

STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY

Czech Republic

Situation in 2010

Kraje a okresy ČR k 1. 1. 2009
Regions and districts in the CR

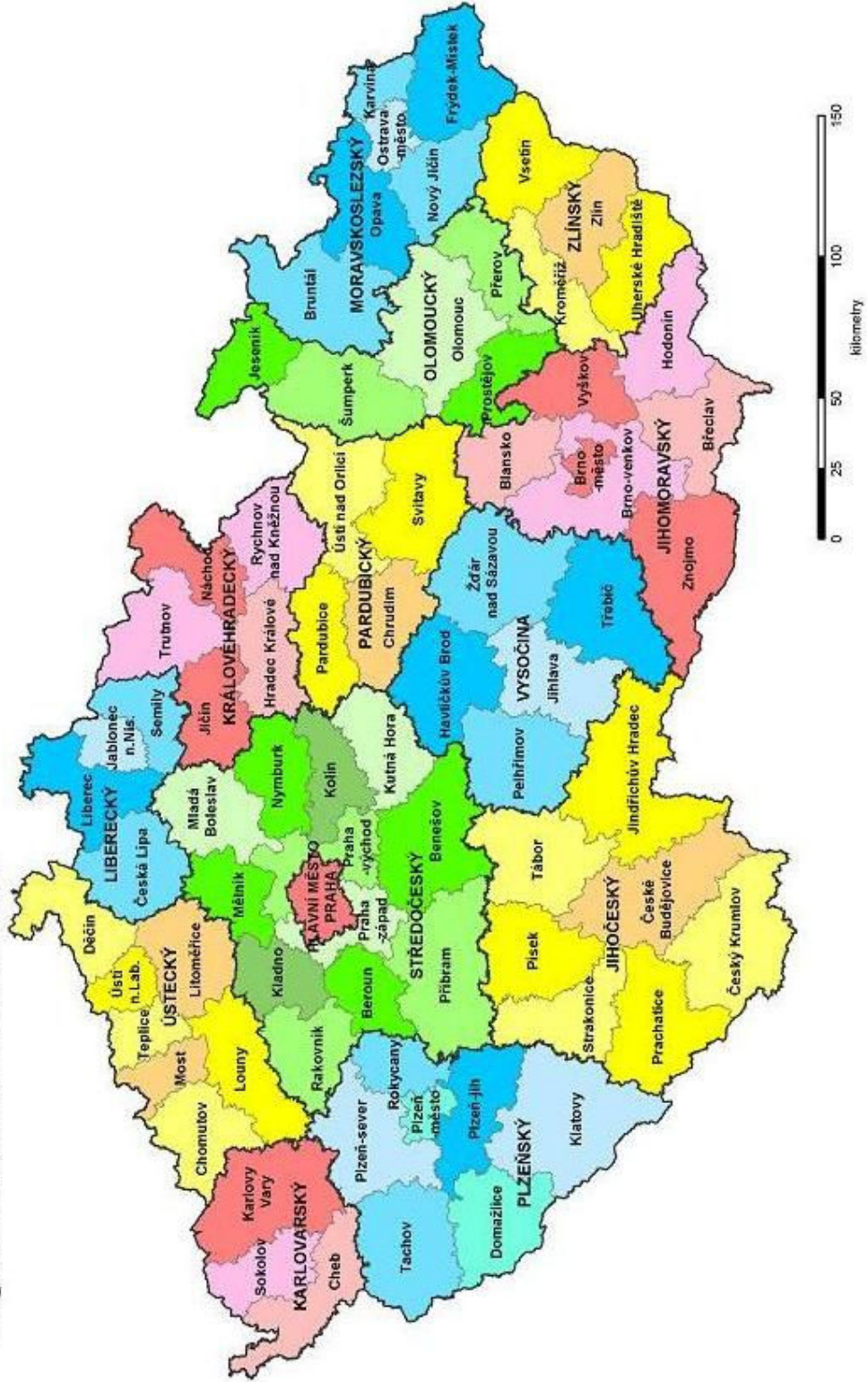


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1. LEGAL BASIS

1.1. Constitutional provisions

The constitutional framework of local government is anchored in Chapter 7 – "Territorial Self-Government" (Articles 99-105) of the Constitution of the Czech Republic of 16 December 1992.

Article 99 defines municipalities as basic territorial self-governing units and regions as higher territorial self-governing units.

According to Article 100 the territorial self-governing units represent territorial communities of citizens entitled to self-government. Article 101 defines them as public corporations with their own property and own budget. The State may interfere in the activities of the territorial self-governing units only if the law is to be protected and in a way defined by the law.

There are two other articles related to local government: Article 8 guarantees the self-government of territorial self-governing bodies and Article 87 gives the Constitutional Court the right to decide on a constitutional complaint by a territorial self-governing body against unlawful state interventions and on disputes concerning the extent of powers of state and local government bodies. Only the Constitutional Court may decide on the abolishment of other legislation (bylaws) or its individual provisions should they be in violation of the constitutional order or law.

1.2. Main legislative texts

The main legislation regulating the statute and activities of territorial public administration in the Czech Republic is as follows:

- a) establishment, operation:
 - Act No. 128/2000 Coll., on Municipalities (municipal establishment), as amended;
 - Act No. 129/2000 Coll., on Regions (regional establishment), as amended;
 - Act No. 131/2000 Coll., on the Capital City of Prague, as amended;
 - Act No. 314/2002 Coll., on Establishment of Municipalities with Authorised Municipal Office and Municipalities with Extended Delegated Powers, as amended;
 - Act No. 320/2002 Coll., on Changes and Abolition of Some Laws in Connection with Termination of Activity of District Offices, as amended;
 - Act No. 347/1997 Coll., on the Establishment of Higher Territorial Self-governing Units, as amended.
- b) elections:
 - Act No. 491/2001 Coll., on the Elections to Municipal Councils, as amended;
 - Act No. 130/2000 Coll., on the Elections to Regional Councils, as amended.
- c) participatory mechanisms:
 - Act No. 22/2004 Coll., on Local Referendum, as amended;
 - Act No. 85/1990 Coll., on the Right to Petition, as amended;
 - Act No. 84/1990 Coll., on the Right to Gathering, as amended;
 - Act No. 106/1999 Coll., on Free Access to Information, as amended;
 - Act No. 118/2010 Coll., on Regional Referendum.

- d) financial matters, management with the property:
- Act No. 218/2000 Coll., on Budgetary Rules, as amended;
 - Act No. 250/2000 Coll., on the Budgetary Rules of Territorial Budgets, as amended;
 - Act No. 243/2000 Coll., on the Budgetary Allocation of Some Tax Incomes to the Territorial Self-governing Units and to Some State Funds (Act on Budgetary Allocation of Taxes), as amended;
 - Act No. 290/2002 Coll., on Transfer of Some Further Assets, Rights and Obligations from the Czech Republic to Regions and Municipalities and to Civic Associations Active in the Field of Physical Training and Sport, and on Relating Changes, as amended;
 - Act No. 248/2000 Coll., on Support to Regional Development, as amended;
 - Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended;
 - Act No. 420/2004 Coll., on Auditing Business Performance of Territorial Self-governing Units.
- e) personnel:
- Act No. 312/2002 Coll., on Officials of Territorial Self-governing Units, as amended.
- f) procedures:
- Act No. 500/2004 Coll., Administrative Procedure Code, as amended.

2. STRUCTURE OF LOCAL/REGIONAL BODIES

2.1. Main subdivisions

Following the Act No. 347/1997 Coll., on the Establishment of Higher Territorial Self-Governing Units, as amended, 14 units – regions – have been established.

Currently, there are 6 245 municipalities (and 5 military districts) on the territory of the Czech Republic, almost 80% of them having the population of less than 1 000 inhabitants.

Under Act No. 314/2002 Coll., on Establishment of Municipalities with Authorised Municipal Office and Municipalities with Extended Delegated Powers, new types of municipalities have been defined.

The municipalities with extended powers are those to which a great deal of District Offices' rights and duties was devolved following the Offices' abolition on 31 December 2002. In January 2003, 205 municipalities with extended powers replaced 76 district offices (including the cities of Pilsen, Brno and Ostrava). The main principle for the selection of municipalities with extended powers was the minimal size of their constituency – 15 000 inhabitants (with some exceptions) – along with the municipality's accessibility to the centre. Most municipalities in the Czech Republic shared in the establishment of the administrative constituencies in the municipalities with extended powers as specified by the regulation of the Ministry of the Interior.

2.2. Basic characteristics

2.2.1. Total number of units to date

Regions:

Following the Act No. 347/1997 Coll., on the Establishment of Higher Territorial Self-governing Units, 14 units – regions have been created on the territory of the Czech Republic (the City of Prague, Central Bohemian region, South Bohemian region, Pilsen region, Karlovy Vary region, Ustí nad Labem region, Liberec region, Hradec Králové region, Pardubice region, region of Vysocina, South Moravian region, Olomouc region, Moravia-Silesia region, Zlin region).

Municipalities:

There are 6 245 municipalities on the territory of the Czech Republic to date (not counting the military districts), 388 out of which are municipalities with an authorised municipal office and 205 municipalities with extended powers, which, in accordance with special laws, exercise some additional state administration in strictly defined areas of state administration. These municipalities perform basic functions within state administration, have the necessary staff and funds and within their territory execute state administration as e.g. a building department or a births, deaths and marriages registry.

The circumstance whereby a self-governing body which, in general, is autonomous in its decisions, is endorsed with a different and limited decision-making mechanism as far as delegated powers are concerned, is described as a joint model of the execution of public administration.

2.2.2. Total number of units in 1950

- 19 regions (13 regions on the territory of the Czech Republic)
- 270 districts (180 districts on the territory of the Czech Republic)
- 14 803 municipalities (11 459 municipalities on the territory of the Czech Republic)

2.2.3. Surface area

Regions		km²
The largest region	Central Bohemian region	11 014
The smallest region	City of Prague	495.9
Average size of a region		5 633
Municipalities		km²
The largest municipality	City of Prague	496
The smallest municipality	Vlkov	5.76
Average size of a municipality		12.7

2.2.4. Population

Regions		
The most densely populated region	Moravskoslezský region	1 250 255
The least densely populated region	Karlovy Vary region	307 790
Average population of a region		747 534
Municipalities		
The most densely populated municipality	City of Prague	1 233 211
The least densely populated municipality	Vlkov	19
Average population of a municipality		1 676

Regions

Region	Population in the year 2000	Population on 1 July 2001	Population on 1 January 2009
Prague	1 186 855	1 172 893	1 233 211
Central Bohemian region	1 111 354	1 131 839	1 230 657
South Bohemian region	626 112	630 138	636 058
Pilsen region	551 870	553 311	569 627
Karlovy Vary region	304 823	306 210	307 790
Ústí nad Labem region	827 151	826 495	835 891
Liberec region	429 012	430 429	437 325
Hradec Králové region	551 651	553 698	554 520
Pardubice region	508 744	509 646	515 185
Vysočina	521 472	520 827	515 411
South Moravian region	1 137 289	1 132 071	1 147 143
Olomouc region	642 016	641 763	640 988
Zlín region	598 339	597 279	591 412
Moravia Silesia region	1 281 410	1 275 257	1 250 255
Czech Republic	10 278 098	10 281 856	10 465 473

Municipalities

	Surface area	Population	Municipalities
Largest	496 km ²	1 233 211 inhabitants	Prague
Smallest	5.76 km ²	19 inhabitants	Vlkov
Average	12.7 km ²	1 676 inhabitants	

Municipalities with a given population

Population	Municipalities	Percentage of total
Up to 1 000 inhabitants	4 967 municipalities	79.54 % out of the total
1 001 – 5 000 inhabitants	1 013 municipalities	16.24 %
5 001 – 10 000 inhabitants	134 municipalities	2.14 %
10 001 – 50 000 inhabitants	109 municipalities	1.74 %
50 001 – 100 000 inhabitants	17 municipalities	0.27 %
above 100 000 inhabitants	5 municipalities	0.07 %

2.3. Special structures for specific areas (i.e. suburban areas, islands, etc.)

No specific areas, such as islands, are annexed to the Czech Republic. The 5 military districts, however, do have specific administration in the Czech Republic.

