guaranteed by the Liechtenstein Constitution. According to Article 110 paragraph 2.a. of the Constitution, the Municipalities Act has to establish the principle of free election of mayors and other officials of the municipalities. Article 111 guarantees that all Liechtenstein citizens who have reached the age of 18 and are not deprived of their voting rights shall be eligible to vote in the municipalities where they reside. Councillors are elected for four years on electoral lists.

59. As mentioned above, the Municipalities Act permits local citizens to initiate popular votes (referendums) on local matters, while in certain cases (such as changes in municipal boundaries) a local referendum is mandatory.

60. Consequently, the rapporteurs conclude that the situation in Liechtenstein complies with Article 3 paragraphs 1 and 2.

4.3. Article 4: Scope of local self-government

Article 4 – Scope of local self-government

- 1 The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
- 2 Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
- 3 Public responsibilities shall generally be exercised, in preference, by those authorities 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.

61. The responsibilities of municipalities are defined by the Municipalities Act of 1996. Local authorities are also in charge of other tasks and functions determined by sectorial laws and delegated powers. Liechtenstein thus fully complies with Article 4 paragraph 1.

62. Paragraph 2 of this Article refers to the freedom of local authorities to deal voluntarily with any matter of local interest which does not belong to the exclusive competence of any other public authority. As mentioned above (see paragraph 31), the Liechtenstein municipalities can avail themselves of this freedom, which is largely facilitated by the positive financial situation of most local authorities.

63. Having regard to the size of the Principality of Liechtenstein, the principle of subsidiarity almost naturally prevails, since all public authorities are located, and deliver public services, close to the citizens.

64. As to the requirement of the full and exclusive exercise of local government powers, in general the Municipalities Act explicitly distinguishes between “own” and “delegated powers” (*eigene* and *übertragener Wirkungskreis*). However, the rapporteurs observed that in some areas, the responsibilities of the central government and the municipalities seem overlapping that does not allow for the powers given to local authorities to be full and exclusive.

65. During the visit the rapporteurs observed that some tasks of local authorities, like the issuing of building permits or community planning and development, require joint action with state administrative bodies. During the consultation procedure the government informed the rapporteurs that according to the existing legal regulations in the area of building permits or community planning and development the central administration monitors compliance with the Building Law and grants building permits while the municipalities monitor compliance of projects with building regulation at municipal level and since structure plans exist both at national and municipal level, the government monitors municipal structure plans with regard to their compliance with the national structure plan and with the legal requirements.

66. However, during the meetings the rapporteurs heard criticisms in relation to unjustified central government intervention in clearly local matters, such as the designation of local residential areas.

67. Moreover, the municipalities’ power to prepare and adopt their own annual budget is not full and exclusive, since all municipal budgets must be approved by the central government.

68. The municipalities and the central government also have some shared functions and tasks in the field of public education. However, here, even if public education can be regarded at a very abstract level as a shared responsibility, in practice various tasks are carefully separated and clarified. While municipalities are responsible for paying teachers and maintaining primary school buildings, the central state carries out a number of professional tasks (e.g., it is responsible for curricula).

69. Therefore, in the opinion of the rapporteurs, Article 4 paragraph 4 is partially complied with by Liechtenstein.

70. As regards social services, the costs of social care and assistance and the maintenance of social institutions (such as retirement homes) are co-financed by the state and the municipalities concerned. However, in the opinion of the rapporteurs, the shared financing of a mandatory function does not necessarily mean shared responsibilities, and, that being the case, this practice cannot be regarded as a breach of the Charter. Municipalities may also contribute to financing the costs of public transport on a voluntary basis, even though this falls under the responsibility of the state. "Partial compliance" can be established only if the decision-making power is divided.

71. As far as delegated powers are concerned, local autonomy is obviously more limited, since the central government bodies exert stronger supervision over their implementation, as compared with purely legal oversight. However, the rapporteurs noted that local authorities in Liechtenstein have sufficient discretionary powers in performing delegated tasks and therefore consider that the situation complies with paragraph 5 of Article 4.

72. The Charter requirement concerning the right of local authorities to be consulted "in due time and in an appropriate way" in matters which concern them directly is not reflected in the Act either in general, or in specific cases. However, in Liechtenstein municipalities are effectively involved in the decision-making processes regarding matters that affect them, despite a lack of institutionalised consultation mechanisms. In light of the above considerations, the rapporteurs' consider that Liechtenstein complies with the requirements of paragraph 6 of Article 4 of the Charter.

