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Monitoring of the European Charter of Local Self-Government in Turkey

Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee)

Rapporteurs:[1] Jakob WIENEN, Netherlands (L, EPP/CCE)
Yoomi RENSTRÖM, Sweden (R, SOC/G/PD)

Summary

This report follows a two-part monitoring visit which took place respectively in October and November 2019 in Turkey which ratified the European Charter of Local Self-Government in 1992, with reservations on ten provisions of the Charter.

The report notes with satisfaction the impressive turnout in recent local elections that took place in 2019 (above 84%), which is one of the highest in the Council of Europe member States and shows a strong interest in local self-government among the citizens.

However, the report notes a generally negative situation in terms of local self-government. The rapporteurs express their concerns about the small progress in implementing Congress Recommendation 397(2017) on the situation of local elected representatives in Turkey. They also deplore the provincial electoral administration's refusal to grant the required certificate of elections to several candidates who won the elections with. They point out the governor's double function as a State agent and a chairman of the provincial executive committee which is contrary to the spirit of the Charter, as well as the administrative tutelage over the activities and decisions of local authorities ; the state overregulation and interventionism in planning decisions of local authorities; the lack of consultation of affected local authorities during the boundary changes enacted by legislation; the limited capacity of local authorities to determine the rate of local taxes and the fact that a large proportion of local revenues (more than half) still comes from the state budget which limits the financial autonomy enjoyed by local authorities.

Consequently, national authorities are called upon in particular to modify the definition of terrorism in the current legislation so that it is defined in a way not allowing for an overly broad interpretation and ensuring a strict government enforcement and respect of human rights and values of representative democracy and to stop the current practice of the removal of mayors without court decisions with the aim to respect the presumption of innocence and the system of democratically elected representatives. They are also invited

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

in particular to discontinue the practice of appointing a governmental trustee in municipalities where the mayor has been suspended; to ensure that the candidates who were admitted to run in the elections and won them can effectively enjoy their right to carry out their mandate; to introduce legal amendments so that the governor will no longer be *de jure* the head of the special provincial administration and the chairman of the executive committee; to implement the constitutional principle of administrative tutelage at the lowest possible level of intensity; to reinforce consultation of local authorities and to increase the proportion of own local revenues.

The Congress will continue to monitor closely the situation of local democracy in Turkey and put the review of Turkey's compliance with its commitments under the Charter as a regular item on the agenda of the Monitoring Committee's meetings. It also decides to undertake the strengthening of its political dialogue with Turkish national authorities with the aim of improving the situation of local democracy in the country in the light of the provisions of the Charter.

DRAFT RECOMMENDATION[2]

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

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

b. Article 1, paragraph 2, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1, stipulating that "The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government."

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

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

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

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

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

h. Congress Recommendation 301 (2011) on the situation of local and regional democracy in Turkey;

i. Congress Resolution 416(2017) and Recommendation 397(2017) on the Fact-finding mission on the situation of local elected representatives in Turkey;

j. Congress Resolution 450(2019) and Recommendation 439(2019) Local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019);

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2 Preliminary draft recommendation approved by the Monitoring Committee on 11 February 2020.