2.4. Legislation governing the changes in the structure or the alternations to the boundaries and the criteria used; guidelines for the consultations with local authorities and the inhabitants

The changes are governed by the Act No. 128/2000 Coll. on Municipalities (establishment of municipalities), as amended, and Act No. 129/2000 on Regions (establishment of regions), as amended.

Two or more neighbouring municipalities may amalgamate by an agreement. The territory of the municipality formed in such a merger consists of the territory of the municipalities, which merged. The merging municipalities will agree upon the name of the municipality. Should the municipalities be unable to reach an agreement, the Ministry of the Interior will make the decision. A municipality may by an agreement join another neighbouring municipality. The agreement on the merger of the municipalities or on one municipality joining another may be concluded based on a decision of the municipal council in the municipalities concerned, unless a proposal for a local referendum is filed within 30 days of the decision being published. Should such a proposal be made, the said agreement shall be submitted for approval by local referendum held in the municipality in which the proposal had been filed. The municipalities concerned then announce to the regional office the decision agreed on by their municipal councils. If a local referendum takes place on the merger of the municipalities or where one municipality joins another, the municipalities concerned announce to the regional office the decision taken in the referendum.

The legal successor to the merged/joined municipalities is a new municipality resulting from the merger or a municipality which does not cease to exist after joining. By virtue of a special act, the municipality shall benefit from the same tax yields which would otherwise have been awarded to the municipality which ceased to exist. All assets of the municipalities which cease to exist, including finances and organisational units, rights and obligations, including their rights to establish or found legal entities pass to the new municipality at the time of the merger. The newly created municipality, or the municipality which did not cease to exist after joining, shall send a copy of the agreement to the Ministry of the Interior, Ministry of Finance, and to the relevant Cadastral Office and financial office.

A city area or a city district in a statutory city may be established or abolished or may join another city district under similar conditions.

A new municipality may be created by separating a part of a municipality, or by changing or abolishing a military district.

The part of a municipality wishing to separate must have a separate cadastral area which borders with at least two municipalities or one municipality and a foreign country. It must also form a continuous geographical area and have at least 1 000 citizens post separation. The municipality from which the part is separated must also meet the same requirements after the separation. The separation of part of a municipality may only occur following a referendum in the part of the municipality wishing to separate.

The citizens of the part of a municipality wishing to separate shall set up a preparatory committee. The preparatory committee shall consist of an authorised citizen and his/her deputies. Only one preparatory committee may be established. The preparatory committee shall comprise an odd number of members not less than three. Only permanent resident citizens of the municipality living in the area which wishes to separate may be members of the preparatory committee.

The preparatory committee shall propose that a local referendum be held on the separation issue and shall take part in preparing the proposal for the separation. It may not, however, submit a proposal for separating a part of the municipality to the Regional Office. The work of the committee comes to an end either the day on which a negative result is declared by local referendum, or the day on which the decision of the Regional Office to separate a part of the municipality comes into legal force.

Decisions on separation of a part of a municipality are to be taken by the Regional Office on a proposal from the municipality. The proposal is to be submitted by the municipality on the basis of an affirmative local referendum vote held in the part of the municipality which is to be separated. Any citizen of the municipality may submit his own proposal in the event of the municipality failing to submit a proposal within 30 days of announcing the results of the local referendum, or if the municipality alters the proposal to separate a part of a municipality in a manner contrary to the decision of the referendum.

The Regional Office shall issue a decision to approve the municipality's proposal to separate a part thereof if all the conditions required by law are fulfilled.

Legal regulations of the municipality, which were valid on the territory of the new municipality before it was created, continue to apply in the new municipality until repealed or replaced by new legal regulations.

Changes to the boundaries of municipalities in which municipalities are not merged, divided or joined to others may be made on the basis of an agreement between the municipalities in question after discussion with the relevant land registry. The municipality shall announce the concluded agreement to the Ministry of Finance and the tax office.

2.5. General units of state administration at local and regional level

A municipality/region performs state administration within its territory in matters entrusted to it by law; the scope for acting in such matters constitutes the delegated competences of a municipality/region.

A municipality/region may issue municipal/regional bylaws on matters which fall within its range of delegated competences.

When exercising their delegated competences the municipal/regional bodies are bound:

- a) by laws and legal regulations when governing the issuance of municipal/regional regulations;
- b) by Government resolutions and guidelines laid down by central administrative bodies; such resolutions and guidelines may not impose duties upon municipal bodies unless stipulated by law. The central administrative bodies' guidelines become valid once they are published in the Government's Journal for the regional and municipal bodies; and/or by decision of the Regional Office on the basis of a special law and as part of their duties to supervise the execution of delegated competences.

Municipalities and regions shall receive from the state budget a contribution for fulfilling tasks falling within their delegated competences. The amount of the contribution is set by the Ministry of Finance following a discussion with a relevant ministry.

Municipalities the bodies of which exercise powers under delegated competences within the same administrative district of a municipality with extended powers may conclude a public contract under which the bodies of one municipality shall exercise delegated competences or some delegated powers on behalf of the bodies of another municipality (other municipalities), party to the contract. Delegated competences, which by law are entrusted to the bodies of only some municipalities, shall not form the subject-matter of a public contract. A Regional Office must approve the public contract.

Should a municipality fail to arrange the due exercise of delegated competences, the authorised Municipal Office in whose administrative district the municipality is located shall assume responsibility for exercising these delegated competences, in full or in part, following a decision taken by the Regional Office. The Regional Office shall also decide on whether to transfer a corresponding amount of work *en lieu* of the delegated competences. The Regional Office issues the decision in delegated competences.

Municipalities with extended powers, the municipal offices of which exercise delegated competences within the same administrative district of a Regional Office, may conclude a public contract enabling a municipal office to exercise, in part or in whole, delegated competences on behalf of other municipality(ies) party to the contract. Approval of the Ministry of the Interior is required, following a discussion with a relevant central administrative authority.

In the event of a Municipal Office of a municipality with extended powers failing to perform the state administration arising under its delegated competences, the Ministry of the Interior in discussion with a relevant ministry or other relevant central administrative authority, may decide to confer the exercise of these competences, in part or in whole, on another Municipal Office of a municipality with extended powers. The Ministry of the Interior shall issue a decision within 60 days of learning of the failure to perform these duties. The Ministry of the Interior shall decide on the transfer of the contribution for exercising the delegated competences.

3. ORGANS IN EACH CATEGORY OF LOCAL/REGIONAL AUTHORITIES

A municipality is the basic territorial unit of self-government. Each municipality performs state administration in the matters stipulated by law.

The scope of responsibilities is different for different types of municipalities: some municipalities exercise simple delegated competences, while other municipalities are also in charge of births, deaths and marriages register and the building procedures (municipalities with authorised municipal office). A third category are the municipalities with extended powers which, pursuant to a special law, are conferred additional powers for performing tasks on behalf of the smaller municipalities which have neither the necessary staff nor equipment.

Municipalities with extended powers, on which a significant part of district authorities' powers has been transferred, perform the widest range of state administrative duties. Regardless of the aforementioned difference, the municipalities essentially have access to the same rights and their internal organisation ensues from the principles stipulated by the Act on Municipalities.

Statutory cities have a special status defined by the Act on Municipalities. Statutory cities have the right to issue their own statutes according to which they regulate the conditions of the city administration. Their territory may be divided into city districts or city areas. The statutory cities are: Kladno, České Budějovice, Plzeň, Karlovy Vary, Ústí nad Labem, Liberec, Hradec Králové, Pardubice, Jihlava, Brno, Zlín, Olomouc, Přerov, Chomutov, Děčín, Frýdek Místek, Ostrava, Opava, Havířov, Most, Teplice, Karviná and Mladá Boleslav.

The structure and administrative division of the City of Prague, including the division of powers, is stipulated by the Act on the Capital City of Prague.

A region is a higher territorial self-governing unit.

3.1. Deliberative body

The municipal/city council is the basic body of a municipality. Citizens of the municipality elect members of the council in direct elections. The local/city council elects among its members the municipal board, the mayor (Lord Mayor in statutory cities) and vice-mayors (deputy Lord Mayors). In stipulating the number of members of the municipal/city council, the municipal/city council shall take into account the size and population of its geographical area. The number of members is 5 to 55 and is to be stipulated 85 days before the elections to the municipal council.

Municipal council elections are governed by Act No. 491/2001 Coll., on Elections to Municipal Councils, as amended. The election system is based on universal suffrage, direct election and voting by secret ballot. Members of the municipal council are elected for a four-year period. Voters may elect individual candidates from the list of candidates of political parties or individual candidates.

All the citizens of the Czech Republic with a permanent residence in a given municipality, who reach the age of 18 on the last day of the elections, have the right to vote. The right to vote also applies to foreigners with a permanent residence in a given municipality, whose right is determined by an international agreement which is binding on the Czech Republic, and was issued as part of the Collection of International Treaties. The following impede the exercise of the right to vote: restriction of personal liberty imposed by law to protect public health, compulsory military service or the alternative military service.

The Ministry of the Interior shall dissolve the municipal council of a municipality failing to meet with a full quorum during a period of 6 months. The municipality may challenge the Ministry's decision by taking legal action.

The number of members of the regional council of a region is based on the size of a region's population and consists of 45 – 65 members. The president of the regional council, his/her deputies and other council members are elected at the regional council's inauguration meeting.

Elections to a regional council are governed by Act No. 130/2000 Coll., on Elections to Regional Councils, as amended. Regional councils are elected every four years. Elections are based on a system of proportional representation, universal suffrage, direct election and voting by secret ballot.

Members of the City Council of the City of Prague number 55 – 70; they are elected in accordance with Act No. 491/2001 Coll., on Elections to Municipal Councils, as amended.

3.2. Executive body

The Municipal Board is the executive body of the municipality in the field of own competences and is responsible to the Municipal Council for the exercise of such authority. The Municipal Board may take decisions under delegated competences only if the law so provides.

The Municipal Board consists of the Mayor, the Deputy Mayor(s) and other members of the Board. The Municipal Board must comprise an odd number of members, not less than five and not more than eleven. Membership may not exceed one third of the number of members of the Municipal Council. The Municipal Board is not to be elected in a municipality in which the Municipal Council has less than 15 members.

The Regional Board is the executive body of the region in the field of own competences (independent activities) and it is responsible to the regional council. In respect of delegated competences, the council may take decisions only if the law so stipulates.

