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Report  
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## Monitoring of the application of the European Charter of Local Self-Government in Liechtenstein

Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (Monitoring Committee)

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### Summary

This report follows the third monitoring visit to Liechtenstein since the country ratified the European Charter of Local Self-Government in 1988.

It notes with satisfaction the country's general compliance with the Charter, financially robust local authorities, the establishment of the horizontal equalisation system and the well-established procedures for consultation with local authorities. Furthermore, it welcomes the highly developed practices of direct democracy at the local level and Liechtenstein's de facto compliance with the Charter's non-ratified provisions.

At the same time, the rapporteurs express concern about the a priori approval system for municipal budgets, the overlap of some competences limiting the local authorities' full and exclusive power, the absence of legislative provisions regarding consultation mechanisms with local authorities, and the inadequate spending power of the mayor of the capital city, defined by the law.

Hence, the Congress recommends that Liechtenstein abolish the system of a priori budgetary supervision of local budgets and introduce a posteriori control, clarify the division of competences, institutionalise the consultation mechanism through legislation, consider ratifying the provisions of the Charter that are complied with in practice, review the maximum amount of the capital city mayor's expenditure, and 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).

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

## RECOMMENDATION 521 (2025)<sup>2</sup>

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

a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 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 the effective implementation of the principles of the European Charter of Local Self-Government.”

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

d. the Contemporary commentary by the Congress on the explanatory report to the European Charter of Local Self-Government adopted by the Statutory Forum on 7 December 2020;

e. the Congress priorities for 2021-2026, in particular priority 6b which concerns the quality of representative democracy and citizen participation;

f. the Sustainable Development Goals (SDG) of the United Nations 2030 Agenda for Sustainable Development, in particular Goals 11 on sustainable cities and communities and 16 on peace, justice and strong institutions;

g. the Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;

h. Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life, adopted on 21 March 2018;

i. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities' activities, adopted on 4 April 2019;

j. Congress Recommendation 416 (2018) “Monitoring of the European Charter of Local Self-Government in Liechtenstein”;

k. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Liechtenstein.

2. The Congress points out that:

a. Liechtenstein joined the Council of Europe on 23 November 1978, signed the European Charter of Local Self-Government (ETS No. 122, “the Charter”) on 15 October 1985 and ratified it on 11 May 1988. In its official declaration, Liechtenstein declared that it was not bound by 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. Liechtenstein 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);

b. the Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (the “Monitoring Committee”) decided to examine the situation of local democracy in Liechtenstein in

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2. Debated and approved by the Chamber of Local Authorities and adopted by the Congress on 26 March 2025 (see document CPL(2025)48-02, explanatory memorandum), co-rapporteurs: Jorge SEQUEIRA, Portugal (L, SOC/G/PD) and Gobnait NÍ MHUINEACHÁIN, Ireland (L, ILDG).

the light of the Charter. It instructed Xavier Cadoret, France (L, SOC/G/PD) and Marjorie Crovetto, Monaco (L, NR) with the task of preparing and submitting to the Congress a report on the application of the Charter in Liechtenstein;

c. the monitoring visit took place from 18 to 19 June 2024. During the visit, the Congress delegation met representatives of various institutions at all levels of government. The detailed program of the monitoring visit is appended to the explanatory memorandum;

d. the co-rapporteurs wish to thank the Permanent Representation of Liechtenstein to the Council of Europe and all those whom they met during the visit.

3. The Congress notes with satisfaction:

a. due general implementation of the rights and obligation set out in the European Charter of Local Self-Government;

b. the robust financial situation of local authorities in Liechtenstein due to the high percentage of tax revenues;

c. the introduction of a horizontal equalisation system supporting financial autonomy of local authorities;

d. the existence in practice of well-established procedures for consultation of local authorities;

e. the highly developed direct democracy practices in local matters;

f. the *de facto* compliance with non-ratified provisions of the Charter.

4. The Congress expresses its concerns with respect to the following issues:

a. the current system of a priori approval of municipal budgets as a legal condition for their validity, which is disproportionate to the legitimate aim of budget equilibrium;

b. overlapping of some competences, in particular as regards municipal budget approval, issuing of 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;

c. the lack of formal recognition in the relevant legislation of the mechanisms of consultation with local authorities on matters that directly affect them;

d. the limits of the mayor's spending power, as defined by the law, are no longer adequate in view of the size and importance of the capital city.

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

a. abolish the system of *a priori* budgetary supervision of local budgets and introduce *a posteriori* control in accordance with the requirements of the Charter;

b. clarify the division of competences between central and local authorities in areas of concern such as urbanism, building and planning law and the school system so as to ensure compliance with the requirements of full and exclusive powers;

c. institutionalise the mechanism of consultation through legislation to safeguard local authorities' right to be consulted on all matters that concern them directly;

d. review the maximum amount of expenditure that may be incurred by the mayor of the capital city;

e. consider ratifying 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 of the European Charter of Local Self-Government, which are complied with in practice in Liechtenstein;

f. 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.

6. The Congress calls on the Committee of Ministers and the Parliamentary Assembly of the Council of Europe to take account of this recommendation on the monitoring of the European Charter of Local Self-Government in Liechtenstein and the accompanying explanatory memorandum in their activities relating to this member State.

**EXPLANATORY MEMORANDUM****Table of contents:**

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

1. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities, appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulates 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 the effective implementation of the principles of the European Charter of Local Self-Government”.

2. Liechtenstein joined the Council of Europe on 23 November 1978, signed the European Charter of Local Self-Government (hereinafter "the Charter") on 15 October 1985 and ratified it on 11 May 1988. In its official declaration, Liechtenstein announced not to be bound by 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.<sup>3</sup> The Charter entered into force in Liechtenstein on 1 September 1988.

3. Liechtenstein has not signed and 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).

4. In the field of local democracy, apart from European Charter of Local Self-Government, Liechtenstein has also signed (on 20 October 1983) and ratified (on 26 January 1984) the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106). The convention entered into force on 27 April 1984.

5. The Congress has already adopted Recommendation 196 (2006) on local democracy in Liechtenstein and Recommendation 416 (2018) (debated and approved by the Congress on 28 March 2018) honouring the Charter provisions and their implementation in Liechtenstein.

6. The Committee on the Monitoring of the implementation of the European Charter of Local Self-Government and on the respect of Human Rights and the Rule of Law at local and regional levels (“Monitoring Committee”) decided to examine the situation of local democracy in Liechtenstein in the light of the Charter. It entrusted Xavier Cadoret, France (L, SOC/G/PD) and Marjorie Crovetto, Monaco (L, NR), with the task of preparing and submitting to the Congress a report on the implementation of the Charter in Liechtenstein. The delegation was accompanied by a representative of the Congress secretariat and was assisted by Zülfiye Yılmaz (expert), member of the Group of Independent Experts on the European Charter of Local Self-Government (Türkiye). This group of persons will be hereinafter referred to as “the delegation”.

7. The monitoring visit took place from 18 to 19 June 2024. During the visit, the Congress delegation met the representatives of various institutions at all levels of government. The detailed programme of the visit is appended to the explanatory memorandum.

8. The co-rapporteurs wish to thank the Permanent Representation of Liechtenstein to the Council of Europe and all those whom they met during the visit.

9. According to Rule 88.3 of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, the preliminary draft report was sent on 19 December 2024 to all interlocutors met during the visits for comments, possible adjustments or corrections (“consultation procedure”). The present report is based on the comments received, which have been considered by the rapporteurs before submissions for approval to the Monitoring Committee.

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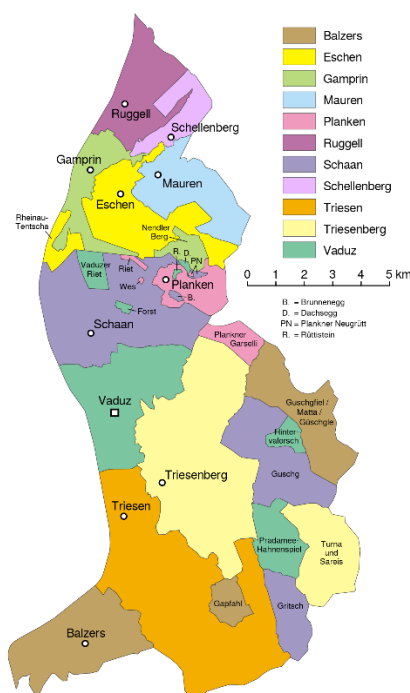
3. Council of Europe: [Reservations and Declarations for Treaty No.122 - European Charter of Local Self-Government \(ETS No. 122\)](#).

## 2. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

### 2.1 Local government system (constitutional and legislative framework, reforms)

#### 2.1.1. General Framework

10. Liechtenstein's territory covers an area of 160 square kilometres, making it the fourth smallest state in Europe. On 31 December 2023, the permanent population in the 11 municipalities of Liechtenstein increased by 0.9%, reaching 40 023 persons. The share of foreigners residing in Liechtenstein represented 34.3% of the population in 2023. Most of the foreigners come from Switzerland (27.9%), followed by Austria (17.1%) and Germany (13.4%).



Map of the municipalities of Liechtenstein, Maximilian Dörrbecker

11. The Constitution of 1921, which remains in force, defines the Principality of Liechtenstein as a constitutional, hereditary monarchy on a democratic and parliamentary basis in its Article 2. The state power is vested in the Reigning Prince and the People. German is the national and official language of the Principality (Art. 6 of the Constitution).

12. The constitutional amendment of 2003 introduced comprehensive provisions that affected the power balance between the Reigning Prince and the other sovereign powers, such as Parliament and the Government. In 2002, the Venice Commission published a comprehensive analysis of the draft amendment, evaluating its compliance with the European standards for the rule of law and democracy.<sup>4</sup>

13. According to the constitutional framework, the legislative authority is vested in the Parliament (*Landtag*) and the Reigning Prince. The Parliament is composed of 25 members elected through universal, equal, secret, and direct suffrage. The Upper Country (*Oberland*) is represented by 15 members in Parliament, while the Lower Country (*Unterland*) has 10 representatives. The legislative power is constitutionally responsible for promoting the welfare and the safeguarding of the fundamental rights. The Parliament enacts laws on local self-government and approves financial equalisation allocations in line with the constitutional principles. The Parliament (and also the Reigning Prince and the People) has the right to constitutional and legislative initiative (Art. 64 of the Constitution). The duration of a legislature is 4 years.

4. Venice Commission, Opinion on the Amendments to the Constitution of Liechtenstein proposed by the Princely House of Liechtenstein, adopted by the Venice Commission at its 53rd plenary session (Venice, 13-14 December 2002).

14. The executive power is vested in the Government (the “Collegial Government” as stipulated in the Constitution). In its capacity as the executive branch, the Government is accountable to Parliament and the Reigning Prince. The Government is composed of the Prime Minister and four other Ministers. The members of the Government are proposed by the Parliament and appointed by the Reigning Prince. At least two Ministers are chosen from each region (*Oberland* and *Unterland*) (Art. 78-79 of the Constitution). The Government and the ministry specified in the Act of Organisation of Government and the Administration (*Gesetz vom 19. September 2012 über die Regierungs- und Verwaltungsorganisation (RVOG)*) are in charge of supervising municipalities.

15. The independent judges and the courts are responsible for carrying out the judiciary functions in Liechtenstein (Art. 95 of the Constitution). The ordinary courts have jurisdiction over civil and criminal matters (Art. 97 of the Constitution) whereas the Administrative Courts are designated as appellate instances for all decisions or orders published by the Government and of the special commissions appointed instead of the Collegial Government (Art. 102 of the Constitution). The Constitutional Court (*Staatsgerichtshof*) is the highest instance of judicial authority and is responsible for resolving conflicts of jurisdiction between the courts and the administrative authorities and protecting constitutional rights.

16. The European Commission's Local Autonomy Index indicates that Liechtenstein is one of the countries with the most robust protection for local self-government, alongside Denmark, Finland, France, Iceland, Sweden, and Switzerland.<sup>5</sup> This index covers the period between 2015 and 2020 and employs the European Charter of Local Self-Government as a benchmark to assess the theoretical and practical aspects of local autonomy in 57 countries, including member states of the European Union, the Council of Europe and the Organisation for Economic Co-operation and Development (OECD). While Liechtenstein is acknowledged as an exemplar among countries with regard to stable implementation in autonomy, the index identifies a relative weakness in the political discretion dimension of the local autonomy regime.<sup>6</sup>

### 2.1.2. Local Authorities in Liechtenstein: Constitutional and legal design

17. The history of municipalities in Liechtenstein dates back to the 14<sup>th</sup> century. The first comprehensive legislation pertaining to the municipalities was enacted in 1842. Although the relevant law provided municipalities the right to levy taxes on naturalisation, which supported their financial autonomy, the municipal organs remained appointed by the central authorities until the 1860s. The Constitution of 1862 introduced new provisions concerning various aspects of municipal autonomy including free election of local chiefs by the municipal assembly, the regulation of the poor relief system and schools, the right of municipalities to admit citizens to their community, freedom of residence of state citizens in each municipality, the independent administration of property and local police under the supervision of the government. These guarantees were enshrined in the Municipalities Act of 1864, which remained in force until the 1960s.<sup>7</sup>

18. In its Article 1, the Constitution defines the Principality of Liechtenstein as a unitary state consisting of two regions with eleven municipalities (*Gemeinden*). The region of Vaduz (*Oberland*) comprises the municipalities of Vaduz, Balzers, Planken, Schaan, Triesen and Triesenberg. The region of Schellenberg (*Unterland*) comprises the municipalities of Eschen, Gamprin, Mauren, Ruggell, and Schellenberg. The two regions represent solely administrative units and are deemed functional for the partition of the electoral districts. Liechtenstein has a single-tier local government system, and its municipalities are represented in the Chamber of Local Authorities within the Congress of Local and Regional Authorities.