Members of the committee: *L. VERBEEK* (Chair)*; H. AKGUN;* L. ANSALA; V. ARQUES CORTES; N. BARBU; C. *BAS*; *V. BELIKOV;* B. BELIN; G. BERGMANN*; H. BERGMANN; M. BERNTSSON*; K. BILLE*;* A. BINDI; *Z. BROZ;* M. BUFI; *T. BUYUKAKIN*; *X. CADORET*; *V. CASIAN; M. CAVARA; P. CEGONHO*; G. CHATZIMARKOS; *M. COOLS; J. CROWE*; *V. CRUDU;* S. DICKSON *(alternate*: *S. CHARLES*) *;* N. DIRGINCIENE; A. DISMORE*; R. DODD; S. DOGUCU;* D. ERAY *(alternate: L. WEHRLI);* R. FEJSTAMER; M. FENECH ADAMI*;* L. GARLITO BATALLA; M. GAUCI*; G. GEGUZINSKAS;* A.G. GEORGESCU; *K. GERMANOVA; L.V. GIDEI;* M. R. GOMES DE ANDRADE; B.A. GRAM*;* N. GROZEV; I. HANZEK*;* Z. HASSAY*;* G.M. HELGESEN; B. HIRS (*alternate: M. HOLLINGER*); J. HLINKA; B. HORDEJUK; *M. H. HOURIGAN; V. HOVHANNISYAN*; *A. IBRAHIMOV; G. ILLES;* A. JOZIC; K. KALADZE; A. KALEVA*;* G. KAMINSKIS *(alternate: H. ROKPELNIJS); O. KASURI;* M. KAUFMANN*;* N. KAVTARADZE*;* B. KERIMOGLU; J-P. KLEIN; A. KNOBOVA*;* J. KOKKO*; C. LAMMERSKITTEN; A. LEADBETTER;* F. LEC; *J-P. LIOUVILLE;* K. T. MAGNUSSON; A. MAGYAR *(alternate: A. ACSAY);* P. MANGIN (*alternate: J-M. BELLIARD*); *K. MARCHENKO;* G. MARSAN; *O. MELNICHENKO; R. MONDORF; S. MOSHAROV;* D. PANTANA; V. PASQUA ; G. PAUK; *S. PAUNOVIC;* M-L. PENCHARD; *V. PREBILIC*; V. PROKOPIV; P. PRYHARA; I. RADOJICIC; G. RIBA CASAL; *J. ROCKLIND;* R. ROHR; *B. RUDKIN;* S. SCHUMACHER*;* I. SEREDYUK*;* L. SFIRLOAGA; P. SMOLOVIC; A-M. SOTIRIADOU*;* R. SPIEGLER; Y. SVITLYCHNA*;* T. TAGHIYEV*;* T. TALIASHVILI*;* A. TARNAVSKI *(alternate: T. BADAN);* P. THORNTON *(alternate: L. GILLHAM);* K. TOLKACHEV*;* F. TRAVAGLINI*;* M. TURCAN; *S. VAAG;* V. VARNAVSKIY*; R. VERGILI*; D. VLK; *B. VOEHRINGER;* A. VYRAS *(alternate: M. KOUKLIS);* H. WENINGER*; E. YERITSYAN; J. WIENEN;* L. ZAIA; F. ZIMMERMANN.

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

Secretariat of the committee: S. POIREL, Secretary to the Committee and S. PEREVERTEN, co-Secretary to the Committee.

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

2. The Congress points out that:

a. Turkey signed the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter") on 21 November 1988 and ratified it on 9 December 1992, with entry into force on 1 April 1993. In the course of ratification, Turkey declared itself not bound by Articles 4.6, 6.1, 7.3, 8.3, 9.4, 9.6, 9.7, 10.2, 10.3, 11;

b. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) instructed Mr Jakob WIENEN (Netherlands, EPP/CCE) as rapporteur on local democracy, and Ms Yoomi RENSTRÖM (Sweden, SOC/G/PD) as rapporteur on regional democracy, to prepare and submit a report on the monitoring of the European Charter of Local Self-Government in Turkey to the Congress. A two-part visit to Turkey was carried out by the Congress delegation, which was assisted by Prof. Angel M. MORENO, President of the Group of Independent Experts on the Charter and the Congress secretariat;

c. The monitoring visit took place from 1 to 4 October 2019 and from 11 to 13 November 2019. In Tukey, the Congress delegation met representatives of various institutions at all levels of government as well as leaders of most relevant national parties, non-governmental organisations and foreign diplomatic representatives. The detailed programme of both parts of the visit is appended to the report;

d. The co-rapporteurs wish to thank the Permanent Representation of the Republic of Turkey to the Council of Europe and all those whom they met during the visits for the information they provided and comments they made.

3. The Congress notes with satisfaction:

a. The impressive turnout in local elections (above 84% in 2019) in Turkey, which is one of the highest in the Council of Europe member States and shows a strong interest in local self-government among the citizens.