The Regional Board consists of the president of the regional council, his/her deputy (deputies) and other members of the board elected from among the members of the council. The number of members of the council is 9 or 11 depending on the region's population size.

The Board of the City of Prague is the executive body of the City of Prague in the field of own competences and it is responsible to the city council of the City of Prague. The Board drafts proposals to be discussed by the City Council and ensures that the resolutions adopted by the City Council are complied with. The Board is elected by the City Council from among its members. The Board has 11 members and consists of the Lord Mayor of Prague, his/her deputy (deputies) and other members of the Board. Members of the Board must be citizens of the Czech Republic.

3.3. Political head of the local/regional body

The Mayor is the representative of a municipality. He/she represents the municipality in external relations.

The Municipal Council elects the Mayor and Deputy Mayor(s) from among its members. The Mayor and Deputy Mayor must be citizens of the Czech Republic. The Mayor and Deputy Mayor are accountable to the Municipal Council for the discharge of their office.

The Mayor may perform acts that require prior approval of the municipal council. The Mayor may appoint or dismiss the Secretary of the Municipal Office with the agreement of the Director of the Regional Office and stipulate his remuneration under separate regulations (Act No. 143/1992 Coll., on Salary and Extra Pay in Budget Organisations and Certain Other Bodies and Authorities, as amended, and Act No. 262/2006 Coll., Labour Code, as amended). The Mayor is responsible for ordering a timely audit of the municipality's annual financial management and for keeping the public informed of the municipality's activities. He/she arranges for the exercise of delegated competences in municipalities in which the Municipal Office does not have a Secretary.

The Deputy Mayor acts as a substitute for the Mayor. The Municipal Council may elect more than one Deputy Mayor and assign particular tasks to each one.

The Mayor convenes and usually chairs meetings of the Municipal Council and of the Municipal Board and, together with verifiers, signs the minutes of meetings of the Municipal Council and Municipal Board. The Mayor, together with the Deputy Mayor or another Board member, signs municipal legal regulations and Municipal Council and Municipal Board resolutions. The Mayor may suspend implementation of a Municipal Council resolution if he/she believes the said resolution is incorrect. The Mayor shall then refer the matter to the next meeting of the Municipal Council. The incumbent Mayor continues to oversee the smooth functioning of the municipality in the period following the elections to Municipal Councils and before the first meeting of the new Municipal Council.

The President of the Regional Council is the representative of a region in external relations. He/she represents the region on its behalf. The Regional Council elects the President of the Regional Council and his/her deputies from among its members. The President of the Regional Council and his/her deputies must be citizens of the Czech Republic. They are responsible to the Regional Council for the discharge of their function. The Regional Council may set tasks for the President of the Regional Council only within its sphere of activities.

Acts requiring approval of the Regional Council or the regional board may be performed by the President of the Regional Council only after prior approval. The President of the Regional Council together with the deputy president of the Regional Council signs the region's legal regulations. After prior approval from the Minister of the Interior, he/she may appoint or dismiss the director of a Regional Office. As provided by law, the President of the Regional Council sets up special bodies for the performance of delegated competences.

The president of the regional council may suspend the implementation of a resolution of the Regional Council if he/she believes the said resolution to be incorrect. The president of the regional council then refers the matter to the next meeting of the Regional Council. After general elections to Regional Councils and until the first meeting of the new Regional Council, the existing Mayor ensures a financial management of the region in accordance with the budget approved and fulfils other tasks necessary in the independent sphere of activities.

The deputy president of the Regional Council acts on the President of the Regional Council's behalf. The Regional Council may elect more deputy presidents of the Regional Council and assign them particular tasks.

The Lord Mayor is the representative of the City of Prague. The Lord Mayor represents the City of Prague on its behalf. Acts requiring approval of the Council of the City of Prague may be performed by the Lord Mayor only after prior approval. The Lord Mayor together with the deputy signs the legal regulations of the City of Prague. The Lord Mayor may suspend the implementation of a resolution of the City Board if he/she believes the said resolution to be incorrect. The Lord Mayor then refers the matter to the next meeting of the Council of the City of Prague.

The Lord Mayor of the City of Prague convenes and chairs the meetings of the Council of the City of Prague and the Board of the City of Prague. The Lord Mayor remains in the office after the term of office of the Council of the City of Prague and until the new Lord Mayor is elected. The Council of the City of Prague elects the Lord Mayor and the deputy Lord Mayor and may also dismiss them.

3.4. Head of the administration

The Mayor is the head of the Municipal Office.

The Secretary of the Municipal Office is considered the chief executive officer of the municipality only for the purpose of Act No. 312/2002 Coll., on Officials of Territorial Self-Governing Units and on Amendments to Some Laws. He/she is responsible to the Mayor for fulfilling the tasks of the Municipal Office within the scope of both independent and delegated competences. Should the post of a Secretary not be established in the municipality or the Secretary is not appointed, his/her tasks are carried out by the Mayor.

The Secretary of the Municipal Office attends the meetings of the municipal council and the municipal board and has a consultative vote. The Secretary of the Municipal Office may not hold office in political parties and political movements.

The Mayor may appoint and dismiss the Secretary of the Municipal Office with the agreement of a Regional Office Director. In accordance with separate legal regulations the Secretary performs the function of an employer of employees of the Municipal Office.

The Regional Office is headed by its Director who is an employee of the region and responsible to the President of the Regional Council for the fulfilling tasks entrusted to the Regional Office under its independent and delegated competences.

The Director may attend the meetings of the council and the board in an advisory capacity. Under separate regulations the Director performs the function of an employer of employees of the Regional Office.

The Director may not hold office in political parties and political movements. The office of director is incompatible with the office of the deputy or senator in the Chamber of Deputies and Senate of the Parliament of the Czech Republic and with the office of a member of the council of a territorial self-government.

The president of the regional council may appoint and dismiss the Director after prior approval from the Minister of the Interior: the appointment or dismissal of the Director without prior approval from the Minister of the Interior is invalid.

The Director is the head of the Prague City Hall. The Director fulfils tasks assigned to him by the Council of the City of Prague and the Board of the City of Prague and the Lord Mayor. The Director of the Prague City Hall is responsible to the Lord Mayor for fulfilling tasks entrusted to the Prague City Hall under the independent and delegated competences of the City of Prague.

The Director appoints his/her deputies after consultation with the Board of the City of Prague. Under separate regulations he/she acts as employer of the employees of the Prague City Hall. He/she attends meetings of the Council of the City of Prague and the Board with a consultative vote.

Following prior approval from the Minister of the Interior the Lord Mayor may appoint and dismiss the Director of the Prague City Hall; the appointment or dismissal is invalid without prior approval from the Minister of the Interior.

3.5. Division of powers and responsibility

The Council is the main decision-making body. The Board is the executive body. The Council elects the President of the Regional Council/Lord Mayor/mayor. Delegated and own powers are carried out by the Office chaired by the Secretary/Director.

3.6. Legal provisions concerning the internal structure of local/regional authorities

The internal structure of the different municipal bodies is governed by Act No. 128/2000 Coll., on Municipalities (the establishment of municipalities), as amended. Act No. 129/2000 Coll., on Regions (the establishment of regions), as amended, governs the structure of the regional bodies. Act No. 131/2000 Coll., on the Capital City of Prague, as amended, determines the internal structure of the bodies of the City of Prague.

The Municipal Board may establish commissions as its initiative-taking and advisory bodies. The commissions submit their comments and proposals to the Municipal Board. Delegated competences of the municipality may be entrusted to it as an executive body.

The commission adopts resolutions by a majority vote of commission members. Commissions are responsible for their activities to the Municipal Board; in matters concerning the exercise of delegated competences in the field with which the commission is entrusted, the commission is subordinate to the Mayor.

The Municipal Council may establish committees as its initiative-taking and advisory bodies. The committees submit their comments and proposals to the Municipal Council. The Municipal Council always establishes a financial and a monitoring committee.

In accordance with Act No. 248/2000 Coll., on Support to Regional Development, an Executive Regional Council is established in the cohesion region. The Executive Regional Council ensures that the programmes co-financed from the funds are drafted and implemented, and that the tasks connected with the use of the funds are carried out. It decides on the use of the funds for particular measures and activities and is responsible for their effective employment, for monitoring how the funds are managed and for implementing control measures adopted. Under a separate regulation, the Regional Councils of the cohesion region may entrust the Executive Regional Council with discussing and deciding on other tasks agreed upon as part of the regional co-operation. Where there is agreement, the regional councils determine the amount of money to be set aside from the individual regional budgets for carrying out tasks.

4. DIRECT PARTICIPATION OF THE CITIZENS IN DECISION-MAKING

4.1. Local and regional referendum

To the extent not excluded by law (§7 of Act No. 22/2004 Coll., on Local Referendum, as amended), citizens may decide in a local referendum on matters falling within the exclusive power of the municipality, mergers of municipalities, municipality division, change of the municipality's name, etc. being the most frequent reasons for holding a referendum. Referendums may not be held on matters concerning:

- municipal budget;
- municipal fees;
- the election and dismissal of the Mayor and other bodies elected by the council;
- contracts governed by public law on performance of delegated powers;
- approval, change or abolition of municipal ordinance.

The referendum may not be held if a referendum has been held on the same matter within the last 24 months.

In accordance with Act No. 128/2000 Coll., on Municipalities (the establishment of municipalities), as amended (§84, paragraph 2, letter j), the Municipal Council is the body entitled to decide whether a local referendum shall be held.

A new Act on Regional Referendum was approved and published in the Czech Collection of Laws on 29th April 2010, entering into force as from the 1st January 2011 (Act No. 118/2010 Coll.)

The main principles of the Act are as follows:

- the referendum may be initiated by a regional council or by a preparatory committee of citizens (support of at least 6% of the regional inhabitants with the right to vote, is required in the form of a list of signatures);
- the referendum may be held on matters pertaining to the sphere of own, self-governing competences, with the exception of budgetary matters, regional bodies (establishment, arrangement, changes, recalling), by-laws or cases when a regional referendum on the same matter had been held in the last 24 months;
- the results of the referendum are valid in case at least 35% of regional inhabitants with the right to vote take part in it;
- the results of the referendum are binding (for the regional council and other regional bodies) in case more than 50% participants AND at least 25% of all regional inhabitants with the right to vote responded “yes”; otherwise the results are only of a consultative nature.

4.2. Other forms of direct participation

A local referendum is not the only form of citizens' participation in the management of municipal public matters. There are other possibilities for direct citizen participation and keeping the public informed such as consultations through meetings and discussions on different topics or public projects, activities of associations, setting up neighbourhood associations and committees, introducing the right of petition, citizens' involvement in the management of some municipal matters, etc.

A citizen of a municipality who is at least 18 years old has the following rights:

- to express opinions on the matters under discussion, in accordance with the rules of procedure, at meetings of the Municipal Council in the municipality of his/her permanent residence;
- to comment on the draft municipal budget and the municipality's annual financial statement for the past calendar year, either in writing, submitting it for a stipulated deadline, or in person at a meeting of the Municipal Council;
- to request that the Municipal Board or the Municipal Council discuss certain matters that come within their own competences; if such a request is signed by at least 0.5% of the citizens of the municipality, it must be discussed at a meeting of the above bodies within 60 days at the latest;
- to submit proposals, comments and suggestions to municipal bodies; municipal bodies shall handle such proposals, comments and suggestions without undue delay and not later than within 60 days.