19. The Constitution of 1921 defines communes/municipalities as public law entities along with the state, corporations, and other foundations of public law (Art. 109). Although not mentioning the concept of local self-government as stipulated in the European Charter of Local Self-Government, Articles 110 and 111 of the Constitution are dedicated to the municipalities. According to the Article 110, the number, organisation and duties of the municipalities in their own sphere of action shall be laid down in the laws.

5. Ladner A., Keuffer N. and Bastianen A. (2021), European Commission, [Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020](#).

6. Ladner A., Keuffer N. and Bastianen A. (2021), European Commission, [Self-rule index for local authorities in the EU, Council of Europe and OECD countries, 1990-2020](#).

7. Wilfried M. (2021), *Direct Democracy at the Local Level: Liechtenstein*, In: Christophe Emmanuel Premat (Hg.): *Direct Democracy at the Local Level*. Hershey, PA: IGI Global, s. 20–40.

20. In Article 110, the Constitution provides that the laws concerning the municipalities shall respect the following principles:

- free election of the mayor and of the other officials of the municipality by the municipal assembly;
- autonomous management of the municipal assets and of the administration of the local police under the supervision of the Government;
- maintenance of well-ordered services for the poor under the supervision of the Government;
- the right of the municipality to grant citizenship and the freedom of Liechtenstein citizens to reside in any municipality.

21. Article 111 recognises the right of all Liechtenstein citizens who completed the age of 18 to vote in municipal matters in the municipality in which they reside.

22. Article 25 of the Constitution inserts that public poor relief falls within the municipal responsibility under the government supervision. The government may assist the municipalities in the domains such as proper care of orphans, persons with mental disability, persons suffering from incurable diseases and the elderly.

### 2.1.3. The Municipalities Act of 1996

23. The Municipalities Act of 1996 (*Gemeindegesezt*, First publication No. 76/1996) marked the first occasion in Liechtenstein on which the distinction between citizens' cooperatives and the municipality as a political unit was made explicit.<sup>8</sup> Special legislation dedicated to the local authorities includes the Financial Equalisation Act (*Finanzausgleichsgesezt*) of 2023, the Act on the Financial Budget of the Municipalities (*Gesezt über den Finanzhaushalt der Gemeinden*) of 2015, the Act on General Provincial Administration (concerning the administrative authorities and their auxiliary bodies, proceedings in administrative matters, administrative enforcement, and administrative criminal proceedings (LVG) of 1922, the Act on Organisation of Government and Administration (*Gesezt vom 19. September 2012 über die Regierungs- und Verwaltungsorganisation (RVOG)*).

24. The Municipalities Act of 1996 enshrines the concept of autonomy and recognises municipalities' own/exclusive tasks and functions (*eigener Wirkungskreis*) and delegated competences (*übertragener Wirkungskreis*) in its Article 4. The first group of responsibilities includes regulatory and administrative powers with regard to all public affairs which directly affect municipal interests and are carried out by the municipalities.

25. According to Article 12 of the Municipalities Act, the own/exclusive competences of the municipalities include:

- Election of municipal bodies;
- Organisation of municipalities;
- Granting of local citizenship;
- Management of municipal property, public buildings and institutions;
- Collection of levies and the determination of tax surcharges;
- Promotion of social, cultural and religious life, including personal, family and genealogical research as well as the keeping and publication of family chronicles and biographies;
- Establishment and maintenance of kindergartens and primary schools;
- Maintenance of security and public order;
- Local planning;
- Water supply as well as sewage and waste disposal.

26. In addition, the municipalities are permitted to undertake any activities not legally assigned to the central tier, thereby acknowledging the general competence clause on condition that they maintain budgetary balance.

27. In terms of delegated competences (*übertragener Wirkungskreis*), the Municipalities Act of 1996 refers to the sphere of activity that is originally within the competence of the central authorities

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8. Schiess P. (2015), *Die historische Entwicklung des liechtensteinischen Gemeinderechts*, Arbeitspapiere Liechtenstein-Institut Nr. 50.

and has been delegated to the municipalities to deal with on the basis of the law. The municipalities are obliged to co-operate in the execution of laws and shall receive the necessary resources for this purpose (Art. 13 of the Municipalities Act). Delegated tasks are carried out under the supervision of the state authorities, in accordance with the legality and expediency control.

28. The municipal assembly (*Gemeindeversammlung*) is designated as the highest authority of the municipality in Article 25 of the Municipalities Act. This assembly consists of all eligible local residents. The municipal assembly is chaired by the Mayor. It has broad functions ranging from electing the chairperson and other members of the municipal council, as well as to decide on participation in inter-municipal co-operation initiatives. As the decision-making organ, the assembly supervises the municipal authorities and all branches of the municipal administration, including the municipal institutions. Following the regulations included in the Municipalities Act, the municipal assembly is responsible for a number of tasks, including the following:

- Issuing the municipal bylaws and regulations that establish rights and obligations with penal sanctions;
- Election of the head of the municipality and the other members of the municipal council;
- Election of the audit committee;
- Election of those commissions that are to be appointed by the municipal assembly in accordance with the law;
- Authorisation of new one-time and annually recurring expenditure (depends on the amount of the one-off or recurring expenditures as specified in the law)
- Assumption of sureties and granting of guarantees;
- Establishment of municipal institutions;
- Participation in private or mixed-economy companies;
- Joining or withdrawing from special-purpose associations;
- Changes to the municipality or its boundaries;
- Construction of major municipal facilities and buildings;
- Passing resolutions on referendums and initiatives.

29. The municipal council (*Gemeinderat*) is the executive body of the municipalities. It consists of the Mayor (*Gemeindevorsteher*) as the head of the municipality and councillors varying from 6 to 12 members depending on the latest published number of the inhabitants in a given municipality (Art. 38 of the Municipalities Act). Both the councils and the mayors have been elected by popular vote since 1864. The municipal council is tasked with the following duties and responsibilities in addition to any other tasks assigned to it by law or by the municipal assembly:

- Organisation of the administration;
- Election of committees, unless the municipal assembly is responsible;
- Preparing all business and submitting proposals to the municipal assembly;
- Management of the municipal budget, including that of municipal institutions;
- Financial planning;
- Determining the budget and the municipal tax surcharge as well as supplementary, commitment and additional loans;
- Approval of the municipal accounts and discharge of the governing bodies;
- Issuing building regulations and the zoning plan;
- Determination of expenses and collection of levies;
- Awarding public works and supplies;
- Deciding on resolutions on the conclusion of contracts;
- Issuing regulations, insofar as they are not reserved for the municipal assembly;
- Appointing municipal staff and determining their salaries;
- Granting municipal citizenship to domestic applicants.

30. In accordance with Article 53 of the Municipalities Act, the Mayor (*Gemeindevorsteher*) is responsible for representing the municipality in all matters pertaining to civil and administrative law. In his or her capacity as the head of the municipality, the mayor may suspend the execution of a municipal council resolution in cases where he or she consider that the resolution in question violates the law. The mayor is obliged to inform the government of this without delay, after which the government shall decide on the enforcement of the resolution in question, without prejudice to the right of appeal of a party (Art. 54 of the Municipalities Act).

31. The remaining duties of the mayor prescribed in the Municipalities Act are as follows:
- Managing the administration, ensure that the resolutions passed by the municipal council are implemented and supervise municipal facilities and buildings;
  - Ensuring the implementation of matters within the delegated sphere of activity in accordance with the law under the supervision and direction of the state authorities;
  - Incurring expenditure for the municipal budget of up to CHF 10 000<sup>9</sup> in individual cases. This authorisation may be extended in the municipal regulations up to an amount of CHF 30 000<sup>10</sup>;
  - As the head of the local police force, the mayor ensures peace, security and order and issues the necessary orders and imposes fines on the basis of statutory or local police regulations;
  - The mayor is responsible for enforcing the municipal building regulations.

32. Another organ of the municipalities of Liechtenstein is the audit committee (*Geschäftsprüfungskommission*) which consists of three members elected by the Municipal Assembly, no later than six months after the elections and for a term of office for 4 years (Art. 56).

#### **2.1.4. Direct democracy at local level**

33. Direct democracy is a fundamental aspect of the constitutional and political system in Liechtenstein. The Constitution of 1921 provides for citizens and local authorities the right to participate in state and local matters.

34. Parliament shall be convened when at least 1 000 citizens entitled to vote request it, or when the municipal assemblies of at least three municipalities adopt a resolution to that effect. 1 500 Liechtenstein citizens eligible to vote or four municipalities, by means of resolutions of their municipal assemblies, may demand a popular vote on the dissolution of Parliament (Art. 48).

35. If at least 1 000 Liechtenstein citizens eligible to vote, submit a request in writing, or if at least three municipalities do so in the form of concurring resolutions of their municipal assemblies, to enact, amend or repeal a law, such a request shall be considered at the next meeting of Parliament. An initiative concerning the Constitution must be signed by at least 1 500 citizens entitled to vote or be brought by at least four municipalities (Art. 64). Every law passed by Parliament that it does not declare to be urgent and every financial resolution that it does not declare to be urgent shall be subject to popular referendum if Parliament decides so or if at least 1 000 Liechtenstein citizens eligible to vote or at least three municipalities submit a request to that effect within 30 days of the official announcement of the resolution of Parliament (Art. 66).

36. A popular initiative to abolish the Monarchy can be triggered upon the proposal of not less than 1 500 citizens. If the initiative is adopted by the People, the Parliament shall write a new, republican Constitution and submit it to a referendum after one year at the earliest and two years at the latest (Art. 113).

37. Boundary changes between municipalities, the establishment of new municipalities and the union of existing municipalities can only be realised in accordance with the conditions set out in the law. Such changes must be approved by the majority of citizens who reside there. The right to secession is another constitutional tool that demonstrates the uniqueness of direct democracy in Liechtenstein. Individual municipalities have the right to secede of the state upon a popular initiative from the majority of their citizens who are entitled to vote (Art. 4). (see the dedicated paragraphs on Article 5 of the Charter).

38. Apart from popular initiatives, the municipalities and bodies are also entitled to the right to petition to the Parliament and National Committee (*Landesausschuss*) in case their rights and interests are affected (Art. 42).

39. Aside from the above-mentioned constitutional provisions, the Municipalities Act of 1996 provides comprehensive political rights to the citizens of the municipalities. Political rights in the municipalities include the right to vote, the right to stand for election and the right of initiative and referendum (Art. 5).

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9. EUR 10 476 (exchange rate at the time of the visit: CHF 1 = EUR 1,0476 according to the European Central Bank).

10. EUR 31 428.

40. One sixth of the citizens, who are entitled to vote, have the right to demand that municipal council resolutions be dealt with at the municipal assembly if they exceed the maximum amount of spending specified in the municipal regulations. These are categorised as resolutions with clear cost consequences, and they can only be challenged in case they exceed the threshold amount in the law. Requests for a referendum must be submitted to the Mayor no later than 14 days after the decision has been announced (Art. 41). As part of the right to initiative, one sixth of the voters may request that matters subject to a referendum be dealt with by the municipal assembly.

41. Between 2017 and 2020, popular votes were held in ten of Liechtenstein's eleven municipalities except for Planken which is the smallest municipality in terms of population.<sup>11</sup> In 2024, the referendums on state level (not held separately in municipal level) were held on the topics photovoltaic obligation (rejected), adaptation of building regulations (rejected), electronic health records (rejected), the direct election of government members (rejected), supplementary loan for new state hospital (accepted), joining the International Monetary Fund (IMF) (accepted), and repeal of the law on "Liechtenstein Broadcasting" (accepted).<sup>12</sup>

42. Despite such a developed system of citizen participation, Liechtenstein has not signed nor 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).

## 2.2 Status of the capital city

43. Vaduz is the capital city of the Principality of Liechtenstein and the seat of the Parliament and of the Government according to the Article 1 of the Constitution of 1921. The Ordinary Courts, the Administrative Court and the Constitutional Court are also located there. Vaduz forms the Liechtenstein's second largest municipality following Schaan (6 110 residents) with its 5 833 inhabitants (by end 2023). It covers a surface area of 17.3 square kilometres.

44. The Vaduz Municipal Council is composed of the mayor and the 12 councillors, who are elected in two separate direct elections by the citizens of the municipality for a term of four years. At the time of the visit, the post of Mayor of Vaduz was vacant, as the former Mayor, Ms Petra Miescher, resigned due to health issues on 24 May 2024. Early municipal elections for the city of Vaduz took place on 25 August 2024 and Florian Meier was elected Mayor of Vaduz.

45. Vaduz does not have a special status that would provide it with additional financial resources and a tailored administrative design to empower it in response to its critical role in central and local politics as suggested by the Congress in its Recommendation 452 (2021) on the status of capital cities.

46. During the visit, local representatives stressed the legal lack of succession in the event of a vacuum in authority to take specific decisions, as it was the case with Petra Miescher's resignation. Following discussions with local and national authorities, the rapporteurs are informed that a legal solution will be found to avoid similar situations in the future.

47. During the monitoring visit, the Deputy Mayor of the city of Vaduz informed the rapporteurs that the capital city has *de facto* special status due to the fact that the Parliament, the Government and the Princely House are based in Vaduz, indicating that there is no need for further action. The representatives of the capital city, on the other hand, highlighted the current issues for the municipalities, including the necessity for clarification of competences and responsibilities in the domains of building law and education. Additionally, the spending powers of the capital city were identified as a concern (maximum spending power by mayor/municipal leader: CHF 30 000<sup>13</sup>). In this regard, it was noted that the limits of the mayor's spending power, as defined in the Municipalities Act, are no longer adequate or efficient in view of the size and importance of the capital city.

11. Wilfried M., "Direct Democracy at the Local Level: Liechtenstein", In: Christophe Emmanuel Premat (Hg.): Direct Democracy at the Local Level. Hershey, PA: IGI Global, S. 20–40.