73. Consequently, the rapporteurs conclude that Liechtenstein complies with paragraphs 1 to 3 and 5 and 6 of Article 4, and partially complies with paragraph 4.

4.4. 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.

74. The Charter requires that a change in local authority boundaries should give rise to prior consultation with the local communities concerned, possibly by means of a referendum where this is permitted by statute.

75. According to Article 4 paragraph 1 of the Constitution, the borders of state territory may only be changed by means of a law. Changes to boundaries between municipalities, the establishment of new municipalities and the merger of existing municipalities also require a majority decision of the Liechtenstein citizens eligible to vote who reside there.

76. The Constitution provides that every municipality shall have the right to secede from the Principality within the limits of the law or an international treaty. A local referendum is required for both the initiation of such a procedure and for adoption of the final decision.

77. In the light of the above considerations, the rapporteurs conclude that Article 5 is complied with in Liechtenstein.

4.5. Article 6: Appropriate administrative structures and resources

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.

78. According to Article 6 of the Charter, local authorities shall have the right to determine their internal administrative structures and must be able to adapt them to local needs and ensure effective management. The Charter requires that the right conditions should be established for the holding of office by local elected representatives in order to ensure the free exercise of their functions.

79. The Municipalities Act of 1996 determines the basic features of municipal organisation. It regulates in detail the composition, powers and duties of municipal bodies. Local officials are elected by the Municipal Assembly or the Council and local authorities are free to establish their own structures (such as committees).

80. As for local government staff, there are no uniform rules governing the civil service in the country. Administrative staff are employed by each municipality on the basis of a specific municipal regulation. The Municipalities Act obliges local authorities to adopt local regulations on the public service and the wages of local administrators (*Dienst- und Besoldungsreglement*, sections 61-62 of the Municipalities Act). The central government authorities have instituted no limit on the number of staff employed by municipalities.

81. As a consequence, the rapporteurs consider that paragraphs 1 and 2 of Article 6 of the Charter are complied with in Liechtenstein.

4.6. 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.

82. In relation to paragraph 1 of Article 7, the rapporteurs would underline that the Municipalities Act does not specify the legal status of councillors, but does regulate the status of the entire council as the supreme managing and executive body of a municipality. While the Act includes provisions relating to the rights of local voters as members of the municipal Assembly to initiate referendums, make proposals, address questions to municipal bodies or participate in local elections, it does not specify the rights enjoyed by members of the municipal council.

83. During the monitoring process, the rapporteurs did not identify any obstacles that would impede local elected representatives in the exercise of their functions.

84. The rapporteurs observed that, in general, mayors work full-time. Members of municipal councils work part-time within the council (*Gemeinderat*) and combine their electoral mandate with other professional activities. They are entitled to a fair allowance to cover the costs of performing their official duties and receive appropriate compensation for loss of remuneration.

85. The Municipalities Act contains strict incompatibility rules for the election of municipal councils. Close relatives of councillors and staff of the municipality, members of the Government, and judges of the Administrative and Constitutional Courts may not be elected as representatives of the council (section 47). The Act lays down conflict of interest rules not only for council membership, but also for the work of the municipal council. For example, section 50 of the Act specifies the matters in which the representatives concerned are to be excluded from the decision-making process. The rapporteurs therefore have sufficient evidence that Article 7 paragraph 3 of the Charter is duly implemented.

86. Consequently, the rapporteurs conclude that Liechtenstein complies with paragraphs 1, 2 and 3 of Article 7.

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

Article 8 – Administrative supervision of local authorities' activities

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

87. Any administrative supervision of the activities of local authorities can only aim at ensuring compliance with the law and constitutional principles. Administrative supervision may, however, be exercised by higher-level authorities with regard to expediency in respect of the tasks delegated to local authorities. Another important requirement which can be inferred from the Charter provisions is that the law should precisely define the administrative authorities empowered to exercise legal supervision over municipalities, thus eliminating the uncertainty inherent in the current legislation.

88. In line with the requirements of the Charter, the rules governing central control over local authorities in Liechtenstein, and the powers of the central authorities concerned, are determined by the Municipalities Act (sections 116-118).