4. The Congress expresses its concerns in particular on the following issues:

a. The small progress in implementing Congress Recommendation 397(2017) on the Fact-finding mission on the situation of local elected representatives in Turkey. The government continues to suspend mayors when a criminal investigation is opened against them (Article 7.1), on the grounds of an overly broad definition of “terrorism” in the anti-terror legislation, and to replace them by non-elected officials (Article 3.2) thus seriously undermining the democratic choice of Turkish citizens and impeding the proper functioning of local democracy in Turkey;

b. The provincial electoral administration’s refusal, in violation of the principle of fairness in elections, to grant to several candidates who won the mayoral elections in some municipalities located in the south-east of Turkey the required certificate of elections (“*mazbata*”) which is a pre-requisite to entering the position of mayor (Article 3.2);

c. the governor’s double function as a State agent and a chairman of the provincial executive committee which does not permit the necessary separation between the State and the local administration contrary to the spirit of the Charter (Article 3.2);

d. administrative tutelage over the activities and decisions of local authorities is still enshrined in the Constitution and applied in practice. The State overregulation and interventionism in planning decisions of local authorities take the form of the efficiency control over own tasks and responsibilities of local authorities and limit their capacity to enjoy full and exclusive powers (Articles 4.4, 8.2);

e. the lack of consultation of affected local authorities during the boundary changes enacted by legislation (Article 5) which also reflects the unsatisfactory level of communication and inter-governmental dialogue between the central government and local authorities in Turkey in general;

f. local governments have a limited capacity to determine the rate of local taxes (Art. 9.3), and a substantial proportion of local revenues (more than half) still comes from the State budget which generally limits the financial autonomy enjoyed by local authorities;

g. local authorities in the south of the country face additional pressures in delivering basic services such as housing, food and sanitation due to an unprecedented influx of refugees and asylum seekers.

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

a. modify the definition of terrorism in the current anti-terror legislation, so that this concept is defined in a way not allowing for an overly broad interpretation and ensuring a strict governmental enforcement and respect of human rights and values of representative democracy;

b. stop the current practice of the removal of mayors without court decisions, make all possible efforts to reconcile the legitimate fight against terrorism with the requirements of local democratic life and accordingly use the technique of the suspension of mayors with the greatest possible caution and restrictive approach, with the aim to respect the presumption of innocence and the system of democratically elected representatives;

c. discontinue the practice of appointing a governmental trustee in municipalities where the mayor has been suspended and modify the legal framework so that whenever a mayor is suspended, opportunity is given to the council to appoint an interim or acting mayor from among its members, in accordance with the possibility contained in the original version of the Municipality Law of 2005 (Art. 45) and until the procedural situation of the suspended mayor is clarified;

d. ensure that the candidates who were admitted to run in the elections and won them can effectively enjoy their right to carry out their mandate;

e. introduce the necessary legal amendments so that the Governor will no longer be *de jure* the Head of the Special Provincial Administration and the chairman of its executive committee, and to allow the general council of this local authority to appoint and dismiss the head and the chairman of the executive committee or, failing this, to make these positions elected directly by the people;

f. implement the constitutional principle of administrative tutelage at the lowest possible level of intensity, in order to protect and ensure local autonomy and reduce supervision over local authorities, especially in the domain of finances, loans and planning, rendering it more objective and predictable;

g. reinforce consultation of local authorities, in particular in the case of amalgamations or changes in the local authorities' boundaries;

h. increase the proportion of own local revenues and enhance the regulatory and rate-setting power of local authorities in respect of their own taxes through fiscal decentralisation;

i. take measures in order to develop the internal auditing and financial controls of local authorities;

j. consider ratification of Articles 7.3, 9.4, 9.7, 10.3 since they are respected in practice;

k. take appropriate measures to encourage the involvement of women in local political life;

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

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

DRAFT RESOLUTION

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

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

b. Article 1, paragraph 2, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1, stipulating that "The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government."

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

d. Congress Recommendation 301(2011) on the situation of local and regional democracy in Turkey;

e. Congress Resolution 416(2017) and Recommendation 397(2017) on the Fact-finding mission on the situation of local elected representatives in Turkey;

f. Congress Resolution 450(2019) and Recommendation 439(2019) on the Local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019);

g. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in Turkey.