12. Fürstentum Liechtenstein - Abstimmungen, [Webpage dedicated to the referendums held since 2002](#).

13. EUR 31 428 (exchange rate at the time of the visit: CHF 1 = EUR 1,0476 according to the European Central Bank).

### 2.3 Legal status of the European Charter of Local Self-Government

48. Liechtenstein applies the monist system for the international agreements, which implies that conventions like the European Charter of Local Self-Government are directly applicable without the need for further law to incorporate them into domestic order. However, there are several limitations for the Charter's implementation in Liechtenstein arising from judicial and administrative interpretation.

49. The Constitutional Court of Liechtenstein ruled in 1998 that the Charter is binding in Liechtenstein's domestic law, notwithstanding the fact that it contains general principles (Article 8, paragraph 2 was brought to the attention of the Court) that need to be verified in each case. (The judgment: StGH 1998/10). In its latest judgment, the Court underlined that the power to review the constitutionality of the laws of Liechtenstein (Art. 104(2) of the Constitution and Art. 18(1) StGHG) includes reviewing the conformity with the European Economic Area Agreement (EEA) and the international agreements listed in Art. 15(2) StGHG. However, the European Charter of Local Self-Government is not included in this list. Accordingly, it is not possible to review laws for their conformity with the Charter. However, this state of affairs does not change the fact that laws must be interpreted in accordance with international law. Accordingly, the Constitutional Court must examine whether an interpretation of domestic provisions is in line with international law, and thus with the Charter, is possible (StGH 2020/059 a, § 3.1). The Constitutional Court has referred to the Charter in two judgments (StGH 2020/059 a, and StGH 1998/010) so far.

50. The Congress of Local and Regional Authorities classified Liechtenstein as one of the countries that recognise the Charter's binding effect while not considering it a source of directly applicable law in its report titled "The European Charter of Local Self-Government in Domestic Law (2011)".<sup>14</sup>

51. Liechtenstein introduced reservations to the Charter when ratifying it in 1988. In this regard, the state party has declared its intention to be not bound by the following provisions of the Charter: Article 3 paragraph 2, Article 6 paragraph 2, Article 7 paragraph 2, Article 9 paragraphs 3, 4 and 8, and finally, of Article 10 paragraphs 2 and 3.

### 2.4 Previous Congress reports and recommendations

52. During the previous monitoring of the application of the Charter in Liechtenstein adopted in 2018, the Congress adopted Recommendation 416 (2018) which asked the Committee of Ministers to invite 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).

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14. Chamber of Local Authorities, CPL(21)2, 28 September 2011, "The European Charter of Local Self-Government in domestic law".

### **3. HONOURING OF OBLIGATIONS AND COMMITMENTS: ANALYSIS OF THE SITUATION OF LOCAL DEMOCRACY ON THE BASIS OF THE CHARTER (ARTICLE BY ARTICLE)**

#### **3.1 Article 2 – Constitutional and legal foundation for 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.

53. The opening provision of the Charter, Article 2, stipulates that the principle of local self-government must be enshrined in written law at the domestic level. The term "legislation" is employed to describe primary legislation, such as acts or statutes, and, where applicable, the Constitution. The practicability of incorporating local self-government into the constitution is evaluated in accordance with the written or unwritten constitutional traditions of the state parties and the regulations pertaining to the amendment of the constitutions, which typically necessitate consensus among the qualified majorities.

54. The Constitution of Liechtenstein does not contain a specific provision regarding local self-government. Nevertheless, the Constitution defines municipalities as public law entities and sets out fundamental principles to be respected with regard to their functioning (Articles 109-111). In addition to the Constitution, special legislation exists that defines the competences and responsibilities of local authorities. The concept of municipal autonomy is outlined in an unequivocal manner in Article 4 of the Municipalities Act, which stipulates that municipalities must organise their activities independently within their own sphere of authority, subject to state supervision.

55. In light of these considerations, the rapporteurs conclude that Liechtenstein complies with Article 2 of the Charter.

#### **3.2 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.

##### **3.2.1 Article 3.1**

56. Article 3, paragraph 1 of the Charter enshrines the legal right and ability of self-government of local authorities, including the power to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

57. In accordance with the Contemporary Commentary of the Charter, the right and ability to regulate and manage public affairs implies that local authorities should be endowed with a certain regulatory autonomy, the scope of which is to be defined in national legislation. The concepts of "under their own responsibility" and "in the interests of the local population" acknowledge that local authorities should not be constrained to acting merely as agents of higher authorities. As elected representatives at local level, they are politically accountable to the citizenry and should possess the legal capacity to act in the interests of their population. The Charter does not define the substantial share of public affairs. In consideration of Charter's preparatory work and the practices of state parties over a period of 30 years, the Contemporary Commentary emphasises that local authorities should not be constrained to merely executing secondary tasks and should instead assume a comprehensive range of responsibilities for the benefit of the local population.<sup>15</sup> These responsibilities may encompass a diverse array of areas, including environmental protection, cultural and educational initiatives, basic infrastructure, urban

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15. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 12.

development, housing, and transportation management, among others. It is essential to consider the ability aspect of local self-government, which encompasses the capacity of local authorities including the quality of their staff and the adequacy of their financial resources, in the distribution of the substantial share of public affairs. Otherwise, local authorities may find themselves in a vulnerable position vis-à-vis their population.

58. In regard to the situation in Liechtenstein, the municipalities are vested with a wide range of responsibilities, as delineated in the Constitution and in the legislative acts enacted by the Parliament. Articles 25 and 110 of the Constitution stipulate that the management of communal property and the provision of poor relief are the exclusive domain of local authorities, subject to the supervision of the government. The Municipalities Act of 1996 introduces the concept of autonomy and recognises the municipalities' own tasks and functions (*eigener Wirkungskreis*), and delegated competences (*übertragener Wirkungskreis*) as set forth in Article 4. The Municipalities Act provides a list of own/exclusive competences and details the concept of delegated competences (Art. 12 and 13), along with the clause of general competence, which acknowledges that municipalities may perform any tasks that are not legally assigned to the central tier.

59. Despite this positive situation, the rapporteurs would like to point out that some local representatives highlighted the phenomenon of recentralisation, notably in matters pertaining to their own competences such as urbanism, building and spatial planning. During the consultation procedure, local representatives highlighted that in some areas it certainly makes sense to leave this with the central administration (e.g. economic aid). Some municipal commissions tasked with municipal welfare, municipal taxes and building permits were existing. Such tasks were eventually re-centralised due to a lack of expertise at municipal level. However, local representatives point out that with the dissolution of the Municipal Property Commission, municipalities are no longer immediately informed about changes in the ownership of municipal land and land trading prices, which makes it difficult for them to carry out precautionary land acquisition and to use their full and exclusive powers in strategic planning or spatial planning due to the lack of accurate prior information about the municipal property at their disposal.

60. Considering all the above-mentioned elements, the rapporteurs conclude that Liechtenstein respects the provisions set forth in Article 3, paragraph 1 of the Charter.

### 3.2.2 Article 3.2

61. Liechtenstein did not ratify Article 3, paragraph 2. However, the previous monitoring report highlighted that Liechtenstein complied with Article 3.2 of the Charter. This provision recognises the interdependence between local democracy and the right to local self-government. The right of citizens to participate in the conduct of public affairs mentioned in the preamble is mainly exercised at local level by electing local representatives. The primary subject of the right to local self-government is therefore the democratically constituted local authorities. It thus follows that local elections assume great importance. Local representatives must be directly determined in elections by secret ballot on the basis of universal suffrage, which must be direct, equal and free. While the Charter places a priority on representative democracy, it also emphasises the significance of direct democracy at the local level. The representative democracy in no way impinges upon the right of citizens to assemble, to hold referenda or to participate in any other form of direct democracy. The Contemporary Commentary posits that in cases where direct democracy is an integral aspect of national identity, as exemplified by Liechtenstein, the principles of direct democracy may be applied.<sup>16</sup>

62. The Constitution of Liechtenstein enshrines the principle of free election of the mayor and municipal councillors by the municipal assembly, as set forth in Article 110. Every citizen who has reached the age of 18 is entitled to vote in municipal matters and to stand as candidate in elections pertaining to their place of residence (Art. 111). The municipal assembly (*Gemeindeversammlung*) is the highest, decision-making organ of the municipalities and consists of all eligible local residents. The mayor presides over the Assembly. The municipal council (*Gemeinderat*) constitutes the executive body of the municipalities. It comprises the mayor (*Gemeindevorsteher*), who is the head of the municipality, and councillors, the number of whom varies between six and twelve, according to the latest published number of inhabitants in a given municipality (Art. 38 of the Municipalities Act). The mayor and

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16. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 13.

councillors are elected by popular vote for a term of 4 years. The mayor bears responsibility for the implementation of decisions made by the council and for the daily administration of the municipality. In addition to other duties, mayors are responsible for ensuring the security and maintenance of public order within their municipalities. The mayor is also responsible for the performance of delegated administrative functions under the supervision of the state authorities. Another organ of the municipalities of Liechtenstein is the audit committee, which consists of three members elected by the Municipal Assembly no later than six months after the elections. A number of commissions are responsible for activities related to internal affairs, including those appointed by the municipal council (e.g. sports commission, health commission, social commission, finance commission, building commission) and external affairs (e.g. audit committee, election commission, security commission, municipal school council and church council).

63. In view of the developments occurred subsequently to the adoption of the previous monitoring report, it is noteworthy to mention that the system for distributing the remaining mandates has been modified from the D'Hondt method to the Hagenbach-Bischoff method (Government Bills No. 41/2018 and 71/2018). Additionally, the basic mandate requirement was revoked in municipal council elections (Government Bills No. 129/2019 and 8/2020). The basic mandate requirement stipulates that a political party must secure a minimum number of votes in order to participate in the distribution of seats. The number of votes required for participation in the distribution of seats varies depending on the municipality and the size of the municipal council.

64. In addition to local representative democracy, direct democracy represents a fundamental aspect of the tradition of local self-government in Liechtenstein. The Constitution of 1921 and the Municipalities Act provide comprehensive political rights for citizens and municipalities alike (for further details, please see the topic titled "Direct Democracy at the Local Level" in this document).

65. In conclusion, the rapporteurs are of the opinion that Article 3.2 is respected in Liechtenstein and that there are no obstacles to its ratification.

### 3.3 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.

#### 3.3.1 Article 4.1

66. Article 4, paragraph 1 of the Charter requires that the basic powers and responsibilities of local authorities shall be prescribed by Constitution or by statute and prohibits *ad hoc* assignment of tasks. The Contemporary Commentary explains the motives of this guarantee as ensuring predictability, permanence and protection for the benefit of local self-government.<sup>17</sup> The basic powers and responsibilities should be interpreted in line with Article 3 which requires “a substantial share of public affairs” to be regulated and managed by local authorities. The statutory legislation should also take into account the procedural safeguards set out in Article 4.6 of the Charter considering general obligation to consult local authorities on decisions relating to their responsibilities.

17. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 17.

67. The Constitution of 1921 introduces the principle of legality in the assignment of own and delegated competences (Art. 110). According to the Constitutional Court, the distinction between own and delegated competences serves as a tool for delimiting the protected area of responsibility (StGH 1981/13).

68. The Municipalities Act of 1996 introduces the concept of autonomy and recognises municipalities' own tasks and functions (*eigener Wirkungskreis*) and delegated competences (*übertragener Wirkungskreis*) in its Article 4. The first group of responsibilities includes regulatory and administrative powers with regard to all public affairs which directly affect municipal interests and are carried out by the municipalities. According notably to Article 12 of the Municipalities Act, the exclusive competences are cited in line with *numerus clausus* principle whereas the delegated competences are not clearly defined in the legislation. The Act refers to the sphere of activity that is originally within the competence of the central authorities and has been delegated to the municipalities to deal with on the basis of the law. The municipalities are obliged to co-operate in the execution of laws and shall receive the necessary resources for this purpose (Art. 13).

69. Therefore, the rapporteurs conclude that Article 4.1 is respected in Liechtenstein.

### 3.3.2 Article 4.2

70. Article 4, paragraph 2 of the Charter provides that local authorities shall have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to any other authority. This is called "*general competence*" clause for municipalities in France or the "*Aufgabenerfindungsrecht*" in Germanic legal systems. The Contemporary Commentary of the Charter underlines the need for a sound legal basis for assuming new responsibilities in order not to put local authorities in a vulnerable position especially due to financial capacity issues.<sup>18</sup> The municipalities of Liechtenstein may perform any tasks that are not legally assigned to central tier (Art. 12 of the Municipalities Act). The government made reference to the Energy Efficiency Act, which provides the population of Liechtenstein with the option of applying to the state for subsidies for projects aimed at enhancing energy efficiency. This option is actively utilised and is further supported by the municipalities on a voluntary basis through the provision of supplementary subsidy contributions. Representatives of municipalities of Liechtenstein met during the monitoring visit haven't mentioned any issues or obstacles regarding initiatives undertaken on matters not explicitly excluded from their field of competences by the law.

71. Therefore, the rapporteurs conclude that Liechtenstein complies with the requirements of Article 4.2.

### 3.3.3 Article 4.3

72. Article 4, paragraph 3 of the Charter introduces the principle of subsidiarity which aims to bring decision-making as close as possible to the citizens. The distribution of public responsibilities between central and local authorities should take into consideration the extent and nature of the task and the efficiency and economy requirements. According to the Article 12 of the Municipalities Act, the own/exclusive competences ("*compétences propres*") of the municipalities include the election of municipal bodies; the organisation of municipalities; the granting of local citizenship; the management of municipal property, public buildings and institutions; the collection, establishment and levying of tax surcharges; the promotion of social, cultural and religious life, including personal, family and genealogical research as well as the keeping and publication of family chronicles and biographies; the establishment and maintenance of kindergartens and primary schools; the maintenance of security and public order; local planning; water supply, and the sewage and waste disposal.

73. Having regard to the nature and scope of the exclusive competences, the tradition of direct democracy and the relatively small size of the state party which allows for the greater proximity to the local populations, the rapporteurs are of the view that the Article 4.3 is respected in Liechtenstein.

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18. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 17.