Citizens of a foreign country, who have a permanent residence registered in the municipality (§17 of the Act on Municipalities), enjoy the rights specified above if conferred by an international convention to which the Czech Republic is party and which is published in the Collection of International Treaties.

In this light it is necessary to point out the involvement of the public in assessing the impact of plans drafted on the environment under Act No. 100/2001 Coll., on Environmental Impacts Assessment, as amended.

5. STATUS OF LOCAL/REGIONAL ELECTED REPRESENTATIVES

5.1. Conditions for standing in local elections, the election period, conflict of interest

A citizen of the Czech Republic, residing in the municipality, who reaches the age of 18 on the last day of the elections, is entitled to vote and to stand as a candidate in elections to the Municipal Council unless there is any legal impediment (such as a restriction of personal liberty imposed by law for the protection of public health; incompatibility with the discharge of duties ensuing from military service; a term of imprisonment; deprivation of the capacity to act in legal matters).

A member of the Municipal/Regional Council acquires a mandate upon being elected; the moment of election is the moment when voting closes. Each member of the Municipal/Regional Council is to make a pledge at the beginning of the first meeting of the Municipal/Regional Council, which the member attends after being elected. Members of the Municipal/Regional Council are obliged to exercise their mandates in person in accordance with their pledge and in doing so are not bound by any orders.

The discharge of the office of a member of the Municipal/Regional Council is regarded as discharging a public office. A Municipal/Regional Council member's right arising from his/her work or other similar relations may not be limited as a result of discharging his/her office.

If circumstances show that a member's participation in discussions and decisions on municipal matters may lead to a benefit or detriment for the member, or for a person closely associated with the member, or for a natural or legal person being represented by the member or for a person for whom the member has a power of attorney (conflict of interest), the member shall notify the municipal/regional body before the proceedings begin.

Act No. 159/2006 Coll., on Conflict of Interest, refers also to some members of the council and gives examples of incompatibility of functions, sets limitations on various activities, and duties concerning property, revenues, activities and personal interests. It also lays down fines imposable for offences specified in this Act.

5.2. Rights and responsibilities of local representatives

Each member of the Municipal Council is to make the following pledge at the beginning of the first meeting of the Municipal Council which the member attends after being elected: "I promise loyalty to the Czech Republic. I promise upon my honour and conscience that I will discharge my office conscientiously and in the interest of the municipality (city) and its citizens and be governed by the Constitution and laws of the Czech Republic."

Members of the Municipal/Regional Council are obliged to exercise their mandates in person in accordance with their pledge and in doing so are not bound by any orders.

In discharging his/her office, a member of the Municipal/Regional Council has the following rights:

- a) the right to submit proposals to the Council and to the Board, committees and commissions;
- b) the right to make enquiries, comments and suggestions to the Municipal Board and its individual members, to the heads of the committees and the authorised representatives of the legal entities established by the municipality or to representatives of the municipality in the bodies of legal entities founded by the municipality, to the heads of subsidised organisations and organisational units established by the municipality; replies to the above must be given without delay but not later than within 30 days;
- c) the right to require information on matters connected with the discharge of the office of a member of the Municipal Council from municipal employees assigned to the Municipal Office and from employees of the legal entities established by the municipality. The said information must be provided within 30 days.

A member of the council is obliged to attend meetings of the council and of any other municipal/regional body of which he/she is a member, and to perform any tasks which these bodies may set him/her, to defend the interests of citizens of the municipality/region and to act in such a manner as not to jeopardise the esteem in which his/her office is held.

A member of the council may resign under the conditions specified in Act No. 491/2001 Coll., on Elections to Municipal Councils, as amended (§55).

If circumstances show that a member's participation in discussions and decisions on municipal matters may lead to a benefit or detriment for the member, or for a person closely associated with the member, or for a natural or legal person being represented by the member or for a person for whom the member has a power of attorney (conflict of interests), the member shall notify the municipal/regional body before the proceedings begin.

5.3. Working conditions

According to the law, the Mayor and his Deputies are given long-term leave from work in order to discharge their office. The Mayor and the Deputy Mayors are not employees of the Municipal Office, but elected representatives of the municipality. Governmental Decree No. 37/2003 Coll., on remuneration for the discharge of office for council members sets out the remuneration of council members. Act No. 155/1995 Coll., on Pension Insurance, as amended, and Act No. 48/1997 Coll., on Public Health Insurance, as amended, govern social security and health insurance.

Working hours are similar to those of the Municipal Office employees; however it is important to point out that the duties of elected representatives have not been clearly identified. Granting further material benefits to elected representatives is limited by the municipal budget. Elected representatives usually receive contributions for clothing, discounts on local public transport, subsidized meals and business cars. The Training Centre of the Ministry of the Interior organises training programmes for elected representatives.

5.4. Remuneration

In accordance with the Act on Municipalities, members of the Municipal Council, who were given long-term leave from work to discharge their duties, and members of the Municipal Council, who were not employed prior to their election, but discharge their office to the same extent as the members of the Municipal Council accorded long-term leave, are paid fees by the municipality for discharging the office member.

The fee constitutes payment by the municipality to members given leave, in return for them discharging their office. Payment of expenses in connection with the discharge of the office of a member of the Municipal Council, in particular travel expenses, is not regarded as part of the fee and is covered by a separate regulation.

The fee is paid from the municipal budget.

Other members of the Municipal Council, who are not among the members given long-term leave, receive paid time off work from their employer to discharge their office.

6. DISTRIBUTION OF POWERS BETWEEN VARIOUS CATEGORIES OF LOCAL/REGIONAL AUTHORITIES

6.1. Principles governing the distribution of powers between municipalities and regions

The Act on Municipalities is the main law governing the municipalities' powers. Matters of interest to the municipality and its citizens fall within the municipality's area of own competence unless they are entrusted to the regions by law or are entrusted, because they concern state functions, to municipalities as delegated competences or to other administrative bodies under a separate law. By law also other matters may be brought within a municipality's own area of competence.

A region is a territorial community of citizens with the right to self-government. State bodies may interfere in the own competences should the protection of the law require it, and as provided by law. The law may limit the scope of the own competences. Matters of interest to the regions and their citizens fall within the region's own competences, unless delegated competences of the region are involved.

6.2. Powers of municipal and regional authorities in the sphere of self-government

The following matters fall within the own competences of a municipality:

- approving development plan for a municipality;
- approving the municipality's zoning plan and regulation plan;
- approving the municipality's budget and annual financial statement;
- establishing and abolishing the permanent and temporary monetary funds of the municipality;
- establishing and abolishing subsidised organisations and organisational units of the municipality and approving their establishment deeds;
- approving the foundation and establishment of legal persons, approving their establishment deeds, memoranda of association, founding contracts and statutes, and decisions on the municipality's participation in existing legal entities;
- appointing delegates to represent the municipality at general meetings of commercial companies in which the municipality has shares;
- proposing the appointment and dismissal of delegates to represent the municipality in other bodies of commercial companies in which the municipality has shares;
- issuing generally binding regulations of the municipality;
- taking decisions on declaring local referenda;
- proposing alterations to cadastral areas within the municipality and approving agreements on alterations to the boundaries of the municipality and on the merger of municipalities;

- setting the number of members of the Municipal Board, and the number of members of the Municipal Board given a long-term leave;
- electing or dismissing the Mayor and Deputy Mayor and other members of the Municipal Board;
- stipulating which officeholders in the Municipal Council are entitled to leave;
- setting up and abolishing committees, electing and dismissing Presidents of the Regional Council and other members of such committees;
- fixing the amount of fees for members not given leave;
- establishing or abolishing a municipal police force;
- taking decisions on the municipality's co-operation with other municipalities and on the form of such co-operation;
- taking decisions on establishing and naming parts of the municipality, street names and other public spaces;
- awarding and revoking honorary citizenship and awards of the municipality;
- setting the principles for reimbursing travel expenses of members of the Municipal Council;
- deciding on payments to non-members of the Municipal Council, who hold the post of committee member;
- acquiring and transferring immovable assets, including issuing immovable assets under separate laws, transferring housing and non-residential premises from municipality ownership;
- making yearly material and monetary gifts to individuals or legal entities;
- taking decisions regarding the provision of grants of over 50,000 CZK in individual cases to civic associations, humanitarian organisations and to other individuals and legal entities active in the field of youth, physical culture and sports, social services, support to families, fire protections, culture, education, science, health care, anti-drug activities, crime prevention and environmental protection;
- taking decisions on concluding agreements on the association and on providing property values in accordance with the agreement on the association, to which the municipality belongs;
- monetary and non-monetary investments in legal entities;
- waiving of rights and remitting claims of over 20 000 CZK;
- pledging movable property and rights with a value of over 20 000 CZK;
- agreeing on payment in instalments payable over a period longer than 18 months;
- surrendering claims of over 20 000 CZK;
- entering into contracts for credit or loans, grants, taking responsibility for debts, acting as guarantor or taking on obligations and negotiating agreements on association;
- pledging or establishing a right of user on immovable assets;
- issuing municipal bonds, etc..

Within its own competences and territorial area, the municipality further ensures, in accordance with local conditions and customs, the requisite conditions for developing social care and meeting the needs of its citizens with particular emphasis on the following: housing, health development and protection, transport and communication, information, education, general cultural development and protection of public order.

The own competences of the City of Prague are rather specific and regulated under a separate law (Act No. 131/2000 Coll., on the Capital City of Prague, as amended).

The following matters come with in the own competences of regions:

- putting bills before the Chamber of Deputies;
- submitting proposals to the Constitutional Court for repealing legislation if it is believed that such legislation is contrary to the law;
- issuing general binding regional regulations;
- co-ordinating the development of the region's territory, approving programmes for developing the region's territory under separate laws, implementing and monitoring the programmes;
- approving planning and zoning documents for the region's territory and publishing the binding parts thereof as regional legislation;
- approving, implementing and monitoring plans for the region's tourism;
- electing representatives of the region to the regional council of the cohesion region;
- deciding on the region's basic transport services;
- deciding on the region's co-operation with other regions and on international co-operation;
- approving the regional budget and closing accounts;
- establishing and abolishing subsidised organisations and organisational components of the region; approving the deeds of establishment of the organisations for this purpose;
- approving the foundation and establishment of legal entities, approving their deeds of establishment, memoranda of association, drawing up contracts and statutes, and deciding on the participation in existing legal entities;
- appointing delegates to represent the region at general meetings of commercial companies in which the region has shares;
- making suggestions for appointment and dismissal of delegates representing the region in other commercial company bodies in which the region has its shares;
- electing and dismissing the President, Deputy President, the board and other members of the regional council;
- fixing the number of members of the regional board entitled to long-term leave from work, which officeholders are entitled to long-term leave, and the date on which the leave will be given;
- establishing and abolishing committees and electing and dismissing the Presidents of the regional council and its members;
- fixing the fees for the regional council members not entitled to leave, and remuneration;
- setting the principles for reimbursement of travel expenses of regional council members;
- deciding on the payments to be made to members of the committees, commissions and individuals who are non-council members;
- granting regional awards;
- carrying out other tasks, as required by law;
- taking decisions on the acquisition and transfer of immovable assets;
- under a separate law, making material and monetary donations with value of over 100,000 CZK;
- granting subsidies from its own financial assets to civic associations, humanitarian organisations and to other individuals and legal entities active on the region's territory;
- imposing fines up to 200 000 CZK on legal entities or individuals, who as entrepreneurs have contravened regulations issued by the region;
- pledging immovable assets, issuing bonds, etc.