89. Regarding local government responsibilities, oversight is generally confined to a review of the lawfulness of municipal acts. As far as delegated powers are concerned, the review also extends to the appropriateness and effectiveness of local measures. The Government may lodge a complaint with the municipal council against a decision on local matters (*Verwaltungsbeschwerde*).

90. However, the rapporteurs wish to raise a particular concern about the system of central government approval of local budgets. The delegation was told that when approving local budgets the government only checks whether the particular municipal budget is well-balanced (i.e., there is no deficit). During the consultation procedure, the government informed the rapporteurs that the municipalities are urged to maintain a balanced budget in the medium term according to Article 3 of the Act on the Financial Budget of the Municipalities (*Gesetz über den Finanzhaushalt der Gemeinden*) of 2015. The government further argued that it does not check the content and the volume of the local budgets but only their form and legality according to Article 10 of that Act.

91. It is worth noting, however, that the adoption of a municipal budget is not a delegated power, but a so-called "own responsibility", the core function and entitlement of local government, which gives municipalities greater autonomy. The Government's power of approval is not necessary for the conduct of a legal review. The rapporteurs are of the opinion that the existence of such a system of local budget approval permits state intervention in local economic management and opens up the possibility for the Government to keep local government budgets under control, even though this possibility is only theoretical since no such intervention has been reported as taking place in practice.

92. The rapporteurs also consider that the extent of financial oversight made possible by central government approval of local budgets constitutes disproportionate interference in local self-government. Moreover, with regard to the well-balanced financial situation of the municipalities, the Government's approval based on checking whether municipalities have planned a budget deficit does not appear necessary.

93. The rapporteurs therefore conclude that paragraph 1 of Article 8 is complied with in Liechtenstein, while paragraphs 2 and 3 of Article 8 are not complied with.

4.8. Article 9: Financial resources

Article 9 – Financial resources of local authorities

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

94. According to Article 9 paragraph 1 of the Charter local authorities should have adequate financial resources of their own, of which they may dispose freely within the framework of their powers. Financial autonomy is an essential component of the principle of local self-government and an important condition for the exercise of a wide range of responsibilities in the field of local public affairs. These elements are cumulative and not alternative, which means that all the conditions laid down in Article 9 of the Charter are mandatory. Another basic principle requires that local authorities should have sufficient financial resources in proportion to the responsibilities assigned to them by law.

95. The financial situation of local authorities in Liechtenstein is such that their share of public expenditure is one of the highest in Europe. This means that a considerable proportion of public spending is carried out by local authorities.

96. Compared to other European countries, the municipalities of Liechtenstein have continued to enjoy a good financial situation despite the world economic and financial crisis. While state revenues significantly decreased during the crisis, municipal revenues remained more or less stable. In fact, the municipalities' share in total government revenues increased from 24.2% in 2011 to 30.4% in 2015. It is worth noting that this proportion has been steadily increasing since 2012. As a consequence, some of the persons to whom the Congress delegation spoke claimed that the Liechtenstein municipalities are generally in a better financial situation than the central government, which might be a unique situation in Europe.

97. Local authorities have revenues from central grants, local and shared taxes and other own resources.

Table 1
The structure of municipal revenues in 2014 (in millions of Swiss francs)

Income	Millions of Swiss francs	%
Taxes	196.0	62.6%
- indirect taxes	2.5	0.8%
- direct taxes	193.5	61.8%
Sales	42.1	13.4%
Other income	72.5	23.2%
Income from assets	2.5	0.8%
Total income	313.1	100.0%

Source: Finance Statistics 2014, T. 2.3, cited by Dr. Wilfried Marxer's reply to the GIE's⁵ Questionnaire of "Unable to pay: local authorities in financial difficulty"

98. Based on the data available to the rapporteurs, less than a quarter of local government revenues is derived from central grants. There are no precise data about either their percentage or structure (block versus specific grants). The method of allocation of block grants is determined by the Financial Equalisation Act of 2007, whereby municipalities whose taxation capacity and financial resources do not enable them to fulfil their mandatory tasks and functions are entitled to a state subsidy. In other words, general or block grants are allocated only to those municipalities whose financial needs exceed their resources. Financial needs are calculated on the basis of the per capita costs of mandatory functions, taking the average of the previous four years, while taxation capacity is based on the tax revenue per inhabitant. The fact that fewer municipalities receive financial equalisation grants today than was the case some years ago demonstrates the favourable financial situation of local authorities.