2. The Congress points out that:

a. Turkey signed the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter") on 21 November 1988 and ratified it on 9 December 1992, with entry into force on 1 April 1993. In the course of ratification, Turkey declared itself not bound by Articles 4.6, 6.1, 7.3, 8.3, 9.4, 9.6, 9.7, 10.2, 10.3, 11;

b. The Committee on the Honouring of Obligations and Commitments by member States of the European Charter of Local Self-Government (hereinafter referred to as Monitoring Committee) instructed Mr Jakob WIENEN (Netherlands, EPP/CCE) as rapporteur on local democracy, and Ms Yoomi RENSTRÖM (Sweden, SOC/G/PD) as rapporteur on regional democracy, to prepare and submit a report on the monitoring of the European Charter of Local Self-Government in Turkey to the Congress. A two-part visit to Turkey was carried out by the Congress delegation, which was assisted by Prof. Angel M. MORENO, President of the Group of Independent Experts on the Charter and the Congress secretariat;

c. The monitoring visit took place from 1 to 4 October 2019 and from 11 to 13 November 2019. In Turkey, the Congress delegation met representatives of various institutions at all levels of government as well as leaders of most relevant national parties, non-governmental organisations and foreign diplomatic representatives. The detailed programme of both parts of the visit is appended to the report;

d. The co-rapporteurs wish to thank the Permanent Representation of the Republic of Turkey to the Council of Europe and all those whom they met during the visits for the information they provided and comments they made;

3. The Congress reiterates that member States of the Council of Europe that have signed and ratified the Charter have undertaken to comply with its provisions

4. The Congress expresses concern regarding:

a. the small progress in implementing Congress Recommendation 397(2017) on the Fact-finding mission on the situation of local elected representatives in Turkey. The government continues to suspend mayors when a criminal investigation is opened against them (Article 7.1), on the grounds of an overly broad definition of "terrorism" in the anti-terror legislation, and to replace them by non-elected officials (Article 3.2) thus

seriously undermining the democratic choice of Turkish citizens and impeding the proper functioning of local democracy in Turkey;

b. the provincial electoral administration's refusal, in violation of the principle of fairness in elections, to grant to several candidates who won the mayoral elections in some municipalities located in the south-east of Turkey the required certificate of elections (*mazbata*) which is a pre-requisite to entering the position of mayor (Article 3.2);

c. the governor's double function as a State agent and a chairman of the provincial executive committee which does not permit the necessary separation between the State and the local administration contrary to the spirit of the Charter (Article 3.2);

d. administrative tutelage over the activities and decisions of local authorities is still enshrined in the Constitution and applied in practice. The State overregulation and interventionism in planning decisions of local authorities take the form of the efficiency control over own tasks and responsibilities of local authorities and limit their capacity to enjoy full and exclusive powers (Articles 4.4, 8.2);

e. the lack of consultation of affected local authorities during the boundary changes enacted by legislation (Article 5) which also reflects the unsatisfactory level of communication and inter-governmental dialogue between the central government and local authorities in Turkey in general;

f. local governments have a limited capacity to determine the rate of local taxes (Art. 9.3), and a substantial proportion of local revenues (more than half) still comes from the State budget which generally limits the financial autonomy enjoyed by local authorities;

g. local authorities in the south of the country face additional pressures in delivering basic services such as housing, food and sanitation due to an unprecedented influx of refugees and asylum seekers.

5. In light of the foregoing, the Congress:

a. decides to continue to monitor closely the situation of local democracy in Turkey and to this end, puts the review of Turkey's compliance with its commitments under the Charter as a regular item on the agenda of the Monitoring Committee's meetings;

b. undertakes to deepen/strengthen its political dialogue with the Turkish national authorities with the aim of improving the situation of local democracy in the country in light of the provisions of the Charter.

EXPLANATORY MEMORANDUM

Table of content:

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

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

2. The Republic of Turkey is a Party to the European Charter of Local Self-Government (ETS No. 122, hereinafter "the Charter"). Turkey signed the Charter on 21 November 1988 and ratified it on 9 December 1992. The Charter entered into force in Turkey on 1 April 1993. When ratifying the Charter, Turkey made a declaration according to which that country only considered itself bound by only certain articles or paragraphs of articles. Therefore, it formulated a "reservation" to several articles or paragraphs of the Charter, which were consequently not ratified, namely:

- Article 4.6 (consultation of local authorities, in general)
- Article 6.1 (consultation of local authorities in case of changes in boundaries)
- Article 7.3 (functions and activities incompatible with local elective office)
- Article 8.3 (principle of proportionality in administrative supervision)
- Article 9.4 (diversification and buoyancy of local financial resources)
- Article 9.6 (consultation of local authorities in redistribution of financial resources)
- Article 9.7 (grants for local authorities)
- Article 10.2 (entitlement of local authorities to belong to an association)
- Article 10.3 (co-operation with local authorities in other states)
- Article 11 (right to effective recourse to judicial remedies)

3. In the field of local and regional democracy, Turkey has also signed and ratified the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No.106): signed on 4 February 1998 and ratified on 11 June 2001, entered into force for Turkey on 12 October 2001.