## 3.3.4 Article 4.4

74. Article 4, paragraph 4 of the Charter provides that powers assigned to local authorities “shall normally” be full and exclusive and that they may not be undermined or limited by another, central or regional, authority except as provided for by the law. In accordance with the Contemporary Commentary of the Charter, legislators “should establish a clear definition of the responsibilities of different tiers of government and a balanced distribution of roles between these tiers in the field of local services.”<sup>19</sup> This provision of the Charter intends to avoid both power vacuums and the duplication of powers. This allocation of responsibilities should promote predictability and guarantee continuity in the provision of certain local public services that are considered to be essential for the population. The Contemporary Commentary underlines that, in case of overlapping responsibilities, power shift and recentralisation might occur for the benefit of central authorities owing to the fact that central authorities are usually found in a better financial position compared to the municipalities.<sup>20</sup>

75. During the monitoring visit, local authorities stressed the issue of overlapping competences and responsibilities especially in the area of building permits, planning and the school system. While local planning is listed as one of the own/exclusive competences of the municipalities in the Municipalities Act (Art. 12 paragraph 2, letter i), the government is only responsible for examining legality. However, during the consultation procedure, some local representatives pointed out that national authorities also carry out a discretionary review on local planning.

76. Considering the school system, the representative of local authorities informed the delegation that education is co-financed by the municipalities whereas they have no influence on the level of expenditure. The establishment and maintenance of kindergartens and primary schools are exclusive competences of the municipalities according to the Municipalities Act (Art. 12). However, the mayors claimed that the education falls within the central competence while the municipalities pay 50% of teachers' salaries in municipal schools, although they have no say in the matter.

77. As another example, according to the Constitution (Art. 110) and the Municipalities Act, the granting of local citizenship falls within the own/exclusive competences of the municipalities whereas Article 5 of the Citizenship Act (*BüG*) further states that the government decides on the issue after hearing written objections of municipality and that the Ministry of Home Affairs, Economy and Environment is responsible for the supervision. The granting of citizenship could be considered to have implications at both the local and supra-local levels, given the small size of the State party, so that supervision by the State may be deemed necessary. Nevertheless, the designation of a competence as an exclusive competence may give rise to confusion and an overlap of decision-making powers.

78. In addition, the *a priori* approval of local budget and other financial matters (see the dedicated paragraphs on Articles 8 and 9 of the Charter), which is the key principle in the accommodation of own or delegated tasks assumed by local authorities, led rapporteurs to conclude that the powers of the municipalities of Liechtenstein are not full and exclusive in accordance with the Charter requirements.

79. In the light of the above, notably on building permits, planning and the school system, it appears that the share of competences is not clear enough, which blurs the distribution of responsibility.<sup>21</sup>

80. Therefore, the rapporteurs consider that Article 4.4 of the Charter is not complied with in Liechtenstein.

## 3.3.5 Article 4.5

81. Article 4, paragraph 5 of the Charter introduces the principle of adaptation in the case of delegated responsibilities. Local authorities should be recognised a certain degree of discretion even in the case of delegated powers. As mentioned in the Contemporary Commentary, the proximity to the population of local public services is a fundamental necessity, and local authorities have a vital role to play in the

19. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 19.

20. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 20.

21. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 20 (§70)

provision of these services. In order to ensure that services are adapted to needs and expectations of citizens, local entities should benefit from a high degree of decentralisation and a capacity for independent action in the provision of these services. Delegating authorities should adopt minimum standards for the protection of the users of the delegated services and establish the necessary mechanism to monitor the compliance with these standards. According to the Contemporary Commentary on the Charter, this provision aims at protecting local authorities as decision-makers and preventing them from being “executive agents” of higher-level authorities.<sup>22</sup>

82. In the case of Liechtenstein, delegated powers are subjected to the legality and expediency control of the central authorities. Taking into consideration the comments on Article 4.4, the discretionary powers of local authorities are limited in the domain of delegated competences. The existence of overlapping competences between local and central authorities, coupled with a lack of clear distribution of responsibilities within the legislative framework, has resulted in a diminished level of autonomy in matters pertaining to delegated responsibilities. During the monitoring visit, local representatives pointed out that the scattered nature of the legislation related to the partition of local affairs and central tasks, together with the *de facto* practices give rise to the inconsistencies observed.

83. Therefore, the rapporteurs conclude that Article 4.5 is partially complied with in Liechtenstein.

### 3.3.6 Article 4.6

84. Article 4, paragraph 6 of the Charter requires that the local authorities shall be consulted, insofar as possible, in due time and in an appropriate manner in the planning and decision-making processes on all matters directly concerning them. Representing the procedural aspect of the right to local self-government, the consultation principle imposes positive obligations on state Parties with the objective of ensuring the full implementation of Charter rights. Together with the legal protection of the right to local self-government, the consultation constitutes the core of the procedural guarantee for the protection of local autonomy. Two types of consultation are recognised in the Charter: consultation on general terms, namely on every matter that has a direct impact on local authorities (Article 4.6); and the special consultation procedures on changes to local authority boundaries (Article 5) and on the distribution and allocation of financial resources to local authorities (Article 9.6).

85. The Contemporary Commentary clarified the scope of the criteria introduced in the Article 4.6. In this regard, a local authority is “directly concerned” when the implementation of a government policy or any legal act directly affects its legal status, powers or financial situation.<sup>23</sup> The requirement that consultations be conducted in an “appropriate way” implies that they should be organised in a such way as to allow local authorities to formulate and present their own comments, proposals or objections. By using the phrase “in due time”, the Charter seeks to ensure that the form and timing of consultations are such as to enable local authorities to influence the decision-making process and to avoid situations where the right of local authorities to be consulted is overridden on pretexts such as urgency and cost saving.

86. Three procedural and substantive guarantees must be respected in accordance with the minimum requirements of the Charter: (a) local authorities should be able to obtain full information on decisions and policies which directly concern them, and this information should be available at the initial stage of the decision-making process; (b) local authorities should have the opportunity to express their views on decisions and policies before they become legally binding documents; and (c) local authorities should have the time and opportunity to prepare recommendations or alternative proposals and submit them for consideration.<sup>24</sup>

87. During the monitoring visit, the interlocutors met by the delegation did not raise any concerns about the consultation given the small size of the country and short distances between municipalities. The representatives of the Government and Parliament mentioned that they involve the municipalities in all matters that directly concern them. The representatives of the Parliament mentioned that local

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22. *idem*

23. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 21.

24. Please also see Resolution 368 (2014), debated and adopted by the Congress on 27 March 2014, rapporteur: Anders Knape, Sweden (L, EPP/CCE). See also Resolution 437(2018) on the consultation of local authorities by higher levels of government, of 8 November 2018.

authorities are involved in the legislative process by being given the opportunity to comment on the government's consultation proposals before a new law is discussed in parliament. The municipalities' comments are then incorporated into the government's report and proposal. They also highlighted the phenomenon of mayors - MPs (members of parliament) in parliament having the opportunity to draw attention to issues through oral questions and interpellations. Article 3 paragraph 4 of the RVOG (Law of 19. September 2012 on the organisation of government and administration) obliges the government to co-operate with the municipalities on joint tasks. The representative of the municipality of Balzers mentioned the annual meetings with the Office for Civil Engineering and Geoinformation regarding footpaths and cycle paths along existing country roads. Although not officially recognised as a national association of municipalities, the Mayors' Conference serves as a forum for exchanging ideas and coordinating important tasks. This Conference meets monthly.

88. The rapporteurs express their appreciation for the close collaboration between municipalities and central authorities in matters pertaining to local public affairs. It is important to note, however, that the Charter requires a formal consultation process that includes procedural guarantees, such as time limits and effective means, which are established by law.<sup>25</sup> This is to ensure that the process is not left to the discretion of the central authorities. Despite the ongoing dialogue between the two levels of administration facilitated by the micro-state status of Liechtenstein, the absence of a formal consultation mechanism has a more pronounced impact in the areas of financial matters and overlapping competences, which have been identified as areas of concern by local representatives. The Constitution of Liechtenstein provides for popular initiatives by citizens and municipalities to be launched with respect to laws enacted/revised/revoked by the parliament. Conversely, legislative initiatives may be initiated in the event that three (or four in the case of initiatives concerning the constitution) municipal assemblies adopt resolutions to that effect (Art. 64 and 66). The consultation guarantee enshrined in the Charter is however designed to safeguard the autonomy of all local authorities in matters of planning and decision-making that directly affect them, independently of the decisions of the other municipalities.

89. The rapporteurs conclude that an inclusive and consistent consultation process exists in practice, however they highlight the absence of a formal consultation process enshrined in domestic legislation which provides procedural guarantees. Therefore, they conclude to a partial compliance for Article 4.6 of the Charter and recommend national authorities to undertake legislative action to enshrine the consultation process in law as already recommended in previous Recommendation 416 (2018) on Local democracy in Liechtenstein (see paragraph 5.c.).

### 3.4 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.

90. Article 5 of the Charter is a special form of the general consultation requirement protected by Article 4.6. It imposes an obligation for prior consultation of the local communities concerned in the case of local boundary changes, where possible by referendum. The Contemporary Commentary of the Charter has provided some clarification on the scope of the relevant provision. It should be noted that the term "local communities" refers to a wide range of actors at the local level who are affected by boundary changes.<sup>26</sup> These include the local authorities directly concerned (and possibly neighbouring authorities), as well as inter-municipal co-operation organisations whose members include the local authorities directly concerned and the citizens of the local authorities concerned, in addition to the bodies representing them.

91. The Constitution of Liechtenstein provides that the borders of the state territory may only be changed by law. Changes to the boundaries of municipalities, the establishment of new municipalities, and the merger of existing municipalities also require a majority vote of the Liechtenstein citizens residing in the municipalities concerned (Art. 4). Individual municipalities have the right to secede from the State on the basis of a popular initiative of the majority of the citizens residing there and who are

25. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p.20-24 (see §76 ff., in particular §88).

26. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 23-24.

entitled to vote (Art. 4). The power to initiate changes to the municipality or its boundaries is vested in the municipal assembly under the Municipalities Act (Art. 25).

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

### 3.5 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.

#### 3.5.1 Article 6.1

93. Article 6 of the Charter sets out the freedom aspect of the right to local self-government with regard to the organisation of local authorities. To this end, local authorities shall be able to determine their own internal structure in order to ensure the effective management of public tasks to be carried out in accordance with the law. Article 6.1 provides that local authorities shall have the power to decide on their internal local organisation (to establish subordinate units and structures), but also the power to establish independent bodies, such as local companies or agencies, to improve the delivery of local services, as well as the power to conclude agreements with other local authorities. This power must be exercised in accordance with the general provisions of the law.

94. Article 110 of the Constitution of Liechtenstein provides that the free election of the mayor and other municipal officials by the municipal assembly shall be respected by the laws concerning the municipalities. According to Article 12 of the Municipalities Act, electing the municipal organs is one of the exclusive competences of the municipalities. This Act also regulates the organs, powers and responsibilities of the municipal bodies. The municipal council determines the scope of duties of municipal employees and regulates their employment relationships. The Ministry of Home Affairs, Economy and Environment is the competent supervisory authority with regard to the regulation of the training and further training of the municipal police (Article 64b of the Municipalities Act).

95. During the monitoring visit, no concerns have been raised by local interlocutors regarding their ability to determine their own internal administrative structures.

96. Therefore, the rapporteurs consider that Article 6.1 of the Charter is complied with in Liechtenstein.

#### 3.5.2 Article 6.2

97. Article 6.2, which has not been ratified by Liechtenstein, deals with the recruitment of local personnel on the basis of merit and competence. The conditions of service ("*statut du personnel*" in French version of Charter) aims to provide discretion and freedom to determine conditions by local regulations, collective agreements and the like as specified by the Contemporary Commentary.<sup>27</sup>

98. The basic rules of recruitment to the civil service may be regulated by the national authorities, while the legal provisions give the local authorities the discretion to adapt their internal organisations to the interests and needs of their population. From this point of view, highly qualified personnel are an indispensable component of the capacity of local authorities referred to in Article 3.1. According to Article 64b of the Municipalities Act of Liechtenstein, the municipal council determines the scope of duties of municipal employees and regulates their employment relationships.

99. During the monitoring visit and through the answers given to the questionnaires, local authorities expressed their general satisfaction regarding the system in place and their wide autonomy regarding

27. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 26.

their administration. No particular matters of concern have been raised by interlocutors on the recruitment of staff.

100. The rapporteurs are of the view that Article 6.2 of the Charter is already complied with in Liechtenstein. The rapporteurs consider that there are no obstacles to its ratification.

### 3.6 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.

#### 3.6.1 Article 7.1

101. Article 7 of the Charter lays down the conditions of office of local elected representatives in order to guarantee the free exercise of their functions during their term of office. Article 7.1 seeks to ensure that citizens are free to serve as elected officials and should not be prevented from holding office for financial or material reasons. Democratically elected representatives must also enjoy adequate protection for the free exercise of their functions.

102. The scope of free exercise is clarified in the Contemporary Commentary, which underlines the need to ensure a balance between legitimate motives, such as the fight against corruption, and arbitrary interference with the free exercise of local mandates.<sup>28</sup>

103. The Constitution of Liechtenstein provides that every citizen who has reached the age of 18 has the right to vote and thus to stand for election. The Municipalities Act does not specify the legal status of councillors but lays down the rules for the composition and powers of the organs. During the monitoring visit, the lack of a legal succession plan in the event of the mayor's absence was raised as a concern by local representatives. The Parliament and the Government informed the rapporteurs that a legislative amendment will be drafted to address this issue. Despite this specific situation, the rapporteurs have not heard about any issue regarding the free exercise of the functions of local elected representatives. On the contrary, local officials expressed their general satisfaction about the existing system.