99. It is important to note, however, that the ratio between local revenues and central grants varies according to the municipality. In Triesenberg, for example, almost half of total revenue comes from the financial equalisation system, and the proportion of tax revenues is much lower than the national average.

100. In addition, some earmarked grants can be allocated to local authorities for specific goals (e.g. for projects with nationwide interest or for environmental remediation). During the consultation procedure the government informed the rapporteurs that many earmarked grants were compensated with the Financial Equalisation Act (Finanzausgleichsgesetz) of 2007.

101. Nevertheless, it is certain that the bulk of local government revenues (more than 60%) comes from taxes. Municipalities receive a share of business tax, as the Tax Act of 2010 states that a municipality in which a company is domiciled is entitled to 35% of the respective tax on profits. Furthermore, each municipality is entitled to levy a surcharge tax on the state tax on personal assets and income.

102. Local authorities may also obtain revenues from charges and fees paid for local public services delivered by the municipalities, such as waste disposal. Municipalities may use their assets as financial resources by selling municipal real estate and other property.

103. Owing to the significant proportion of local revenues in total financial resources, local authorities can freely dispose of their funds provided that their budgets have been approved by the central government.

104. The well-balanced local government budgets show that the financial resources available to the municipalities are adequate and proportionate to their mandatory tasks and functions. The high

⁵ Group of Independent Experts, Congress of Local and Regional Authorities of the Council of Europe.

proportion of tax revenues in local resources and the budgetary surpluses that are frequent in most local budgets provide sufficient evidence for the rapporteurs to conclude that the relevant requirements of the Charter (i.e., paragraphs 1 and 2 of Article 9) are fully implemented in Liechtenstein.

105. As far as specific local resources are concerned, in line with the requirements of paragraphs 3 and 4 the rapporteurs noted that:

- local taxes account for a high share in the revenue structure of municipal budgets;
- local authorities are entitled to raise revenues from duties and charges for local public services and use of their assets (municipal property).

106. The rapporteurs consider that local resources are sufficiently diversified to enable local authorities to obtain the financial resources necessary for carrying out their mandatory tasks and duties, as well as to exercise their statutory powers.

107. In Liechtenstein, regional and economic differences between various municipalities are smoothed out by the equalisation system in accordance with the Financial Equalisation Act (*Finanzausgleichsgesetz*) of 2007. The financial equalisation system is based on a standard mechanism of financial transfers, which takes into account the financial needs of each municipality and its ability to raise tax revenues. As a result, municipalities receive grants of varying amounts, depending on their economic situation. In the rapporteurs' opinion, this system complies with the relevant provision of the Charter (Article 9 paragraph 5).

108. With regard to Article 9 paragraph 6, despite the absence of a formal institutionalised system of consultation between central and local governments, either in general or on financial matters, the Conference of Mayors provides an effective consultation mechanism for local authorities. Since the Charter does not specify what forms consultation should take, the rapporteurs consider that the consultation practice in Liechtenstein generally meets the requirements of the Charter, since the Government consults municipalities regularly and effectively on draft budgets and other draft decisions which could affect the financial management of local authorities.

109. According to paragraph 7 of Article 9, central government subsidies transferred to local authorities in the form of general or block grants are preferred to earmarked grants, since the former enable local governments to enjoy greater autonomy and freedom to spend their resources. As central government subsidies in Liechtenstein are allocated to local authorities in the form of lump-sum payments through the financial equalisation system, the rapporteurs consider that this requirement is also met.

110. The rapporteurs noted that the municipalities in Liechtenstein currently have no need to borrow. At the same time, they are not prohibited from accessing the national financial market.

111. In the light of the above considerations, the rapporteurs conclude that the situation in Liechtenstein complies with all paragraphs of Article 9.

4.9. Article 10: Local authorities' right to associate

Article 10 – Local authorities' right to associate

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

112. The Charter requires signatory countries to provide for the right of local governments 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. Each member state is required to recognise 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. Furthermore, local governments must be consulted, as far as possible, in due time and in an appropriate way, in the planning and decision-making processes for all matters that concern them directly.

113. In Liechtenstein, municipalities are free to establish consortia to jointly perform their mandatory tasks. Therefore, the requirements of Article 10 paragraph 1 are fulfilled. The rapporteurs were also informed that some local authorities actively co-operate with their counterparts abroad. The 11 Liechtenstein municipalities have not formed an association, but the rapporteurs did not find any legal prohibition or political obstacle which would prevent local authorities from establishing an association. It seems that the Conference of Mayors plays the same role as local government associations in other countries.