6.2.1. Division of rights and powers between the State and the different types of municipal and regional bodies in different spheres

In addition to their own competences, municipal and regional authorities have delegated competences in matters concerning state administration and are, in exercising delegated competences, subordinated to higher authorities. Separate laws govern the performance of delegated competences. Act No. 132/2000 Coll., on Amendments to Laws Connected with the Act on Regions and the Act on Municipalities, and the Act No. 320/2002 Coll., on Changes and Abolition of Some Laws in Connection with Termination of Activity of District Offices, as amended, have a special status among these laws. The first of the above-mentioned laws outlines the powers devolved to regions from ministries and other central administrative bodies; the second law regulates the transfer of powers from the abolished district authorities to municipalities with extended powers and to regions. Laws regulating the individual fields of state administration list other powers within the delegated competences.

The position of municipalities as regards self-government is *de jure* equal; they all have identical powers. In relation to state administration their positions differ. In some matters, all municipalities perform state administration. Some municipalities are conferred special powers in the registration of births, deaths and marriages and for building matters. Their Municipal Offices fulfil the role of a registry office and building office. Municipalities with an authorised Municipal Office may exercise an even broader range of state administration. Currently, there are 388 authorised Municipal Offices. Their administrative districts are determined by Decree No. 388/2002 Coll., of the Ministry of the Interior, on the establishment of administrative districts of the municipalities with an authorised Municipal Office and administrative districts of municipalities with extended powers. The municipalities with extended powers were established on 1 January 2003 and assumed the powers of all district authorities. There are 205 municipalities with extended powers and their administrative districts are determined by a decree of the Ministry of the Interior. Act No. 314/2002 Coll., on the Establishment of Municipalities with an Authorised Municipal Office and Municipalities with Extended Delegated Powers plays an important role as well.

6.3. Local and regional authorities' participation in the national economic and spatial planning

Territorial (spatial) planning and construction in the Czech Republic is governed by Act No. 183/2006, on Territorial Planning and Construction Rules (the Construction Act), as amended. Under this law building offices may take decisions at first instance and regional authorities may act as appellate bodies. Decision-making powers in area planning are conferred on municipal and regional self-government.

Act No. 248/2000 Coll., on Support to Regional Development, as amended, defines other powers in this respect.

6.4. Tasks delegated to local or regional bodies acting on behalf of a central authority (i.e. as the decentralised state administration bodies)

Each municipality performs state administration in its territory in the matters stipulated by law; its authority in such matters derives from the municipality's delegated competences.

In exercising delegated competences, municipal/regional bodies are to be governed by the following regulations:

- a) by laws and executive regulations issued on the basis of a law for issuing municipal and regional ordinances;
- b) in other cases: by government resolutions and directives issued by central administrative authorities; these may not impose duties on municipal bodies unless such duties are stipulated by law. Directives from central administrative authorities are not valid unless published in the government Bulletin for regional bodies, district authorities and municipal bodies.

Municipalities/regions receive a contribution from the state budget for the exercise of delegated competences.

Municipalities, whose bodies exercise delegated competences within the same administrative district of a municipality with extended powers, may conclude a public contract under which the bodies of one municipality shall exercise or part-exercise delegated competences on behalf of other municipalities. Municipalities with extended powers, the Municipal Offices of which exercise delegated competences within the same administrative district of a Regional Office, may conclude a public contract according to which the Municipal Office of a municipality with extended powers shall exercise or part-exercise delegated competences on behalf of Municipal Offices of other municipalities with extended powers. The Regional Office must approve of the public contract. In the event of a contract between the municipalities with extended powers, the Ministry of the Interior must grant an approval.

7. CO-OPERATION AND OTHER TYPES OF LINKS BETWEEN LOCAL/REGIONAL AUTHORITIES

7.1. Institutionalised co-operation (consortiums) for the implementation of tasks of common interest

7.1.1. Legal framework

Act No. 128/2000 Coll., on Municipalities, as amended, provides for co-operation among municipalities. Municipalities may cooperate in the exercise of their independent powers. Co-operation among municipalities is performed mainly:

- a) on the basis of a contract concluded to fulfil a particular task;
- b) by forming a voluntary association of municipalities.

Other possibilities of co-operation are through setting up legal entities of two or more municipalities in accordance with the Commercial Code, the Civil Code and other law regulations of civil law, e.g. Act No. 227/1997 Coll., on Foundations, or Act No. 248/1995 Coll., on Non-profit Organizations.

Act No. 129/2000 Coll., on Regions, as amended, provides for co-operation among regions. Regions may cooperate in the exercise of their independent powers. Co-operation among regions is performed mainly:

- a) on the basis of a contract concluded to fulfil a particular task;
- b) on the basis of setting up legal entities of two or more regions in accordance with the Commercial Code.

Other possibilities of co-operation are given in the sphere of private law mainly, in accordance with the Civil Code. The provisions of the Civil Code on professional groups of legal entities and those concerning association agreements apply to co-operation between regions and legal entities or natural persons in civil law relations. A region may not be a member of either an association of municipalities or a civil association of citizens.

Similar conditions apply to the case of the capital city of Prague (set up by Act No. 131/2000 Coll., on the Capital City of Prague), as amended. Prague may co-operate with other municipalities and regions and may be a member of a civil association of citizens (only as part of a partnership with other natural persons and not only with other municipalities and other regions).

7.1.2. Nature of consortia or joint authorities – one-purpose/multi-purpose, voluntary/mandatory, etc.

A contract between two or more municipalities on fulfilling a particular task is concluded for fixed or indefinite terms. The founding of a legal entity may not be the subject of the contract. Such a contract must be in writing and must be approved by the municipal councils prior to signing.

Municipalities have the right to membership of an association of municipalities for the purpose of protecting and promoting their common interests. Municipalities may form new associations or may join the existing associations of municipalities. Only municipalities may be members of associations of municipalities.

7.1.3. Most frequent reasons for forming consortia and joint authorities (spheres of powers)

An association of municipalities may pursue the following activities:

- a) work in the sectors of education, social welfare, health care, culture, fire protection, public order, environmental protection, tourism and animal care;
- b) ensuring the cleaning up of public spaces, management of public vegetation and public lighting, collection and removal of domestic refuse and its safe processing, use or disposal, water supply, and sewage disposal and treatment;
- c) installation, expansion and improvement of utility networks and public passenger transit systems to ensure transportation serviceability in the area;
- d) work ensuing from environmental protection and work ensuing from conversion of heating and hot water systems from solid fuels to environmentally less harmful sources of heat in housing and in other facilities owned by the municipalities;
- e) operation of quarries, sand mines and equipment for mining and processing of mineral raw materials;
- f) administration of the municipalities' property, notably local roads, forestry, housing, sport and cultural facilities and other facilities managed by the municipalities.

7.1.4. Organisational structure, relations with represented bodies, working methods

An annex to the contract for forming an association of municipalities must contain its statutes which should set out:

- a) name and residence of members of the association of municipalities;
- b) name, residence and the scope of activities of the association of municipalities;
- c) bodies of the association of municipalities, the manner of their establishment, their powers and the manner of decision-making;
- d) assets of the members of the association of municipalities which are invested in the association;
- e) sources of revenue of the association of municipalities;
- f) rights and obligations of the members of the association of municipalities;
- g) methods of profit division and the members' shares in compensating for losses of the association of municipalities;
- h) conditions of accession to and leaving the association of municipalities, including property settlement;
- i) content and extent of supervisory control of the association of municipalities by the municipalities that have formed the union.

7.2. Legal regulations regarding associations of local bodies at the national or regional level and their relation to government bodies

There are no special legal regulations covering this area. The Czech Union of Towns and Municipalities, as the most representative national organisation of Czech municipalities, was founded and operates in accordance with generally valid regulations. The Association of Regions, established in 2001, operates on a similar basis. It aims to help solve the problems of public administration that tend to be common to all regions. The association encompasses all regions including the City of Prague.

7.3. Co-operation between local/regional bodies in other countries

7.3.1. Basic regulations concerning the rights of local and regional bodies to co-operate independently with their counterparts in other countries

The Czech Republic has ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities.

Municipalities/regions may co-operate with other countries' municipalities and be members of international associations of local authorities. Municipalities may co-operate internationally at the level of associations of municipalities. Any contract draw up is invalid unless it is in writing and has been approved in advance by the municipal council. The written contract must include the following:

- a) names and residences of the parties to the contract;
- b) subject of co-operation and manner of its financing;
- c) bodies and manner of their establishment;
- d) period for which the contract is valid.

A legal entity may be founded on a co-operation contract only if specified in an international agreement that is binding on the Czech Republic. A co-operation contract, which serves as a basis for setting up a legal entity or membership of an existing legal entity, is subject to prior approval by the Ministry of the Interior. Approval may be denied only if the contract is in breach of the law or of a binding international agreement approved and promulgated by Parliament.

7.3.2. Conditions ensuing from membership of local/regional bodies in international associations

See 7.3.1.

8. FINANCE

8.1. Taxes

8.1.1. List of local or regional exclusive taxes

Act No. 243/2000 Coll., on the Budgetary Allocation of Some Tax Incomes to the Territorial Self-governing Units and to Some State Funds (Act on Budgetary Allocation of Taxes), as amended lists the following among exclusive taxes collected by municipalities:

- Real estate tax – payers of this tax are proprietors of land plots or buildings located in the cadastral area of the municipality. The law sets the tax rates, but the municipality may, through a binding decree, set coefficients influencing the final tax rate, and, consequently, influence revenue raised in taxation. In general terms, the more attractive the locality, the higher the coefficients set by municipalities. Local budget revenue derived from tax is rather small; on average it accounts for 6 per cent of total revenues. Several proposals have been discussed in the Czech Republic regarding the property tax. The first proposal was to eliminate the tax as the revenues are so small they don't even cover administrative costs of its collection. The second proposal was to calculate tax in proportion to the value of the property. The third proposal was to incorporate this tax into the system of municipal fees;
- Corporate income tax provided the municipality itself is the taxpayer.

The state collects both these taxes through territorial tax offices. The collected sums are allocated to respective municipalities throughout the calendar year. Apart from exclusive tax revenues, municipalities also receive their share of the gross incomes derived from other taxes.

Municipality income is also generated by so-called local fees. These fees are not taxes and are defined in Act No. 565/1990 Coll., on Local Fees, as amended. The fee tends to have the character of a local tax, but its implementation is at the municipality's discretion. The municipality has the right to determine the rate of the fee, but must observe the tariff range set out by law. The fees may be levied on:

- dogs;
- spa treatment or recreational respite;
- use of public spaces;
- permits for allowing motor vehicles in selected spots and parts of the municipality;
- admission (entrance) fees;
- accommodation capacity;
- operating gambling machines;
- operating the system of collection, transportation, separating, recycling and disposal of waste;
- enhancing the value of a land plot by connecting it to the main sewage or water supply system.