104. Therefore, the rapporteurs conclude that Article 7.1 is complied with in Liechtenstein.

#### 3.6.2 Article 7.2

105. Article 7.2, which has not been ratified by Liechtenstein, deals with the financial aspect of the office of local elected representatives. In accordance with the Contemporary Commentary, if elected officials hold a full-time position within the local authority, it is anticipated that the remuneration schemes will encompass not only remuneration but also social insurance (e.g. health insurance, pension fund contributions) based on the same principles that apply to elected representatives at the national level.<sup>29</sup> Where remuneration is the responsibility of local authorities, they are encouraged to set a minimum and maximum threshold for the remuneration of local elected officials, in line with the country's public sector remuneration practices, taking into account transparency and good governance. In Liechtenstein, the remuneration of municipal councillors is regulated in the municipal regulations of each municipality. While mayors work full-time, municipal councillors usually work part-time in the municipal council and combine their electoral mandate with other professions. The rapporteurs have not been informed of any concerns in this respect during the monitoring visit.

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28. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 28.

29. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 29.

106. Therefore, the rapporteurs consider that there are no serious obstacles to the ratification of Article 7.2 of the Charter, as the situation in Liechtenstein is in line with the requirements of this provision.

### 3.6.3 Article 7.3

107. Article 7.3 of the Charter sets out the rules pertaining to the incompatibility between the tenure of a local elected office and other functions and activities which may give rise to potential conflicts of interest or prevent the local representatives from carrying out their duties within the local authority in a professional capacity.

108. The Contemporary Commentary recommends that states parties prevent the simultaneous holding of more than one office (in French: "*cumul de mandats*"), where local elected representatives (mainly mayors/presidents) simultaneously hold another position at the local level or in the national government or in state or municipally owned enterprises.<sup>30</sup>

109. In Liechtenstein, Articles 47 and 50 of the Municipalities Act provide detailed rules on incompatibility. Accordingly, persons who are related to an elected member, members of the Government, the Administrative Court and the Constitutional Court, as well as employees who hold a managerial position in the municipal organisation, cannot be elected to the municipal council. Article 50 of the Municipalities Act sets out the abstention rules for local councillors in the specific matters to which they relate.

110. In Liechtenstein, it is possible to simultaneously hold a seat in the Parliament and a local elected position, such as that of mayor or councillor. During the monitoring visit, the representatives of the parliament and the government referred to the double-mandated mayor-MPs in the Parliament as an opportunity to raise local concerns at national level.

111. Recalling the duty of care to prevent any conflict of interest between simultaneous mandates, the rapporteurs conclude that Article 7.3 is respected in Liechtenstein.

## 3.7. 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.

#### 3.7.1. Article 8.1

112. Article 8 of the Charter covers "administrative supervision" of the "activities" of local authorities by central authorities. The activities referred to in the provision include all types of decisions, projects, plans or other regulations approved by the organs of local authorities. The Contemporary Commentary clarifies the scope and limits of the supervision to be exercised by the central authorities. According to the Commentary, the concept of supervision may have different meanings in the two official languages of the Charter. Supervision in the English version may include monitoring, oversight or follow-up, whereas the French version ("*contrôle*" or "*tutelle*") refers to the participation of central authorities in the decision-making process. This participation may take the form of approving, clarifying, suspending or annulling local decisions. Supervision can be *a priori* (*ex ante*) or *a posteriori* (*ex post*). It should be noted that both forms of intervention limit the autonomy of local authorities. Article 8.1 of the Charter introduces the principle of the legality of supervision, which means that any form of administrative

30. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 29.

supervision must be provided for by the constitution or statutes and that *ad hoc* or improvised procedures are strictly prohibited by the Charter.

113. In its 2019 Recommendation to member states on the supervision of the activities of local authorities, the Committee of Ministers of the Council of Europe underlined the key principles in the area of supervision.<sup>31</sup> The Committee of Ministers identified three different types of supervision: administrative, financial and democratic. The main principles to be respected are competence, transparency and openness, which are key aspects of the rule of law. In this respect, the scope and limits of supervision (time limit or period, competent authority, etc.) should be clarified by law; supervision should take place *a posteriori* in order to guarantee autonomy in decision-making and, finally, *a priori* supervision should be limited to the minimum and, in particular, to the delegated powers.

114. With regard to the actual legal framework and practice in Liechtenstein, the Constitution provides that the laws concerning the municipalities shall establish the autonomous management of municipal property and the administration of the local police under the supervision of the Government (Art. 110). The Government is designated as the supervisory authority, the remit of which is limited to reviewing the legality of decisions and activities within the municipalities' own sphere of competence. Matters relating to the exercise of delegated powers are also subject to a control of expediency (Articles 116 to 118 of the Municipalities Act).

115. The Act on Organisation of Government and Administration (*Gesetz vom 19. September 2012 über die Regierungs- und Verwaltungsorganisation (RVOG)*) stipulates that the Government and the municipalities work together on joint tasks. The provision also underlines that the government shall hold joint conferences with the mayors for the purpose of coordination. The Government and Administration Organisation Ordinance (*RVOV*) of 28 March 2013 specifies the supervisory powers of the individual ministers over local authorities in their area of responsibility. This secondary legislation provides that the Ministry of Home Affairs, Economy and Environment is responsible for municipal citizenship (Article 5 paragraph 6 of the Citizenship Act), organisation of elections at municipal level (Article 44 of the Municipalities Act), and the regulation of the training and continuous training of municipal police (Article 64b of the Municipalities Act).

116. Therefore, the rapporteurs consider Article 8.1 of the Charter respected in Liechtenstein.

### 3.7.2. Article 8.2

117. Article 8.2 of the Charter provides that supervision of local authorities should normally aim at ensuring compliance with constitutional and other legal requirements and in so far as it considers the expediency/appropriateness, the supervision should be limited to the shared or delegated competences. The Contemporary Commentary defines supervision as any form of intervention in the decision-making process of a local entity by which a higher administrative level explicitly or tacitly approves, clears, agrees, suspends or annuls a proposal or a final decision, rule or plan approved by a local entity (Para 125). The Commentary underlines that the legality check should be limited to the verification of the compliance with the powers and regulatory procedures provided by the law. It cautions state parties that an increase in the supervisory powers of the central authorities is likely to result in a concomitant decrease in the scope of local autonomy, which would be contrary to the aims and scope of the Charter<sup>32</sup>.

118. As demonstrated by the practice of state parties to the Charter, there are several methodologies by which checks on legality might be implemented. For instance, the local authorities may be under an obligation to report their decisions to the supervisory authorities, thus enabling the latter to fulfil their duties. The supervisory authorities may verify whether the local authorities have acted within their competences, whether they have complied with the regulatory standards, or whether they have respected time-limits, etc. In neither of these scenarios, can the supervisory body replace the local authority's power of discretion with its own. In certain Council of Europe countries, if the supervisory

31. Committee of Ministers of the Council of Europe (2019), Recommendation CM/Rec(2019)3 to member States on supervision of local authorities' activities (adopted by the Committee of Ministers on 4 April 2019 at the 1343rd meeting of the Ministers' Deputies). This recommendation includes an appendix with Guidelines on the improvement of the systems of supervision of local authorities' activities.

32. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 31-32.

authority identifies an irregularity, it is permitted to submit a request to the local authority to reconsider or revoke the decision. In the event that the local authority does not comply with the request, the practice demonstrates that supervisory authorities have the capacity to initiate an appeal to the courts and seek annulment. Injunctions issued by supervisory authorities, mandating the suspension of local decisions pending the courts' final verdict, may be considered permissible under the conditions of grave legal infringements or when deemed to be in direct opposition to the national interest. Such injunctions, however, must be consistent with the provisions enshrined in Article 8 of the Charter. In the case of expediency control, supervision may be carried out by the central authorities in order to co-ordinate public services provided jointly by the central and local authorities and to ensure their harmonious operation when supra-municipal interests are involved. Apart from judicial avenues, certain state parties established internal and independent external audit mechanisms to perform legality and expediency checks on general compliance, financial and economic activities on local authorities.

119. According to the legislation in force in Liechtenstein, supervision is carried out both *a priori* and *a posteriori* by the Government and the individual ministers. During the monitoring visit, the Government representatives and other interlocutors informed the delegation that administrative supervision is carried out in accordance with Article 116 of the Municipalities Act, which allows for a limited control based on the review of legality in the area of the municipalities' own competences, while the control of expediency is applied to the transferred sphere of activities.

120. However, a particular concern was raised by local interlocutors regarding a recentralisation tendency in building and planning law. Such law falls under the category of own competences according to the Municipalities Act but requires joint action as for the delegated competences according to town planning legislation. The overlap in competences in the fields of planning, granting local citizenship, the school system and financial matters has been identified as a potential source of confusion and foreseeability issues, as was reported to the rapporteurs by the interlocutors during the monitoring visit (see comments on full and exclusive competences under the Paragraph 4 of Article 4).

121. The Constitutional Court is of the opinion that although planning and building competences fall within the category of own competences, restrictions on the municipality's planning law are certainly possible on a legal basis since local and supra-local interests are intertwined. (StGH 2020/059 a, § 3.3 quoting StGH 1998/010, § 2). The Contemporary Commentary refers to the concept of pure administrative revision where the supra-local authorities may modify local decisions or plans when coordination is necessary.<sup>33</sup> From this perspective, the micro-state nature of Liechtenstein and close co-operation between central and local authorities due to relatively small scale might be a motif for this intervention. It is important to note that this specific context of the state Party does not exempt it from its obligation to adhere to the principle of legality in the supervision. To this end, the rapporteurs underline the need for clarification in the legislation of the division of competences with regard to planning and building law and the scope of legality check such as timing, competent authority and the possible legal outcomes of the control in line with the Charter.

122. In Liechtenstein, budgetary control is exercised over the annual budget provisions of each municipality. It seems that Liechtenstein authorities give priority to budgetary equilibrium in accordance with Article 3 para. 2 of the Act on the Financial Budget of the Municipalities and the ongoing practice of *a priori* control and approval of local budgets is motivated by the necessity of guaranteeing well-balanced budgets. The government representatives informed the delegation that the extent of the government's administrative and financial supervision of the municipalities is constrained and limited to ensuring compliance with the statutory provisions set forth in the Municipal Finance Budget Act and the Municipal Finance Budget Ordinance. The government further argued that it is limited to the examination of the form and legality of the municipal budgets (Art. 10 of the Act on the Financial Budget of the Municipalities). In accordance with the legislation, the government is responsible for ensuring that the annual municipal estimates comply with the legal requirements, including those pertaining to structure and depreciation. During the monitoring visit, the delegation has not heard about budget rejections. Nevertheless, the local budget is categorised as falling under the exclusive competence of the municipalities in the relevant legislation. Moreover, *a priori* budgetary controls have the potential to result in delays to the planned activities of municipalities within their competences, provided that approval is not provided within a well-defined time frame.

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33. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 32.

123. The rapporteurs were informed that the Constitutional Court has ruled that the government is not at liberty to substitute its own discretion for that of the municipality, particularly in matters pertaining to the latter's exclusive competences (StGH 2020/059 a, § 3.5, citing StGH 1998/010, § 3). In consideration of the stipulations set forth in the Act on General Provincial Administration (concerning the administrative authorities and their auxiliary bodies, proceedings in administrative matters, administrative enforcement, and administrative criminal proceedings (LVG)<sup>34</sup>), the Government is empowered to act in response to a supervisory complaint or intervene *ex officio* against a municipality (preventive and repressive supervision). The most severe measure permitted by Article 136, paragraph 2 is to declare municipality resolutions, orders or decrees that contravene existing legislation or valid ordinances invalid and repeal them if they are not withdrawn by the issuing municipal authority itself within a reasonable period of time to be determined by the government. Furthermore, if necessary, the execution (or suspension) of such resolutions, orders or decrees may be prohibited (Article 136, paragraph 2). It should be noted that administrative appeals against supervisory acts of the government may be submitted to the Administrative Court within 14 days of notification (Art. 120 of the Municipalities Act).

124. In light of the above mentioned, on the basis of the elements provided by the local interlocutors during the visit and subject to proportionality reservations further elaborated below, the delegation concludes that Article 8.2 is generally complied with in Liechtenstein.

### 3.7.3. Article 8.3

125. Article 8.3 of the Charter establishes the principle of proportionality with regard to both *a priori* and *a posteriori* control. In order for proportionality to be applied, it is necessary for the intervention of higher levels of government to be both necessary and proportionate to the legitimate interests that are to be protected. In accordance with the Contemporary Commentary, national authorities should intervene only to the extent necessary, take into consideration the seriousness of the legal violation allegedly committed by local authorities, and should first consider the possibility of "de minimis" actions (warnings, requests, negotiations) before resorting to more drastic measures such as annulling or suspending local decisions<sup>35</sup>. In the case that local authorities are obliged to obtain prior approval from central authorities for tasks that fall within their own competences or for trivial or minor actions, the Congress is of the opinion that such supervisory checks would not comply with the proportionality principle.

126. The proportionality principle can be mostly and usually tested in case of an actual dispute between local and central authorities. Thus, local authorities should be provided with the legal avenues to challenge the disproportionate actions of the supervisory authorities before independent authorities. The level of scrutiny and extent of supervisory controls should not be a factor in exerting political pressure on local authorities which would render the control disproportionate according to the provisions of the Charter.

127. As indicated for Paragraph 2 of Article 8, in Liechtenstein, municipalities are obliged to submit their budgets to central government for a priori approval. During the consultation procedure, national authorities highlighted that budget approval ensures the comparability of the municipal accounts, which is important for the statistical evaluation and the determination of financial equalisation payments to the municipalities but also provides the public with the desired transparency and comparability between the municipalities. In accordance with the proportionality principle, this motivation constitutes the acceptable legitimate interest for the supervision. On the other hand, the weight of legitimate interests does not constitute the sole determinant of compliance with paragraph 3 of Article 8. Instead, the assessment of proportionality requires a reasonable relationship between legitimate interests and the means employed to achieve them. In the event that the relevant interest can be achieved by less restrictive means or alternative solutions exist to protect budgetary balance and financial equilibrium, a priori control might not be the sole appropriate remedy.