114. In the rapporteurs' opinion, the situation in Liechtenstein complies with all paragraphs of Article 10.

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

Article 11 – Legal protection of local self-government

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

115. As far as the legal protection of local authorities is concerned, municipal councils can appeal to the Administrative Court against a supervisory act of the Government if they consider that it is unlawful and restricts local self-government.

116. Municipalities also have the right, within the limits of the law, to petition state authorities and initiate referendums in order to defend their rights.

117. Although local authorities are not legally entitled to submit constitutional complaints to the Constitutional Court (*Staatsgerichtshof*) for legal protection in a case involving a violation of their rights, the Congress delegation was informed that judicial practice has developed this right. However, this remains purely theoretical, since no such complaint has been submitted to the Court in the last ten years. Given that the Constitutional Court can also rule on jurisdictional conflicts between public authorities, in theory at least, municipalities can appeal to it in the event of an abuse of power by a state authority.

118. The rapporteurs were informed that there are wide-ranging possibilities and good instruments for the legal protection of municipalities, and these mechanisms and procedures are laid down in the Municipalities Act. However, they were told that in practice "there is no need for them" since municipalities can usually solve all problematic issues through direct contact with the Government.

119. In the light of the above, the rapporteurs consider that Liechtenstein municipalities have various legal instruments to protect their rights and interests, ranging from the judicial review of actions taken by the state to the right to initiate local referendums. They therefore conclude that Article 11 is duly implemented in Liechtenstein.

4.11. Undertakings – reservations formulated by States (Article 12)

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.

120. When it ratified the Charter in 1988, Liechtenstein decided not to ratify some of its provisions, namely Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3, 4 and 8, and Article 10 paragraphs 2 and 3. The spirit of the Charter requires the acceptance of all its provisions unless certain compelling interests justify a reservation. In the rapporteurs' opinion, the situation in Liechtenstein is in compliance with the Articles of the Charter which were not ratified by Liechtenstein, and they would therefore like to recommend that the Liechtenstein authorities consider the possibility of ratifying all the non-ratified provisions.

5. CONCLUSIONS

121. The rapporteurs' overall assessment is that Liechtenstein duly implements the principles and requirements of the European Charter of Local Self-Government and has a good level of local democracy.

122. The rapporteurs wish to highlight the existing forms and practice of citizen participation in local matters through the municipal assemblies and local referendums, as well as the wide range of rights of political participation in national affairs enjoyed by the municipalities.

123. The monitoring delegation found that Liechtenstein's municipalities are generally in the unique position of having a positive financial situation as compared to local authorities of other Council of Europe member states. The high percentage of tax revenue received by municipalities and their well-balanced budgets could serve as a good example (a "best practice") for other countries. The dominance of general grants allocated as lump sums to municipalities through the financial equalisation system is also to be welcomed.

124. The rapporteurs observed close and effective co-operation between the central and local governments, facilitated by their proximity due to the country's small size. They also acknowledge the effective role which the Conference of Mayors assumes in practice in the consultation process. However, they are of the opinion that there is a need for legal recognition of the involvement of municipalities in the decision-making process in matters affecting them, even though all stakeholders consider the existing system of informal consultations to be sufficient and effective in practice. A legally binding consultation system would guarantee the permanent participation of local authorities in the relevant policy-making processes, thus ensuring their independence from the Government.

125. In the rapporteurs' opinion, the present system of Government approval of municipal budgets cannot be reconciled with the requirements of the Charter. Although the general interests of a balanced state budget or the prevention of local deficits can be considered acceptable purposes of a state financial policy, the approval of local budgets by the central authorities is far removed from the proportionate and necessary means of legal supervision. The rapporteurs think the same objectives can be achieved through less restrictive measures, such as requiring local authorities to submit regular reports on local financial management, subsequent audits or the financial equalisation system. In the light of these considerations, the rapporteurs recommend that the Liechtenstein authorities abolish Government approval as a legal condition for the validity of municipal budgets.