Local fees are collected and administered directly by municipalities through Municipal Offices. Only a small amount of municipality revenue is generated in fees, and usually not more than 2% of the total income.

8.1.2. List of taxes levied in addition to state taxes

In the Czech Republic, only state taxes are levied.

8.1.3. Discretionary power of local/regional bodies to fix the tax components

Municipalities only have discretionary powers for the above-mentioned real estate tax where they may, through a generally binding decree, raise or reduce the coefficients for multiplying the basic rate of property tax for different areas of the municipality. Since 2009 municipalities can vote "local coefficients" ranging from 1 to 5 but only around 5 % of municipalities have applied them.

8.1.4. Introduction of new types of taxes by local /regional authorities

Currently, municipalities are not entitled to introduce new taxes; however, there are discussions on whether to allow such tax surcharges in order to obtain additional tax revenues. These would be determined by regions. However, that would mean heavier taxation for citizens and the proposed system has been put on hold for the time being.

8.1.5. List of taxes, of which local/regional authorities receive a fixed proportion of the amount collected in the municipality or region

The Act on Budgetary Allocation of Some Tax Revenues made it more or less impossible for municipalities and regions in areas with a high economic efficiency to benefit from tax revenues in some manner. As a primary criterion, newly formulated taxes stipulate the number of inhabitants, since it did not seem just for municipalities of similar sized populations to record considerably different tax revenues merely because one municipality played host to a large company with many employees on its territory and this company markedly improved the municipality's incomes. The new budgetary allocation of taxes has removed any undeserved differences in the economic efficiency of regions. However, municipalities are still given an incentive by receiving 1.5 per cent of the national gross revenue from the personal income tax and dependent activities (employees), in accordance with the ratio of the number of employees in the municipality to the total number of employees in the Czech Republic. Municipalities additionally receive 30 per cent of revenues derived from income tax paid by self-employed and independent workers who have their permanent residence in the municipality.

8.1.6. List of taxes, of which local or regional authorities receive a share irrespective of the amount collected in the municipality or region

Apart from the tax revenues mentioned in 8.1.1, 8.1.5, a municipality (region) is entitled to a share in all other tax revenues collected nationally. Of the gross national revenue raised in taxation, 8.92% of most taxes is allocated to regional budgets, 21.40% is allocated to municipal budgets, and the rest is paid to the state budget.

Shared tax revenues of regions are as follows:

Each region has a share in 8.92% of the gross national revenues from the following taxation:

- value-added tax;
- income tax from dependent activities (employees);

- income tax collected through a deduction (taxed interest on deposits);
- corporate income tax;
- 60% of income tax from self-employed and independent workers.

Each region's share is calculated in accordance with regulations set out in an annex to the law. Important factors are: the region's population, economic efficiency, the number and scope of organisations established by the region, the extent of regional problems, etc.

Shared tax revenues of municipalities are as follows:

Each municipality has a share in 21.40 per cent of the gross national revenues raised from the following taxation:

- value-added tax;
- income tax from dependent activities (employees);
- income tax collected through a deduction (taxed interest on deposits);
- corporate income tax;
- 60% of income tax from self-employed and independent workers.

Each municipality's share is calculated according to the size of its population in relation to the total population of the Czech Republic, multiplied by the size category coefficient, the cadastral surface area of the municipality and the number of inhabitants. This new system of calculation was introduced in 2008 in order to solve two major problems:

- minimize sharp differences in sharing coefficients between neighbouring size categories that lead to competition between municipalities in order to increase the number of inhabitants and
- reflect cost requirements of small municipalities with a large cadastral surface area.

Percentage of municipal tax revenues

Indicator-type of tax	Percentage share in total municipal tax revenues
Value-added tax	30.6
Corporate income tax	26.9
Personal income tax	30.9
Property tax	4.2
Administrative and local fees	3.6
Total tax revenues	100.0

Percentage of regional tax revenues

Indicator-type of tax	Percentage share in total regional tax revenues
Value-added tax	41.5
Corporate income tax	28.0
Personal income tax	30.5
Total tax revenues	100.0

8.2. Grants from higher bodies

8.2.1. Grants allocated by higher authorities

Part of the state budget is made up of grants earmarked for financing various activities of municipalities and regions. These sources are irreplaceable in both types of administration. In municipalities, state grants account for about 22 per cent of total incomes; in regions they account for 58 per cent.

The volume of grants from the state budget and state funds to Czech municipalities in 2008 totalled approximately CZK 59 billion. The grants are financed by the General Treasury Administration chapter and from other chapters of the state budget.

The General Treasury Administration chapter earmarks funding for social welfare institutions and selected health care facilities. The purpose of these grants is specific and they are perceived as operational funding. The chapter also secures grants for the exercise of delegated state administration tasks by municipalities but these do not cover total costs.

Other important income sources of municipalities are grants provided by specific sector chapters of the state budgets, e.g. from the Ministry of Labour and Social Affairs, Ministry of Education, Youth and Sport, Ministry for Regional Developments etc. These are predominantly grants allocated within the so-called programme funding regime, and are provided in line with the pre-set conditions of a specific programme. Such programmes include: construction and renovation of water mains and water treatment plants; renewal of rural areas, construction and renovation of the mains network, technical infrastructure of industrial zones, etc. These grants are mostly of an investment nature and they are always designed for and supervised for a specific purpose described in the programme. Similarly grants from state funds are provided, such as the State Fund for the Environment, State Fund for Transport Infrastructure or the State Fund for Housing Development. In 2008, grants from state funds to municipal budgets reached CZK 3.1 billion.

Likewise, some funding is earmarked for regional projects. Grants from the General Treasury Administration chapter are allocated for ensuring regional rail and bus services are effective. As in the case of municipalities, this chapter also contributes to the exercise of delegated state administration and to municipal voluntary fire brigades in every region. This type of subsidising is designed for current, specific expenditures.

Apart from grants from the General Treasury Administration chapter, regions also receive funding from other sector chapters of the state budget, and mainly from the Ministry of Labour and Social Affairs, the Ministry of Education, Youth and Sport or the Ministry for Regional Development. These grants are also specific and mostly aimed at current and capital financing of subjects administered by regions. Expenditure on regional and local education forms the largest part at about CZK 70 billion, accounting for 53 per cent of regional revenue.

8.2.2. Conditionality of specific grants on the financial share of local/regional authorities

For many grants provided under the financing programme, the grantor requires the recipient's ability to co-finance the project. Where the state is the grantor, the percentage of funding varies depending on the type of programme for which the monies are intended. For example, for the Ministry of Agriculture's programme "Construction and Technological Renovation of Water Mains and Water Treatment Plants", state grants do not exceed 80 per cent of the total investment costs; for the Ministry of Industry and Trade's programme "Preparation of Industrial Zones", grants are provided for a maximum of 60 per cent of the total investment costs of the construction and technological part of the project, and up to 75 per cent of the interest accruing on bank loans for costs relating to land transfers, subject to payment; for the programme "Support for Regeneration of Panel Housing Estates", state grants amount to 70 per cent of the overall costs of the project, etc.

8.2.3. The level of regulation of the grant system by legislation; changes to its extent by executive bodies' decisions

The basic rules for use of grants are set out in the Act on Budgetary Rules (Act No. 218/2000 Coll., as amended). Part of the annually approved state budget (in the form of a law) and its chapters are funds earmarked for grants to regions and municipalities (as well as grants to other subjects). Grant applications cannot give rise to any cause of action, i.e. the grantor selects the grantee from among grant applicants according to subjective criteria and as long as there are usable resources left in the separate sector chapters. The downside of this procedure is cuts in the size of grants in times of budget cuts since grants are generally the first to be reduced when the budgets are cut.

8.3. Brief description of financial equalisation mechanisms

The grant system in the Czech Republic applies vertical financial settlements, but contains no elements of reversed financial settlements, i.e. transfers of funding from municipalities to bodies of a higher level. Neither is there any horizontal financial equalisation in the Czech Republic, i.e. transfer of financial contributions from one municipality to other municipalities. Municipalities are merely authorised to pool their financial resources for the implementation of various investment projects.

8.4. Other sources of revenue

Apart from taxes, fees and grants constituting the key sources of funding for municipalities and regions, funding for current or investment expenditures also arises from the following:

- revenues from own assets and property rights (lease, sale of property);
- revenues from the results of own economic activity;
- revenues arising from economic transactions of organisations set up by the municipality or region (mainly profits of subsidised municipal and regional organisations);
- revenues from the exercise of administrative functions (administrative fees);
- revenues from local fees (see 8.1.1); *local fees are classified as tax revenue*
- grants from regional budgets to municipalities;
- financial gifts;
- credits and loans (both from the Czech Republic and abroad).

The proportion of these other incomes can vary substantially between municipalities and regions of different sizes. It is therefore impossible to estimate the percentage of this type of additional revenue as part of the total municipality/region revenue.

8.4.1. Fees paid by users of services provided by local/regional authorities

Users of services provided by municipalities or regions pay fees which vary between different municipalities and regions, depending entirely on the decision of the respective self-governing bodies. For example, a source of income for the local budget can be fees paid for collection and disposal of waste if no municipal fee is applied.

Most public services, the provision of which is within the power of territorial self-governing units, are not performed directly by the authorities, but by organisations established or founded by municipalities or regions. The most frequent legal format for such services is a subsidised organisation (in accordance with Act No. 250/2000 Coll., on Budgetary Rules for Territorial Budgets, as amended), which has legal personality and is based on the non-profit principle. They provide public services for which they charge fees. In addition to fees collected, they also receive a contribution from the municipality or region, intended to compensate the difference between the total amount spent on providing the service and the revenue from fees. This legal format is common for pensioners' homes, nursery and elementary schools, some medical facilities, cinemas, museums, road management and repair, water treatment plants, stadiums for winter sports, etc.

This legal format is also frequently used in larger municipalities for waste collection and disposal; municipalities secure this public service either through subsidised organisations or limited liability companies.

8.5. Borrowing

8.5.1. Authorisation from higher authorities

Municipalities and regions, as self-governing subjects, are entitled to decide on how to acquire outside funding. Outside funding is most frequently acquired in the form of a loan from a bank or other financial institution. Under current legislation, no prior consent from a higher body for obtaining this type of funds is necessary. However, it must be pointed out that banks or other lending subjects must thoroughly check the property and financial status of the applicant so as to avoid debtors' defaulting on payments. There is no general state guarantee.

Nonetheless, in response to the increasing amount of debts, particularly of municipalities, powers enabling the self-governing bodies to obtain loans and credit have been restricted. Limitations refer also to the case of issuing bonds by municipalities and regions – an approval of the Ministry of Finance is necessary under Act No. 190/2004 Coll., on Bonds, as amended.

In 2008, a new procedure for monitoring and evaluating management of municipalities and their subsidised organisations was introduced. This procedure is based on a system of mutually interlinked indicators. The indicators are monitoring (creditor's risk, aggregate liquidity) or informative indicators. A "risk limit" was set for the monitoring indicators, which if exceeded implies a situation of risk for the municipal management. If such an unsatisfactory economic situation is found out in a municipality, the Minister of Finance shall ask the municipality to give reasons for the situation and adopt any corrective action. Also, a list of such "high-risk" municipalities is registered by the respective Regional Office. Results of municipal monitoring are regularly submitted to the Government. Municipalities are thus indirectly compelled to manage their property as carefully as possible. They may consult the website of the Ministry of Finance to receive any practical assistance. However, the Ministry of Finance may not influence local government finance management.