128. The rapporteurs refer to the Contemporary Commentary which highlights that national authorities should take into account "the relevance of the public interest at stake, or the seriousness of the legal

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34. [Gesetz vom 21. April 1922 über die allgemeine Landesverwaltungspflege \(die Verwaltungsbehörden und ihre Hilfsorgane, das Verfahren in Verwaltungssachen, das Verwaltungszwangs- und Verwaltungsstrafverfahren\)](#).

35. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 33.

violation allegedly committed by the local authority".<sup>36</sup> In the light of the above, the extent of financial oversight made possible by the *a priori* approval of local budgets is not proportionate to the importance of the interests it intends to protect. The previous monitoring report highlighted that municipalities in Liechtenstein maintained balanced budgets, and no instances of budgetary irregularity were detected during the current monitoring period. The rapporteurs affirm this finding, thereby concluding that a priori approval aimed at controlling potential budget deficits is disproportionate to the legitimate interests of the government. The rapporteurs also stress that an ex post control is been carried out by the municipal audit committees (Article 16 of the Act on the Financial Budget of the Municipalities), and that these controls could be submitted for an ex post supervision instead of a *a priori* approval.

129. Furthermore, the rapporteurs consider that the procedure of *a priori* approval of local budgets by national authorities creates the risk for continuous central interference in local financial planning, which could be seen as a threat to substantive autonomy at the local level.

130. Therefore, the rapporteurs conclude that Article 8.3 is not complied with in Liechtenstein.

### 3.8. 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.

#### 3.8.1. Article 9.1 and 9.2

131. Article 9.1 of the Charter constitutes key dimension of the local self-government as a right and capacity to regulate and manage a substantial share of public affairs assumed by local authorities (Article 3 of the Charter). The article establishes two basic principles in the area of finance: first, local authorities should have their own financial resources; second, they should be free to decide how to spend those resources. Although not mentioned in the English version of the Charter, the financial autonomy is a right for sub-central authorities as stipulated in the French version. According to the Contemporary Commentary, this reinforced conceptualisation requires solid protection of financial autonomy by means set out in the Article 11 (legal protection of right to local self-government).<sup>37</sup> The right and freedom aspect of financial autonomy is also linked to the various aspects of local financing, the most important being the adoption of the budget. For this reason, the first paragraph of Article 9 is closely associated to Article 8 in terms of comprehensive budget supervision in Liechtenstein.

36. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 33 (§139).

37. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 35.

132. In state parties to the Charter, the resources available to local authorities are derived from a number of sources, including local taxes, charges, fees, profits derived from private and commercial activities, interest earned on bank accounts and deposits. In a considerable number of countries, penalties and fines imposed for traffic or environmental violations constitute a significant source of local entities' own revenue. The principle of adequate own resources in the Charter takes into consideration the national economic policy; it follows that the soundness of the national economy has implications at the local level.

133. Article 9.2 of the Charter enshrines the principle of commensurability, whereby the revenues and mandatory tasks of local authorities should be balanced to ensure that their financial capacity is proportionate to the tasks assigned to them by law.

134. According to information provided by the authorities, the municipalities of Liechtenstein have continued to enjoy a robust financial situation, notwithstanding the impact of the global pandemic of COVID-19. The government informed the delegation that the financial situation of the municipalities is favourable and adequate to fulfil the obligations imposed upon them by law, in addition to tasks within their own sphere of influence. Operating income has exhibited a markedly positive trajectory in recent years at both the national and municipal levels. Notwithstanding the challenges posed by the responses to the pandemic and the energy crisis, public finances have demonstrated remarkable resilience. The implementation of the global minimum income tax rate of 15% is expected to have a positive effect on income tax revenue of local authorities.

135. On the expenditure side, the demographic changes in population of Liechtenstein (available labour force, changing age structure of consumers, increasing health care costs) and increased efforts in the area of the environment (climate protection, biodiversity) are mentioned as particular concerns for the central authorities. In addition, the parliamentary representatives and the mayors emphasised that the distribution of responsibilities (both exclusive and delegated) and their corresponding financing between the state and the municipalities in specific areas (such as care for the elderly, the education system, the refugee system, digitalisation, etc.) represent both current and future challenges for Liechtenstein's municipalities.

136. In Liechtenstein, local authorities derive their revenues from a combination of local and shared taxation, horizontal and vertical financial equalisation, and earmarked central grants for specific projects. A significant part of the financial resources comes from the municipalities' own resources and the horizontal equalisation system, which aims to promote solidarity between municipalities. Earmarked grants for specific projects are possible within the framework of the Subsidies Act (*Gesetz über die Ausrichtung von Landessubventionen (Subventionsgesetz)*).

137. The economic and financial data provided by the Government on the central and local expenditures and financial assets showcases that the total expenditure of the central government's current account in 2022 was approximately CHF 874 million<sup>38</sup> (2021: CHF 857 million<sup>39</sup>). The two largest expenditure areas were social welfare and education, which summed up to more than 40% of central government spending. Current expenditures of the municipalities amounted to CHF 274 million<sup>40</sup> in 2021 (2020: CHF 276 million<sup>41</sup>). In 2021, the central government and municipalities made consolidated total gross investments of CHF 82.3 million<sup>42</sup> (2020: CHF 98.2 million<sup>43</sup>). Since 1998, the net assets of municipalities have risen steadily, reaching CHF 2.05 billion<sup>44</sup>. Meanwhile, the central government's net assets have reached CHF 3.56 billion<sup>45</sup>.

138. The financial situation of municipalities has been evaluated over time and the relevant data made available by the government in the course of monitoring shows the following results:

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38. EUR 916 million (exchange rate at the time of the visit: CHF 1 = EUR 1,0476 according to the European Central Bank).

39. EUR 898 million.

40. EUR 287 million.

41. EUR 289 million.

42. EUR 86.2 million.

43. EUR 102.9 million.

44. EUR 2.15 billion.

45. EUR 3.73 billion.

- The average result of the income statement of the municipalities in total for the period 2013 to 2022 was CHF +61.6 million<sup>46</sup>;
- The average result of the total accounts (including investments) of all municipalities for the period 2013 to 2022 was CHF +37.8 million<sup>47</sup>;
- The cover surplus (financial assets minus liabilities) totalled CHF 1 289 million<sup>48</sup> at the end of 2022.

139. Therefore, the rapporteurs conclude that Liechtenstein is in compliance with Articles 9.1 and 9.2 of the Charter.

### 3.8.3. Article 9.3

140. Article 9.3 of the Charter, which has not been ratified by Liechtenstein, deals with a particular aspect of the financial autonomy which is formulated as tax-levying power of local authorities. To this end, the Charter requires that at least part 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. According to the Contemporary Commentary of the Charter, the said provision refers to a double dimension: on the one hand, there are “true” taxes, which are levied by local authorities on different sources and on the other hand, there are charges of fees that may be levied by local authorities as payment for the delivery of certain local services or as compensation for the use of local facilities or properties. Although these taxes or charges do not need to be created or established by the local authorities, their percentage in the overall financial resources (especially with reference to central grants) showcase their financial autonomy and capacity to ensure their local responsibilities. The taxation power provides certain freedom to local authorities to determine local development needs while it empowers the local citizens to keep the elected representatives politically accountable.

141. In Liechtenstein, more than 60% of financial resources come from various taxes. The municipalities receive a share of 35% of the income taxes (paid by legal entities) incurred in their municipality, whereby the maximum share is limited to 25% of the shares of all municipalities. Property and income taxes are other important financial sources paid by natural persons. The municipalities levy a surcharge of 150% to 250% on the state tax share. Within this range, the municipalities are free to determine the municipal tax rate. In the municipal budget, seven out of eleven municipalities have set the tax surcharge at a minimum of 150% and the municipality with the highest surcharge applies a surcharge of 180%. In addition to the municipal shares of taxes for legal entities and natural persons, the municipalities are free to set the administrative fees.

142. The rapporteurs consider that in the light of the above, Article 9.3 is respected by Liechtenstein and therefore recommend ratifying it.

### 3.8.4. Article 9.4

143. Article 9.4, which has not been ratified by Liechtenstein, addresses the issue of the financial resources of local authorities being sufficiently diversified and buoyant. This stipulation aims to ensure that municipalities are able to provide local public services even in the event of significant economic fluctuations, thereby making local economies resilient to external economic factors. Additionally, the capacity of the local financial regime to adapt new needs and circumstances is also a component of the diversification and buoyancy principles.

144. In Liechtenstein, the robust financial capacity of local authorities is supported by sufficiently diversified resources, including horizontal and vertical equalisation, levied or shared taxes, administrative charges and fees, and ear-marked subsidies, particularly in the context of delegated competences (for further details, please see Article 4.2 on the energy efficiency project subsidies for municipalities to address climate concerns). The fact that more than 60% of municipal financial resources originate from a variety of taxes, coupled with the capacity of local economy to produce budget surplus, serves to reinforce the healthy financial framework that underpins Liechtenstein

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46. EUR 64.5 million.

47. EUR 39.6 million.

48. EUR 1 350 million.

municipalities. Moreover, the local financial capacity was proved to be resilient during the COVID-19 pandemic.

145. Liechtenstein introduced a reservation to Article 9.4 and therefore is not bound by this provision. Since the obligations and guarantees arising from the Charter are already complied with, the rapporteurs recommend the state party to ratify this provision.

### 3.8.5. Article 9.5

146. Article 9.5 of the Charter enshrines the financial equalisation principle which aims to protect the capacity of financially disadvantaged local authorities due to their geographical (transition, mountain or island regions) or economic circumstances. The asymmetries between large and small municipalities might exacerbate when they are obliged to carry out the same public tasks whereas their capabilities remain limited.

147. As indicated in the Contemporary Commentary “equalisation may be achieved by means of grants from a higher authority (vertical equalisation) or the redistribution of local revenues, particularly if they are collected by central government (horizontal equalisation) or a combination of both.<sup>49</sup> Vertical equalisation generally lessens the risk of resentment among local authorities. Horizontal equalisation supports inter-municipal solidarity and provides local authorities with greater autonomy from the central authority. The Charter stresses that equalisation systems should be designed to comply with principles such as fairness, stability, efficiency and transparency and should not diminish local authorities’ discretionary powers within their own sphere of responsibilities. It is important to note that the operability of financial equalisation system is linked to the “effective capacity” aspect of the right to local self-government protected in Article 3.1 of the Charter. According to the Contemporary Commentary, municipal autonomy would be meaningless without financial autonomy and more specifically when equalisation systems weaken municipal capacity.<sup>50</sup>

148. In Liechtenstein, both vertical and horizontal equalisation systems are in operation and function in accordance with the principles set forth in the Financial Equalisation Act (*Finanzausgleichsgesetz*) of 2023. It is also important to mention the reform concerning the equalisation system, which came into force on 1 January 2024. The revised Financial Equalisation Act is designed to reduce the significant disparities in tax capacity and to foster financial equalisation between financially robust and vulnerable municipalities.

149. The equalisation scheme in Liechtenstein comprises four levels. The fundamental operational principles are as follows:

#### **Level 1: Horizontal equalisation**

- Based on the average tax capacity of the municipalities.
- Municipalities with above-average tax capacity give a percentage share to municipalities with below-average tax capacity.

#### **Level 2: Minimum financial requirement**

- Four-year average of past relevant total expenditure of all municipalities.
- Compensation of the difference between the minimum financial requirement and standardised tax capacity per capita.

#### **Level 3: Smallness surcharge**

- Municipalities with a population of less than 3’300 receive a size-related population surcharge.
- The smallness surcharges are linear and decrease as the number of inhabitants increases.

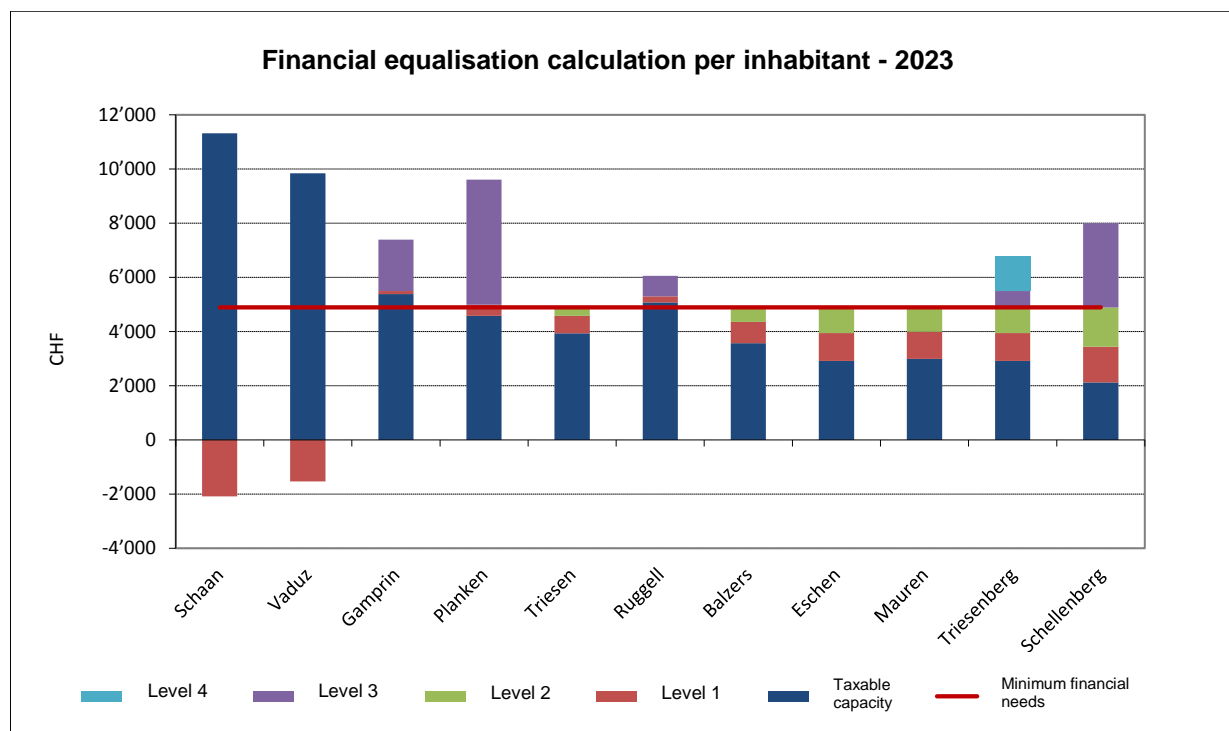
#### **Level 4: Mountain area surcharge**

- Special contribution for the municipality of Triesenberg for the Steg-Malbun-Silum-Masescha-Gaflei mountain recreation area.