126. The monitoring delegation draws attention to the fact that there are some powers which are shared between central and local government. This division of powers is not compatible with Article 4

paragraph 4 of the Charter inasmuch as it empowers the central authorities to overrule the decisions of municipal bodies taken under their own responsibility. In particular, the issuance of building permits and the adoption of town and regional planning decisions seem to fall within the framework of such shared responsibilities. It is advisable, therefore, to review the present distribution of these powers.

127. In 1988 Liechtenstein did not ratify Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3-4 and 8 and Article 10 paragraphs 2-3 of the Charter. The delegation is of the view that the current situation as regards local self-government in Liechtenstein meets the requirements of these Articles and therefore recommends that the Liechtenstein authorities consider the possibility of ratifying these provisions.

128. Finally, the rapporteurs call on the Liechtenstein authorities to consider signing and ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207).

APPENDIX I - Programme of the Congress Monitoring visit to the Principality of Liechtenstein

**CONGRESS MONITORING VISIT TO THE PRINCIPALITY OF LIECHTENSTEIN
Vaduz, Triesenberg, Planken (6 - 7 June 2017)**

PROGRAMME

Congress delegation:

Rapporteurs:

Mr Artur TORRES PEREIRA

Rapporteur on local democracy
Chamber of Local Authorities, EPP/CCE⁶
President of the Municipal Assembly of Sousel
Portugal

Ms Marie KAUFMANN

Rapporteur on local democracy
Chamber of Regional Authorities, ILDG⁷
Regional Councillor, Stredocesky region
Czech Republic

Congress secretariat:

Ms Svitlana PEREVERTEN

Co-secretary to the Monitoring Committee of
the Congress of Local and Regional Authorities of
the Council of Europe

Expert:

Prof. Zoltan SZENTE

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

Interpreters:

Ms Susanne WATZEK

Ms Michaela SPRACKLIN

The working languages, for which interpretation is provided during the meeting, will be German and English

⁶ EPP/CCE: European People's Party Group in the Congress
⁷ ILDG: Independent and Liberal Democrat Group of the Congress

**Tuesday 6 June 2017
Vaduz**

- **Joint meeting with the members of the National Delegation of Liechtenstein to the Congress, Mayor's Conference of Liechtenstein and expert:**
 - **Ms Maria KAISER-EBERLE**, Mayor of Ruggell
 - **Mr Donath OEHRI**, Mayor of Gamprin, Head of the delegation
 - **Ms Sylvia PEDRAZZINI-MAXFIELD**, Vice-Mayor of Eschen
 - **Mr Norman WOHLWEND**, Mayor of Schellenberg, Secretary of the delegation
 - **Mr Ewald OSPELT**, President of Mayor's Conference of Liechtenstein, Mayor of Vaduz
 - **Dr Wilfried MARXER**, Expert on the European Charter of Local Self-Government
- **Landtag (Parliament):**
 - **Mr Albert FRICK**, President
 - **Ms Susanne EBERLE-STRUB**, Member of Landtag, Head of the National delegation of Liechtenstein to the Parliamentary Assembly of the Council of Europe
 - **Lic. iur. Josef HILTI**, Landtag Secretary
- **Ministry of General Government Affairs and Finance:**
 - **Prime Minister Adrian HASLER**
 - **Mr Markus BIEDERMANN**, Secretary General of the Ministry
 - **Mr Andreas GRITSCH**, Director of the Financial Affairs Unit of the Government
 - **Mr Martin HASLER**, Deputy Permanent Representative to the Council of Europe, Office for Foreign Affairs
- **Ministry of Home Affairs, Education and Environment:**
 - **Ms Dominique GANTENBEIN**, Minister
 - **Mr Martin VOGT**, Senior Advisor to the Minister
 - **Mr Martin HASLER**, Deputy Permanent Representative to the Council of Europe, Office for Foreign Affairs
- **City of Vaduz:**
 - **Mr Ewald OSPELT**, Mayor

**Wednesday, 7 June 2017
Vaduz, Triesenberg, Planken**

- **Association for Human Rights in Liechtenstein (Verein für Menschenrechte in Liechtenstein):**
 - **Mr Walter KRANZ**, President
 - **Ms Claudia FRITSCHKE**, Board member
- **Municipality of Triesenberg:**
 - **Mr Christoph BECK**, Mayor
 - **Mr Marco STRUB**, Councillor

- **State Court (Staatsgerichtshof):**
 - **Lic. iur. Marzell BECK**, President

- **Municipality of Planken:**
 - **Mr Rainer BECK**, Mayor