8.5.2. Sources of borrowing

The most widely used source of loans and credits for Czech municipalities are banks, both domestic and the Czech branches of foreign banks. Another significant source is loans from state funds or from the state budget through the Ministry of Finance. These are called "returnable financial aid". They are advantageous because of the very favourable interest rates and conditions for granting. Financial or capital markets serve as sources of funding only for large cities or regions.

It should be pointed out that there are certain restrictions in place for accepting a loan or credit when the property of a territorial self-governing unit is used as collateral for the loan. Municipalities or regions may use their assets as collateral solely in connection with their own obligations, obligations of their own organisations (the aforementioned subsidised organisations), obligations ensuing from a contract on granting credit provided the funding is intended for an investment project co-financed from the state budget, state funds or the national fund, and obligations ensuing from loans intended for investment in the owned property. The state does not guarantee the financial management and obligations of local and regional authorities unless the state had agreed to do so at the time the obligation was agreed.

8.5.3. Borrowing from foreign countries

Foreign loans are no longer subject to special permissions or conditions (see 8.5.1).

As for providing security for state or other entity loans, the general rule applies that although the state does secure some loans, it has no interest in securing foreign loans.

An example of a foreign loan acquired by local or regional bodies is provided by the City of Prague which is financing by means of a foreign loan construction of new underground stations.

8.6. Economic control exercised by higher authorities

The Ministry of Finance carries out a public-administrative review of local and regional bodies' business performance where state funding has been accepted (such as grants from the state budget and state funds) through local and regional tax offices. The public-administrative review may, in accordance with Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended, be executed in advance (*ex ante*, before granting funding), concurrently/continuously (in the course of spending the provided funding), and subsequently (*ex post*).

The goal of the audit is to evaluate the cost-effectiveness, purposefulness and effectiveness of spent budget funds. Regional authorities also carry out public administrative reviews of municipalities and examine compliance with legal regulations, cost-effectiveness, purposefulness and effectiveness of the spending of state funding.

An annex to the state budget contains separate charts on the correlation between the state budget and local and regional authority budgets. Mostly they contain the details of the state budget expenditure earmarked for financing the state administration as carried out by local and regional authorities. Similarly, another annex to the state closing account contains data collected on the results of local and regional authorities' budget spending. In the public budget system in the Czech Republic, the state budget is generally separated from municipal and regional budgets, therefore there is no direct financial link stipulated by law between them.

The budgetary process and budgetary allocation of taxes are stipulated by law. Local and regional bodies are legally entitled to receive tax revenues, as well as to draw up budgets adjusted to meet their own spending priorities. All changes to the structure of tax revenues of local and regional self-governing bodies must be stipulated by law. This rule does not apply to the other sources of grants. Subsidising the state administration as carried out by local and regional authorities from the state budget can lead to difficulties in times of a budget deficit or when the budget is not approved.

9. SUPERVISION OF LOCAL/REGIONAL AUTHORITIES

9.1. General administrative supervision

Provisions for the general system of supervision of local and regional authorities are set out by the relevant laws:

- a) for municipalities: such as the provisions of §123-128 of Act on Municipalities, defining the supervisory control in the exercise of municipalities' own competences, and delegated competences;
- b) for regions, provisions on supervisory control are set out in §81-84 of Act on Regions.

The Ministry of the Interior is accountable for administrative supervisory control of local/regional bodies' acts within their own competences. Supervisory control of municipalities in the exercise of delegated competences is carried out by the respective Regional Office. In relation to regions, this type of control is carried out by the respective specialised ministry or other central administrative authority.

9.2. Control of the legality

Supervisory control of act carried out by both levels of territorial self-government in the Czech Republic is performed by state bodies (or by regional authorities exercising state administration as a delegated competence). The supervisory control is carried out ex post and the supervisory body primarily ensures that the supervised body makes redress. In cases where the supervised body fails to make redress, the form of measure undertaken by the supervisory body depends on the level of territorial self-government and the type of act involved (carried out under own delegated competences).

As the State may intervene in the activities of the territorial self-governing units only to protect the law and as defined by the law (Article 101 para 4 of the Constitution), local/regional bodies' measures taken within the scope of their own competences may be repealed only by an administrative court, while the repeal of measures/decisions taken pursuant to their normative acts (decrees and ordinances) lies to the Constitutional Court.

The supervisors examine compliance of:

- municipal decrees with legislation;
- municipal ordinances with legislation and other legal regulations;
- resolutions, decisions and other measures taken within the scope of own competences with legislation and other legal regulations;
- resolutions, decisions and other measures taken within the scope of delegated competences with legislation, other legal regulations or with government resolutions or guidelines issued by central administrative authorities within their framework.

If the Ministry of Interior finds that a generally binding municipal decree is in conflict with the law, it calls for redress. If the municipality fails to redress the situation, the Ministry of the Interior can suspend the effect of the relevant decree. Only the Constitutional Court can repeal a decree, on the basis of a proposal submitted by the Ministry of the Interior. If a resolution, decision or measure issued by a municipality within the scope of its own competences is found unlawful, the Ministry of the Interior asks the municipality to redress the situation. On failing to do so, the Ministry suspends the implementation of the act in question. Under such circumstances, only an administrative court can repeal the measure, based on a proposal submitted by the Ministry of the Interior.

If a resolution, decision or measure of the municipality issued within the scope of its delegated competences is found unlawful, the Regional Office repeals the measure in case the municipality fails to redress the situation of its own accord. Only the Constitutional Court can repeal a municipal ordinance, on the basis of a proposal submitted by a Regional Office. The Ministry of the Interior is not bound by the Regional Office's proposals and in case of its inactivity may perform supervisory control independently.

Similarly, supervisory control of the exercise of independent competences of a Regional Office is carried out by the Ministry of the Interior, whereas the delegated competences are supervised by the relevant ministry or other central administrative authority. Should a legal act conflict with the law, the ministry or other central administrative authority suspends its implementation. Only the Constitutional Court may repeal a regional decree or ordinance, whereas an administrative court may do so in case of a resolution, decision or measure issued within the scope of a regional office's own competences. The ministry or other central administrative body may repeal a resolution, decision or measure issued by the region under its delegated competences. Similarly for regulations applicable to municipalities, a region is bound to publish on its notice board any decision to suspend or repeal any conflicting act.

9.3. Control of the expediency

Administrative supervision generally concerns only the assessment of compliance with legislation. Control of expediency is possible only within the supervisory process of the scope of delegated competences when compliance of municipal/regional acts with the guidelines issued by central administrative authorities is also being assessed.

9.4. Supervisory control is performed by a senior body of local/regional bodies' in the absence of a general administrative supervision system

The Czech Republic has a general system of administrative supervisory control, so this form of supervision does not exist.

9.5. Legal remedies applied by local/regional bodies against inadequate administrative supervision or infringement of their independence

If local or regional bodies have reasonable belief that the state has unlawfully infringed their independence (including instances of inappropriate supervision), they are entitled to submit a complaint to the Constitutional Court. The court may rule that the state's interference was indeed unlawful (i.e. in breach of Article 101, §4 of the Constitution, stipulating that the state may interfere in the activities of local and regional authorities, only if upholding the law so requires and in the manner stipulated by law). The Constitutional Court is authorised to annul inappropriate acts of the state should they impose obligations on municipalities or regions not founded in law.

9.6. Auditing accounts of local/regional authorities

Accounts of local and regional bodies are subject to a mandatory annual external audit. Municipalities can leave the audit to the relevant regional authorities (audits are free of charge), or an auditor (fee paying). Ministry of Finance audits regions. The city of Prague's business performance is assessed by an auditor or the Ministry of Finance, whereas Prague's city parts have their business performance assessed by an auditor or in accordance with provisions set out in the City Hall's Statute. The audit focuses on whether the business performance corresponds to the budget, the manner of handling of assets and adherence to the accounting rules. The audit results in a report that is submitted along with the closing account to the municipal or regional council of the territorial self-governing unit. In addition, the report is displayed on the notice board.

Act No. 420/2004 Coll., on Auditing Business Performance of Territorial Self-governing Units, defines and expands the scope of the audit by e.g. receivables, obligations and securities of the territorial self-governing unit. The Act also aims to increase the pressure exerted on attention to cost-effectiveness, general effectiveness and purposefulness of funds spent, and to lay down fundamental rights and duties of both parties in exercising this type of audit.

9.7. Other forms of control over local/regional authorities

Under certain circumstances, territorial self-governing units are also subject to control by the Supreme Audit Office in the sphere of their business performance. Grants provided from the chapters of the state budget to local and regional authorities are audited by local and regional financial/tax bodies.

Act No. 320/2001 Coll., on Financial Control in Public Administration, provides the possibility of an internal control system, and notably the internal audit.

Finally, control can be carried out by citizens of the municipality, who have the right to take part in meetings of the municipal council, submit proposals, comments, complaints, and draft petitions regarding the conduct of the authority. They can also take advantage of the provisions of Act No. 106/1999 Coll., on Free Access to Information, as amended, enabling them to obtain information on activities of local and regional authorities and thus ensure this kind of public control.

10. REMEDIES FOR INDIVIDUALS AGAINST DECISIONS OF LOCAL/REGIONAL AUTHORITIES

Basic remedial actions against decisions made by public administration bodies are set out in Act No. 500/2004 Coll., Administrative Procedure Code, as amended, which came into effect on January 1st 2006.

The Administrative Procedure Code defines basic principles for administrative bodies' activities and the scope of those principles. It covers the term and definition of administrative proceedings, subjects of administrative proceedings, definition of administrative bodies, acts of administrative bodies, participants in administrative proceedings, rights and obligations of participants, time-limits and procedure for computation of time, procedure before the commencement of administrative proceedings, grounds for issuing a decision, evidence, preliminary questions, ensuring means, suspension and discontinuance of proceedings, particular types of proceedings, decisions, legal effect and enforcement of a decision, nullity of a decision, protection against an administrative body's inactivity, appeal, objections, complaints, review proceedings, new proceedings and new decision, satisfaction for citizens who file an action with a court having jurisdiction over administrative cases, execution, and the regulation of statements, certificates and notifications, public contracts or measures of general nature.

In practice, local and regional authorities apply this Act when exercising competences in the field of public administration, especially when deciding on the rights and duties of natural and legal persons (administrative decisions), on inactivity (when an administrative authority does not issue a decision in a legal time-limit) or on concluding contracts according to the public law.

As regards the system of judicial supervision, it is based on the Charter of Fundamental Rights and Freedoms which states (Art 36) that every person claiming that his rights have been infringed by a decision of a public administration body may apply to the court for review of the legality of the decision. The law may stipulate exceptions to this rule, but the review of decisions concerning basic rights and freedoms may not be excluded from the courts' jurisdiction.

The Code of Administrative Justice (Act No. 150/2002 Coll., as amended), which came into effect on 1 January 2003, established a new system of administrative courts in the Czech Republic with the goal of protecting both natural and legal persons against decisions of administrative authorities.