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49. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 38.

50. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 39.



150. The financial equalisation system is based on the financial requirements of the municipalities and is therefore expenditure oriented. Concerning vertical equalisation method, the allocation is realised on the basis of the calculation and determination of the average financial requirements at regular intervals of 4 years aiming to secure financial planning of local tasks. The standardised tax capacity per capita of each municipality is determined on the basis of the property and income tax shares of a municipality (these are taken into account with a standardised municipal tax surcharge of 150%) and 70% of the municipal share of income taxes. When financial equalisation revision came into force in January 2024, the first stage focused on the horizontal equalisation between the municipalities. This is based on the average tax capacity of all municipalities, whereby municipalities with above-average tax capacity must pay a percentage share to municipalities with below-average tax capacity. If a municipality's standardised tax capacity, including the funds received in the horizontal equalisation, is not sufficient to meet the minimum per capita financial requirements set by the parliament, the municipalities concerned receive vertical financial equalisation funds from the state. Small municipalities receive further supplements, as they have a higher per capita requirement than larger municipalities.

151. During the monitoring visit, the delegation was informed that the new equalisation scheme was welcomed by the mayors, and that they were consulted and involved during the entire process. One concern was raised by the municipality of Eschen-Nendeln regarding their status as a single municipality, despite being regrouped. It was therefore suggested that the new equalisation method should take into account their particular status in the distribution of resources.

152. Liechtenstein placed greater emphasis on horizontal equalisation in comparison to vertical allocation as shown with the entry into force of the revision of Financial Equalisation Act on 1 January 2024, since horizontal equalisation is now one component of financial equalisation. The rapporteurs draw attention to a contingency that the distribution of resources from more economically robust municipalities to more vulnerable ones should not impinge upon the autonomy and capability of the former, which is safeguarded by Article 3 of the Charter. Furthermore, the categorisation of resources distributed through horizontal equalisation needs to be clarified (whether they are part of own resources or transferred from other levels). Article 9.1 of the Charter makes reference to the resources that must be utilised for the mandatory tasks. In contrast, delegated tasks entail a burden-sharing arrangement between government and local authorities. It is therefore recommended that horizontal equalisation revenues should not be used to reduce the state's financial responsibilities towards municipalities in delegated tasks.

153. In line with the above, the rapporteurs conclude that overall design of equalisation in the country is in conformity with Article 9.5 of the Charter.

### 3.8.3. Article 9.6

154. Article 9.6 of the Charter establishes a special procedure for financial redistribution as part of the general consultation requirement enshrined in Article 4.6. It thus follows that local authorities should be consulted in an appropriate manner, which requires that sufficient time be made available for consultation based on adequate information provided to them. In light of the fact that the consultation shall pertain to the allocation of resources, it is imperative that the procedures in place guarantee openness, transparency and fairness. The Charter does not stipulate a specific legal timeframe for the consultation process, as this will depend on the particular circumstances and situation prevailing in each state party. In Liechtenstein, the absence of an institutionalised system of consultation between central and local authorities, either in general matters of local democracy or on financial matters, necessitates an evaluation of the effectiveness of informal consultation or via the Conference of Mayors. During the monitoring visit, the delegation held meetings with a number of mayors, no concerns regarding the consultation were raised by those present.

155. The Congress has previously addressed the issue of consultation in its reports. As highlighted in the Contemporary Commentary, in order to comply with the obligations, set out in the Charter, it is essential that state parties implement an effective consultation mechanism based on two fundamental pillars: a clearly defined national regulatory framework and an appropriate institutional setting.<sup>51</sup> Furthermore, the Congress has called for ensuring the right of local authorities to be consulted in due time by the central government, on all matters directly affecting them, both in law and in practice.<sup>52</sup>

156. Therefore, in the absence of national regulatory framework for consultation, the rapporteurs conclude that Liechtenstein partially complies with the requirements of Article 9.6 and invite authorities of Liechtenstein to enshrine in law the existing tradition of consultation.

### 3.8.4. Article 9.7

157. Article 9.7 of the Charter requires that central government subsidies transferred to local authorities should not be earmarked and remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction. Local authorities might receive centrally allocated grants for specific projects (earmarked) as well as general grants (transfers). The allocation of specific grants should be based on objective, transparent criteria justified by spending needs, and criteria for the allocation of general grants should be specified by law to enable local authorities to know in advance how much they are to receive in transfers. The vertical equalisation system in Liechtenstein permits to allocate subsidies by the government. In accordance with Article 12 of the Municipalities Act, the municipalities in Liechtenstein are permitted to undertake any tasks that are not legally assigned to the central tier, provided that they do so in accordance with the conditions set forth in relevant legislation. This may include, for example, maintaining budgetary equilibrium. To provide support for smaller municipalities, additional subsidies may be provided, based on the financial needs of each municipality.

158. Therefore, the rapporteurs consider that the requirements of Article 9.7 of the Charter are respected in Liechtenstein.

### 3.8.5. Article 9.8

159. Access to national capital markets constitutes an alternative for municipalities in case that their resources are not sufficient for carrying out the local tasks. The borrowing autonomy of local authorities might be restricted in line with general economic policy on public sector debt and thus the conditions for access to national and international markets should be specified in the legislation. Article 9.8 of the Charter has not been ratified by Liechtenstein.

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51. Congress of Local and Regional Authorities (2020), [A contemporary commentary by the Congress on the Explanatory Report to the European Charter of Local Self-Government](#), CG-FORUM (2020)02-05prov, p. 40 (see §175).

52. Congress of Local and Regional Authorities (2024), Recurring issues based on assessments resulting from Congress monitoring of the European Charter of Local Self-Government and election observation missions (reference period 2021-2024).

160. The municipalities of Liechtenstein may take out loans on condition that their administrative accounts (current account and investment account) are kept in balance in the long term and any debts must be reduced (Art. 3 of the Act on the Financial Budget of the Municipalities (*Gesetz über den Finanzhaushalt der Gemeinden*)). This is practiced to a lesser extent by some municipalities, as the financial assets of the municipalities are not exclusively available in the form of liquid funds.

161. Therefore, the rapporteurs consider that Article 9.8 is respected in Liechtenstein and that there are no serious obstacles to the ratification of this provision.

### 3.9. 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.

#### 3.9.3. Article 10.1

162. Article 10.1 establishes a right to co-operation and the formation of consortia for local authorities with the objective of delivering local public services, plans or projects, or discharging their responsibilities. The inter-municipal co-operation enables and empowers small or financially weak municipalities to fulfil all the services they are obliged to carry out.

163. In the context of Liechtenstein, the municipal assemblies (*Gemeindeversammlung*) of municipalities are explicitly designated as the decision-making organs in Article 25 of the Municipalities Act. The decision to join or withdraw from special-purpose associations is at the discretion of the municipal assemblies. In regard to the “joint fulfilment of public tasks”, the municipalities are also permitted to establish special-purpose associations in accordance with Article 7 of the Municipalities Act (e.g., the water supply of the *Liechtensteiner Unterland* or the group water supply of the *Liechtensteiner Oberland*). Furthermore, cross-municipal co-operation occurs in the domain of municipal policing. The respective municipal police forces of Balzers, Triesen and Triesenberg work closely together to improve the efficiency and effectiveness of police duties. Another example of municipal cooperation is the Agglomeration Werdenberg-Liechtenstein which was founded in November 2009 with the objective of supporting pedestrian and bicycle traffic solutions and involves local representatives in its work. The initiatives are the examples of task-related co-operation and consortia within the scope of Article 10.1.

164. Therefore, the rapporteurs conclude that Article 10.1 is respected by Liechtenstein.

#### 3.9.4. Article 10.2

165. Article 10.2 refers to the right to belong to a national association for the purpose of advancing their collective interests, as well as membership in an international association for the same objective. The municipal associations play an instrumental role in representing and defending the rights and freedoms of local self-government. Liechtenstein has not ratified Article 10.2.

166. Despite not being officially recognised as a national association, the *Vorsteherkonferenz* (Conference of Mayors) serves as a forum for exchanging ideas and coordinating significant tasks between municipalities. Members of the government responsible for specific topics are invited to the Conference of Mayors, which facilitates dialogue and the formulation of mutually agreed solutions between local and central authorities.

167. During the monitoring visit, no particular concern was articulated by the municipalities regarding the absence of an institutionalised national association mechanism. In accordance with the Contemporary Commentary, it is important to highlight that the right to association is a directly applicable provision in national laws, more than being a policy directive. The unified national

associations perform a range of functions, with the primary focus being on official lobbying activities and collective representation directed towards parliaments and governments. Additionally, they play a crucial role in ensuring the proper implementation of Charter provisions related to consultation (Article 4.6 and 9.6) and, finally, in initiating legal actions to advance and safeguard the right to local self-government in alignment with Article 11 of the Charter. The Conference of Mayors has a significant impact and fulfils an important function.

168. Therefore, the rapporteurs conclude that requirements of Article 10.2 of the Charter are met in Liechtenstein and that there are no obstacles to ratify it.

### 3.9.5. Article 10.3

169. Article 10.3 of the Charter grants the right to engage in transnational or transborder co-operation with local authorities in other countries. The most prevalent forms of transnational co-operation among local authorities are town twinning, co-operation to protect cultural heritage, and other projects of common interest. Liechtenstein has not ratified Article 10.3.

170. Considering transfrontier co-operation, it should be noted that Liechtenstein has signed and ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106). The convention entered into force on 27 April 1984. The Ombudsman's Office established by the Association for Human Rights fulfils a crucial role in mediation between youth and municipalities and is a member in the UNICEF Switzerland/Liechtenstein Commission for Child-Friendly Communities, which can be also considered under transnational co-operation.

171. There is an established practice of transnational co-operation in the country, therefore, the rapporteurs conclude Article 10.3 is respected and recommend Liechtenstein to consider ratifying Article 10.3.

## 3.10. 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.

172. Article 11 plays a pivotal role in safeguarding the Charter's rights. The recourse to a judicial remedy signifies that local authorities should have access to either a duly constituted court or an equivalent independent, statutory body. The legal protection of local self-government serves to restrict discretionary intervention in local affairs and to guarantee the proper implementation of Charter obligations, as well as the protection of constitutional autonomy. In accordance with the Municipalities Act (Art. 120) and LVG (Art. 136 and 92), the municipalities of Liechtenstein are entitled to appeal to the Administrative Court against decisions made by the government. The final appellate body is the Supreme Administrative Court.

173. In terms of access to the Constitutional Court, legal entities operating under public law, such as municipalities (Art. 109 of the Constitution), are entitled to file complaints with the Constitutional Court in two specific instances. It is within the right of a municipality to reclaim fundamental rights that have been violated by state authorities in the event that it is not acting in a sovereign capacity and is affected in a comparable manner to private individuals. This, however, does not indicate that local self-government is classified within the scope of traditional human rights. In the context of an autonomy complaint, the municipalities allege that their fundamental rights, including the right to provide reasons and the right to procedural guarantees that protect their autonomy vis-à-vis supervisory authorities, are being violated. Such violations may occur as a result of an excess of supervisory competence or through arbitrary interventions. In accordance with the Constitutional Court's established jurisprudence, these fundamental rights are constrained to a task-related autonomy, as opposed to a constitutional freedom. It is not possible for municipalities to invoke fundamental rights under the European Court of Human Rights in the context of the performance of public tasks.

174. Liechtenstein adheres to the monist approach with regard to international agreements, including the European Charter of Local Self-Government. It means that international agreements are directly

applicable in national law, requiring no further acts for their incorporation. However, the Constitutional Court, the sole authority responsible for evaluating the constitutionality of legislation and its alignment with international agreements, is not authorised to assess the conformity of municipal legislation with the Charter, given that the latter is not included in the pertinent legislation (Art. 104(2) of the Constitution, Art. 18(1) and Art. 15(1) of the StGHG). However, the Charter may be invoked in the context of international law, as evidenced by the Court's references to it in two cases (StGH 2020/059 and StGH 1998/010). In Liechtenstein, the Charter provisions are regarded as embodying general principles rather than concrete obligations and rights for local authorities. The Contemporary Commentary of the Charter may provide a useful point of reference for state parties in distinguishing between general principles and those with self-executing aspects.

175. Therefore, the rapporteurs conclude that Article 11 is respected in Liechtenstein.

#### **4. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL SELF-GOVERNMENT**

##### **4.1. Local authorities of Liechtenstein and climate change**

176. One of the key priorities of the Congress for the period 2021-2026 is the green and digital reading and implementation of the Charter. The Congress adopted a report and a resolution (Resolution 489(2022))<sup>53</sup> and called for the drafting of an additional protocol to the Charter, which would permit local authorities to play an active role in combating the climate crisis. In addition to the Congress's agenda, the *KlimaSeniorinnen* judgment<sup>54</sup> of the Grand Chamber of the European Court of Human Rights against Switzerland underscored the positive obligations of governments in the context of the climate crisis. The term "positive obligations" denotes the necessity for governments to enact comprehensive legislation and to implement appropriate precautions in a timely and effective manner.

177. The rapporteurs were informed that the central and local authorities collaborate on environmental issues with the objective of addressing the effects of climate change. Representatives of the Ministry of Home Affairs, Economy and Environment highlighted the fact that municipal administrations play an important role in addressing the climate crisis. Local authorities are notably responsible for implementing government climate policy at the local level, in collaboration with the Office of the Environment. This Office serves as an intermediary between municipalities and central authorities, facilitating communication and collaboration.