First of all, it made provision for the Supreme Administrative Court and extended the current jurisdiction of administrative courts. The administrative court system is now a two-tier system of courts, consisting of regional courts and the Supreme Administrative Court (based in Brno). These courts handle lawsuits against decisions of administrative authorities (including bodies of municipal and regional self-government units), in cases of omission by public administration bodies or in cases of unlawful interference. The courts also handle disputes over powers of public administration bodies and cases concerning election procedures and matters of political parties and movements. Enforcing one's rights through administrative courts may be done only on a proposal and after employing all the regular legal remedies.

11. LOCAL/REGIONAL ADMINISTRATIVE PERSONNEL

Public administration reform in the Czech Republic transfers a number of powers to regions and municipalities previously held by (state) administrative authorities. Regions and municipalities therefore must create, *inter alia*, sufficient administrative capacities for implementing and enforcing of EU legislation (*acquis communautaire*). One of the prerequisites is professionalisation of employees of self-governing authorities, as defined in Act No. 312/2002 Coll., on Officials of Territorial Self-governing Units, which entered into force on 1 January 2003.

The law refers merely to civil servants employed by self-governing authorities, not to local elected representatives or service staff, and is based on the general supportive validity of the Labour Code. This means it contains alternatives set out in the Labour Code, justified by the special nature of exercising public administration.

The law formulates requirements for a civil servant's employment (age, capacity to act in legal relations, state citizenship or permanent residence, criminal integrity). The post of a chief/senior official can be occupied only by a person experienced in carrying out administrative procedures in public administration, or by an elected representative of the territorial self-governing unit released from his/her functions, or by an employee in a private sector managerial position. The law also sets out the obligation to advertise job vacancies for civil servants and to hold tenders for selected positions. These measures are aimed at ensuring equal access to public jobs. A special amendment to the duties of civil servants working for self-governing authorities is to strengthen the legal framework behind their impartiality and to enhance their commitment to act in the public interest and perform their jobs as a service to citizens. The law stipulates some compensation measures (extended vacation, higher severance pay) to make up for extended duties and greater demands.

An important part of the law is the definition of civil servants' education and training, perceived as the duty and the right of every civil servant. Civil servants' training is divided into initial training, which provides each employee with the basic direction for their future jobs; special expertise training in the practical matters of a civil servant's duties; ongoing training for thorough, topical and specialised knowledge; and training of senior civil servants. The training of civil servants is carried out by institutions accredited by the Ministry of the Interior. These trainings result in civil servants possessing a high and uniform level of knowledge and resolve, once and for all, difficulties encountered in assessing ability and the training requirements of civil servants' so as to improve their expertise.

11.1. Definition of main categories of civil servants

11.1.1. Civil servants

Act No. 312/2002 Coll., on Officials of Territorial Self-governing Units, introduces a notion “civil servant”, which, according to §2, par. 4 of the law, is understood as follows:

1. an employee of a municipality exercising administrative work within a Municipal Office;
2. an employee of a town/city exercising administrative work within a Municipal/City Office;
3. an employee of a statutory city exercising administrative work within the city hall of the statutory city or the city hall of the territorially divided statutory city;
4. an employee of a statutory city exercising administrative work within the city district office or the city part of the office of the territorially divided statutory city;
5. an employee of a region exercising administrative work within the Regional Office;
6. an employee of the City of Prague exercising administrative work within the Prague City Hall or the Prague city part town hall.

The term “administrative work” is not defined under Czech law, it is however considered to cover all activities of an employee, in the sphere of public administration, contributing to the fulfilment of tasks of the territorial self-governing unit within the scope of both own and delegated competences, in accordance with special legal regulations.

Employees of the territorial self-governing unit are considered civil servants if they at least partly engage in the fulfilment of tasks, assigned to the territorial self-governing unit in its independent or delegated competences through special legal regulations.

11.1.2. Non civil servants

The law does not primarily apply to members of the elected bodies of territorial self-governing units, employees of the bodies of territorial self-governing units, even if these employees perform or contribute to exercising administrative work. Neither does the law apply to persons who work externally under contract for a territorial self-governing unit, even if these persons perform or contribute to exercising administrative work.

The law also stipulates (§3) which categories of employees of the territorial self-governing unit are not considered civil servants:

1. employees working for a territorial self-governing unit’s own organisational components, which have no legal subjectivity;
2. employees working only in special bodies of the territorial self-governing unit,
3. employees exclusively performing an auxiliary service or manual jobs or who oversee performance of such jobs (so-called service work).

11.2. Authority responsible for supervision of civil servants

The law (§2) provides that the head of the authority is the chief civil servant exercising the post of:

1. secretary of the Municipal Office;
2. secretary of the city hall of the statutory city;

3. secretary of the city district office or the city part office of the territorially divided statutory city;
4. director of the Regional Office;
5. director of the Prague City Hall or secretary of the Prague city part office.

The municipal and regional authorities and the Prague City Hall are subdivided into sections and departments, run by senior employees. Heads of sections are appointed by the council of the territorial self-governing unit and the appointment is subject to a nomination by the secretary to heads of the authority. The Act on Municipalities, however, does not impose a sanction cancelling the appointment in the event of no such nomination being submitted. The appointment of section heads of the Regional Office or the Prague City Hall is subject to a nomination submitted by the director of the Regional Office or the director of the Prague City Hall. In the absence of a nomination, the appointment is cancelled. The head of the relevant authority (secretary, director of the Regional Office, director of the city hall) appoints heads of departments.

12. REFORMS ENVISAGED OR IN PROGRESS

Since 1989, two significant reforms of public administration have been implemented in the territory of the Czech Republic.

The first reform, called “transformational reform”, took place in 1990 within the process of general political and societal democratic changes. The fundamental step of the reform was the renewal of territorial self-government and the abolition of the previous system of national committees in the former Czechoslovak Republic.

The second reform, called “structural reform”, was launched in 1998 and its main features were implemented until 2002. Its first phase consisted mainly of the re-establishment of the regional level of self-government (14 regions, in 2000), the second stage then in the abolition of 76 district offices as state administrative authorities (2002). An essential part of these phases was the transfer of competences (both horizontal and vertical) and creating personal, organisational, technical, financial and logistic conditions for a smooth realisation of the changes in question.

After 2002, the reform focused mainly on a further development of decentralisation and deconcentration processes and integration of the administrative system.

In 2006, the so-called “third phase” of the reform officially commenced, whose aim was two-fold: to improve the functioning of territorial public administration and to optimise the system of the central state administration. Within these 2 elements, the following measures, topics and activities may be highlighted:

1. Improvement of the functioning of territorial public administration

- a) Public administration computerisation, e-government solutions:
 - computerisation of territorial public administration – the objective was for all regions and municipalities to be equipped with a computer, internet and a website (the project was entirely successful at regional level, however not fully at local level mainly due to a high number of municipalities);

- introduction of electronic communication by means of data boxes (Act No. 300/2008 Coll., on Electronic Operations and Authorised Conversion of Documents, which entered into force on 1st July 2009); this Act, which introduced electronic tools to the main procedural regulations, especially to the Administrative Procedural Code and Civil Procedural Code, enables citizens and businesses to interact with offices (including local and regional ones) in an electronic way;
 - contact points (network of one-stop-shops called Czech POINT where the word POINT is an abbreviation and means – in Czech – submitting, verifying, national information terminal), established in 2007; in future, these Czech POINTs should function as a complex communication platform between citizens (or the public in a wider sense) and public administration; as a beginning, they provide general information concerning public administration and issue excerpts (print-outs) of 4 registers; their number and functions are gradually being extended, they operate in all municipal and regional offices, in libraries, information centres, notaries' offices, Chamber of Commerce branches, many post offices, as well as abroad, mostly in embassies or Czech centres (e. g. in Berlin); nearly 3.600 one-stop-shops are currently in operation;
 - basic public administration registers; under the Act on Basic Public Administration Registers (approved in March 2009 as Act. No. 111/2009 Coll. and entered into force on 1st January 2010), an effective means for interconnecting the registration of inhabitants, legal and natural persons, rights and duties, addresses, property boundary identification and real estates should be facilitated; state institutions will then be able to extract data directly from these registers avoiding the need for citizens to submit this information.
- b) Civil servants:
- a proposal for a totally new act on civil servants in public administration has been prepared, covering both central and sub-national (regional, local) level of public administration; the proposal is supposed to be submitted to the legislative procedure after the parliamentary elections in May 2010 and, if approved, will replace the current legislation (Act No. 312/2002 Coll., on Officials of Territorial Self-governing Units, and Act No. 218/2002 Coll., Civil Service Act).
- c) A great number of small municipalities:
- the fragmentation of Czech municipalities is considered to be a serious problem – the small municipalities are usually financially weak, they have a lack of personnel and equipment, they have difficulties in providing public services and sometimes they cannot even serve as a democratic platform in elections. For a variety of reasons, it is not currently feasible to reduce the number of municipalities (the resistance of municipalities is based mainly on their bad experiences with administrative amalgamations before 1989 and strong patriotic feelings). At present, the situation is to some extent solved by support to various forms of inter-municipal co-operation, for example associations of municipalities or concluding public law contracts, or by indirect financial incentives (allocation of tax revenues in relation to the size of municipality). This politically sensitive issue is however still high on the list of government priorities.

- d) Local and regional finance:
 - the reform of the system of contributions to territorial self-governing units (budgetary allocation of taxes, contributions from the state budget for the exercise of delegated competences) is underway, with the aim of reaching a volume of resources for local and regional authorities that corresponds to the extent of their competences.
- e) Harmonisation of territorial units:
 - in future, the Ministry of the Interior will continue to work on harmonising territorial units exercising state powers (the Police, Courts, Labour Offices) with municipality administrative territorial units with extended powers and regions. For this purpose, a Draft Act on Territorial and Administrative Set-up of the State has been drawn up and prepared for approval by the legislature.
- f) Optimising exercise of competences:
 - the practice shows that not all competences are currently exercised in an appropriate way (level, extent). At present, an analysis on this issue is being carried out with the aim of finding a more suitable solution for the whole system of competence distribution, taking into account the principles of subsidiarity and decentralisation on the one hand (indicating that the tasks should be performed as closely to citizens as possible) and the fragmentation of municipalities on the other hand (the smallest municipalities are not able to fulfil the task required). It is however supposed that some competences currently performed by the central level could be transferred to the regions and municipalities with extended powers.

2. Reform of the central state administration

- a) Officials in central state administration:
 - the current law governing the status and working conditions for officials of state administration (Act No. 218/2002 Coll., Civil Service Act) has been published in the Collection of Laws, however, it has never been effective (mainly due to its financial requirements). Therefore, a new, complex act on civil servants in public administration has been prepared (see also point 1 b) above).
- b) Optimising the operation:
 - at present, extensive audits are being carried out at central level, focusing on a maximally effective performance and economic savings. For this purpose, the audits are specifically aimed at a review of competences, agendas, organisation, financial flows and human resources. The end in sight is an “optimisation” of the central state administration functioning, principally by means of reducing the number of civil servants, abolishing or amalgamating certain ministries and other central state authorities and introducing a system of centrally planned and secured logistics. These changes would have also indirect impacts at local and regional level, e. g. on mutual relations in the exercise of competences (supervision, co-operation), or on forming, developing and implementing local and regional concepts and politics (for example, in the event of the abolition of the Ministry for Regional Development).