178. All 11 municipalities of Liechtenstein have met the requirements to receive the Energy Cities label (*Energiestadt*). For instance, the municipality of Balzers informed the delegation that the municipality of Balzers allocates approximately CHF 500 000<sup>55</sup> to CHF 1 000 000<sup>56</sup> per year to subsidise environmental protection measures, including photovoltaics, thermal renovations of buildings, and heating system replacements. The implementation of a wood-fired heating plant and district heating network has resulted in the avoidance of approximately 3 800 tonnes of CO<sub>2</sub> emissions on an annual basis. Furthermore, the local bus service will be maintained and will be operated using electricity in the future. The rapporteurs extend their appreciation for these accomplishments.

##### **4.2. The impact of the war in Ukraine on local authorities**

179. The repercussions of the conflict in Ukraine on Liechtenstein were addressed during the visit. The war is said to be having a significant impact on the entire population, economy, communities and administration in Liechtenstein. In response, the country implemented targeted and temporary relief measures to support low-income households and energy-intensive companies. These measures, collectively known as the "energy price relief package," included increases in economic and social assistance, AHV-IV supplementary benefits and rent contributions, as well as a one-time lump sum and energy cost subsidy for companies. All municipalities in Liechtenstein have demonstrated solidarity by taking in a significant amount of people seeking protection from Russia's war against Ukraine. In

53. Congress of Local and Regional Authorities (2022), "A Fundamental right to the environment: a matter for local and regional authorities: Towards a green reading of the European Charter of Local Self-Government", CG(2022)43-15final.

54. European Court of Human Rights (2024), Grand chamber, case of Verein Klimaseniorinnen Schweiz and others v. Switzerland, (Application no. 53600/20).

55. EUR 523 800 (exchange rate at the time of the visit: CHF 1 = EUR 1,0476 according to the European Central Bank).

56. EUR 1 047 600.

addition, the municipalities have assisted the state in providing housing for refugees from Ukraine seeking protection. For instance, the municipality of Balzers has provided accommodation for approximately 40 refugees from Ukraine and made premises available to Ukrainian pupils, who have now become integrated into the local community. As of January 2025, Liechtenstein has provided accommodation for 735 Ukrainian refugees, including 189 minors. The local representatives informed the rapporteurs of that the number of refugees presents a major challenge for municipalities, such as Triesen, where 221 refugees have been placed. Another important challenge mentioned by the mayors is the integration of the Ukrainian children into the Liechtenstein school system.

### **4.3. Participation in local affairs**

#### **4.3.1 Youth participation**

180. The involvement of young people in the local decision-making process and empowering their participation rights through official mechanisms is a welcomed attempt in line with the Charter provisions as well as the Revised European Charter on the Participation of Young People in Local and Regional Life of 2003, the Resolution 414 (2017) entitled "Forever young? The role of youth policies and youth work at local and regional levels in supporting young people's transition to autonomy and working life", and the objectives of the European Urban Charter III (2023) which emphasises resilient urban democracy through democratic youth policies for the 21<sup>st</sup> century.

181. The municipalities of Liechtenstein engage in continuous and comprehensive communication with their residents regarding their activities. This is achieved through the organisation of information events, which are accessible to all members of the public, as well as the publication of minutes from municipal council meetings and resolutions. In the municipality of Balzers, the "Youth Meet Politics" meetings are held on an annual basis. The Congress delegation was informed by the Human Rights Association that the government approved a strategy concerning the elderly participation in public politics. To this end, the municipality of Vaduz established a youth and senior citizens' commission. Vaduz is also a "Child Friendly City," certified by UNICEF.

182. Another participatory instrument to be mentioned is the establishment of the Ombudsman's Office (OSKJ) for children, adolescents and adults in child and youth affairs within the Association for Human Rights in accordance with the Children and Youth Act of 2008 (*Kinder- und Jugendgesetz* (KJG)). The Ombudsman's Office is equipped with the mediation role in the event of conflict of opinion between children, adolescents or guardians and municipal authorities. OSKJ is also member in the UNICEF Switzerland/Liechtenstein Commission for Child-Friendly Communities. Currently, the municipalities of Ruggell, Eschen-Nendeln, Mauren-Schaanwald, Schaan, Vaduz, Triesen are certified in line with the legal requirements specified in the Children and Youth Act and organize round tables at least once a year.

#### **4.3.2 Signature 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)**

183. The Additional Protocol seeks to provide guidance to state parties in the design of direct democracy tools and their associated procedural safeguards, including the incorporation of democratic participation rights for non-nationals. The Explanatory Report of the Additional Protocol elucidates the fundamental rationale behind the drafting of a binding international convention on an individual right to participation, namely the codification of the democratic aspect of local autonomy as set forth in Article 3.2 of the Charter. The report defines participation as a quality of democracy that is crucial to the legitimacy of decisions and accountability. A further motivation in the report is that public authorities have a responsibility to listen and learn in order to design better policies and services. Participation also contributes to a sense of belonging, thereby transforming local communities into desirable places to live and work. Such an environment fosters inclusive societies.

184. Liechtenstein has not signed or ratified the Additional Protocol to the Charter on the right to participate in the affairs of a local authority. During the monitoring visit, the government representatives expressed their concern to be bound with a new international treaty and the obligations that would arise following ratification. They also mentioned their limited capacities to take additional commitments, taking into consideration that such process is absorbing significant human resources. The government

mentioned that Liechtenstein has already ratified more than 90 Council of Europe conventions and a feasibility assessment is required for assuming new international obligations.

185. The Additional Protocol imposes an obligation on state parties to guarantee all individuals within their jurisdiction the right to participate in the affairs of a local authority. Nevertheless, the Additional Protocol also acknowledges the discretion of state parties to enact specific measures by law, in accordance with their international legal obligations, without discriminating unfairly against any person or group. The Additional Protocol does not oppose the granting of electoral rights by the Party to other persons, such as nationals not resident in the local authority or non-nationals. If the state parties choose to grant such a right, this provision requires it to do so by law. Thus, the Additional Protocol does not provide for an individual electoral right of non-nationals of the Party.

186. In view of the constitutional regime of treaty ratification specified in Article 66bis, the accession to treaty may be decided by the Parliament. In case that the Parliament decides to submit its decision to a referendum or not less than 1 500 citizens with the right to vote or not less than four municipalities submit a petition to that effect, absolute majority of the valid voted recorded in the country will be needed for completing ratification.

187. The rapporteurs reiterate the recommendation that Liechtenstein should 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).

## 5. CONCLUSIONS

188. The general conclusion of the rapporteurs is that Liechtenstein has effectively implemented the rights and principles set forth in the European Charter of Local Self-Government, thereby demonstrating a commendable level of local democracy.

189. The Constitution of the country and other pertinent legislation provide a comprehensive array of political rights, which are enjoyed by both citizens and municipalities. The prevalence of direct democracy practices ensures genuine citizen participation in local and national matters through local referendums. The municipalities are afforded a range of legislative initiatives that bestow upon them the capacity to exert influence over local and national policies. The well-established dialogue between the municipalities and the central government fosters a climate of co-operation, which is an essential component of local self-government.

190. It should be noted that the robust financial situation at the local level represents a noteworthy example of effective implementation of the European Charter of Local Self-Government. The municipalities are provided with sufficient, buoyant, and commensurable financial resources, which serve to render local authorities resilient against various crises. The Charter defines local self-government as the right and capacity of local authorities to regulate and manage a substantial share of public affairs under their authority and discretion. Financial autonomy represents the fundamental guarantee for local authorities in Europe to fulfil their responsibilities in the field of local development. Liechtenstein serves as an exemplary model for the implementation of financial provisions set forth in the Charter. To this end, the rapporteurs welcome the introduction of a horizontal equalisation system, which is designed to facilitate inter-municipal financial solidarity among municipalities that are financially robust and those that are disadvantaged in this regard. The fact that the horizontal equalisation framework was institutionalised through consultation with the municipalities serves to reinforce co-operation and legitimacy of the intended financial autonomy instrument.

191. A specific issue was raised by the local interlocutors during the monitoring visit with regard to a recentralisation tendency in certain areas of action that fall under the category of own competences. The rapporteurs maintain that the issue of overlapping competencies in specific areas, including urbanism, construction, planning, and the school system, remains a concern since the approval of the previous monitoring report on Liechtenstein. The inconsistency between special legislation on local authorities and other legal documents dedicated to the central government's competencies and responsibilities results in unpredictability and confusion regarding the scope and limits of local activities. This practice precludes local authorities from exercising their powers and competencies in a fully and

exclusively autonomous manner, as set forth Article 4.4. It is recommended that Liechtenstein authorities clarify the division of tasks and responsibilities through the enactment of legislation.

192. The practice of *a priori* legality checks and approval of local budgets, which falls under the category of own competences, is not compatible with the principle of proportionality. Since the municipalities of Liechtenstein are allocated a sufficient range of diversified and buoyant financial resources, predominantly derived from tax revenues and horizontal and vertical equalisation systems, *a priori* supervisory control entails the potential for continuous central intervention in local financial planning. Even if such cases of municipal budget refusal were never experienced by local authorities of Liechtenstein, this could be perceived as a threat to substantive autonomy. It is understandable that the Liechtenstein's authorities prioritise the achievement of a well-balanced budget. Nevertheless, an *ex post* control based on the annual activity reports and internal and external independent auditing, which represent less intrusive measures with regard to local autonomy, could also address these concerns. The rapporteurs emphasised the principles of budgetary supervision in the context of the Contemporary Commentary. This core document may serve as a point of reference for a prospective revision of budget supervision, which would entail the abandonment of *a priori* supervision and approval of the budget.

193. The absence of an institutionalised consultation mechanism deserves a specific attention. Despite the existence of a well-established tradition of dialogue facilitated by the Conference of Mayors, the rapporteurs recommend that consultation should be provided with legal basis and procedural guarantees, to ensure that this process is not left to the discretion of the central authorities.

194. Finally, the rapporteurs call on Liechtenstein authorities to consider ratifying the articles of the Charter that are *de facto* implemented in the country. Additionally, the rapporteurs recommend national authorities 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) in the light of the reasons explained above.

**APPENDIX – Programme of the Congress monitoring visit to Liechtenstein (18-19 June 2024)**

**PROGRAMME**

**CONGRESS MONITORING VISIT TO LIECHTENSTEIN**

**Planken, Vaduz, Schaan, Eschen-Nendeln and Balzers**

**18-19 June 2024**

**PUBLIC PROGRAMME**

**Congress delegation:**

**Rapporteurs:**

Mr Xavier CADORET

Rapporteur on local democracy  
Chamber of Local Authorities (SOC/G/PD)<sup>57</sup>  
Mayor of Saint-Gérard-le-Puy (France)

Ms Marjorie CROVETTO

Rapporteur on local democracy  
Chamber of Local Authorities, NR  
Municipal Councillor, Monaco Local Council (Monaco)

**Congress Secretariat:**

Mr Guillaume LOISEAU

Co-secretary to the Monitoring Committee

**Expert:**

Ms Zülfiye YILMAZ

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

**Interpreters:**

Ms Karin MESSMER

Ms Martine MÜLLER

*The working language of the meetings was German. Interpretation from and into French was provided.*

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57. EPP/CCE: Group of the European People's Party in the Congress  
SOC/G/PD: Socialists, Greens and Progressive Democrats Group  
ILDG: Independent Liberal and Democratic Group  
ECR: European Conservatives and Reformists Group  
NR: Member not belonging to any political group in the Congress

**Tuesday 18 June 2024**  
**Planken and Vaduz**

**MEETING WITH THE NATIONAL DELEGATION OF LIECHTENSTEIN TO THE CONGRESS**

**Mr Rainer BECK**, Head of National delegation and Mayor of Planken  
**Ms Daniela ERNE**, Mayor of Triesen  
**Mr Christian ÖHRI**, Mayor of Ruggell

**PARLIAMENT**

**Ms Gunilla MARXER-KRANZ**, Vice-President

**Ms Sandra GERBER-LEUENBERGER**, Secretary to the National Delegation to PACE

**MINISTRY OF HOME AFFAIRS, ECONOMY AND ENVIRONMENT**

**Ms Sabine MONAUNI**, Deputy Prime-Minister, Minister of Home Affairs, Economy and Environment

**Ambassador Domenik WANGER**, Permanent Representative of Liechtenstein to the Council of Europe

**Mr Thomas BISCHOF**, Personal Adviser  
**Mr Alexandre MÜLLER**, Senior Adviser

**LIECHTENSTEIN ASSOCIATION ON HUMAN RIGHTS**

**Mr Wilfried MARXER**, President

**Mr Christian BLANK**, Deputy Managing Director, Department of Migration and Social Affairs

**Wednesday 19 June 2024**  
**Balzers, Eschen-Nendeln, Schaan and Vaduz**

**MINISTRY OF GENERAL GOVERNMENT AFFAIRS AND FINANCE**

**Dr Daniel RISCH**, Prime-Minister, Minister of General Government Affairs and Finance

**Mr Simon BIEDERMANN**, Secretary General of the Ministry of General Government Affairs and Finance  
**Mr Andreas GRITSCH**, Director of the Office of Finance

**Ambassador Domenik WANGER**, Permanent Representative of Liechtenstein to the Council of Europe

**CONSTITUTIONAL COURT**

**Dr Hilmar HOCH**, President  
**Mr Christian RITTER**, Vice-President

**VADUZ MUNICIPALITY**

**Mr Florian MEIER**, Deputy Mayor of Vaduz

**Mr Michael BIERI**, Chief Financial Officer

**ESCHEN-NENDELN MUNICIPALITY**

**Mr Tino QUADERER**, Mayor  
**Mr Gebhard SENTI**, Vice-Mayor

**BALZERS MUNICIPALITY**

**Mr Karl MALIN**, Mayor

**Mr Daniel TRIBELHORN**, Head of finances and services  
**Mr Alexander VOGT**, Municipal Council Staff Unit