4. However, Turkey has neither signed nor ratified a number of Council of Europe conventions that have a connection with local and regional government, namely:

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

- Additional protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, of 9 November 1995 (ETS No.159);

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

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

5. The Monitoring Committee of the Congress appointed Mr Jakob WIENEN (Netherlands, EPP/CCE) as rapporteur on local democracy, and Ms Yoomi RENSTRÖM (Sweden, SOC/G/PD) as rapporteur on regional democracy, and instructed them to prepare and submit a report on the monitoring of the European Charter of Local Self-Government in Turkey to the Congress. A two-part visit to Turkey was carried out by the Congress delegation, which was assisted by Prof. Angel M. MORENO (expert) and by the Congress secretariat. The rapporteurs wish to express their thanks to the expert for his assistance in the preparation of this report.

6. The delegation would also like to thank the Permanent Representation of the Republic of Turkey to the Council of Europe, as well as all their interlocutors for the information they provided during the visit. The first part of the visit took place in Ankara and Diyarbakir from 1 to 4 October 2019. The delegation met there with representatives of the central administration (ministries), several mayors, members of the Turkish delegation to the Congress, members of the Grand National Assembly, and representatives of the most important associations of municipalities and provinces and of the Constitutional Court. The second part of the visit took place in Ankara and Istanbul from 11 to 13 November 2019. On that occasion, the delegation met the mayor of Istanbul, several foreign diplomatic representatives, non-governmental organisations (NGOs) and leaders

of the most relevant national parties. The detailed programme of these visits is appended to the present report.

7. According to Rule 79 of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, the preliminary draft report was sent, on 16 December 2019, to all interlocutors met during the visit for comments and possible adjustments or corrections (hereinafter referred to as "consultation procedure"). The present report is based on the comments received which have been considered by the co-rapporteurs before submission for approval to the Monitoring Committee.

2. HISTORICAL AND POLITICAL BACKGROUND

8. The Republic of Turkey is a unitary state established in 1923. It is one of the largest countries (783,356 km2) and the second-most populated country (82.1 million inhabitants) in Europe. Turkey has a notable presence in the international arena. It is a member of all major organisations such as the UN, OSCE, OECD, IMF, NATO, etc. The country was a founding member of the Council of Europe in 1949.

9. The current constitution of the Republic of Turkey was adopted in 1982 and has been amended many times. The form of government of Turkey is that of a presidential republic, "a democratic, secular and social state governed by the rule of law" (Article 2). The head of state is the President of the Republic, who is elected by popular and direct vote for terms of five years. Since August 2014 the President of the Republic of Turkey has been Mr Recep Tayyip ERDOĞAN.

10. The legislative power of the republic resides exclusively at the state level, in the Grand National Assembly. This is a unicameral chamber, composed of 600 representatives, who are elected every five years through a proportional representation system. The last general elections (early presidential and parliamentary elections) were held on 24 June 2018 and were observed by the Parliamentary Assembly of the Council of Europe[3]. As a result of such elections, the Turkish Grand Assembly has different political groups, the majority party being the AK Party (Justice and Development party), with 290 seats and the main opposition party being CHP (Republican People's Party) with 139 seats. The AK Party and the MHP (The Nationalist Movement Party) constituted an electoral alliance, support each other in Parliament on various issues, including anti-terrorism and foreign affairs.

11. The executive branch is composed of the President of the Republic. In 2017, constitutional amendments backed by a positive referendum abolished the office of the Prime Minister and granted enhanced executive powers to the President of the Republic; for instance, he has the authority to decide to renew the elections, in which case the general election of the parliament and the presidential election shall be held together and has the power to appoint and dismiss ministers. The government is chaired by the President of the Republic; therefore the said president is at the same time head of state and head of government.

12. The constitution ("*Anayasa*") clearly defines the Republic of Turkey as "an indivisible entity, whose language is Turkish" (Article 2, Turkish Constitution). Moreover, the indivisibility clause cannot be amended, and its amendment cannot be proposed. Since the eighties, the country has experienced a mild process of administrative decentralisation at the local level, which is discussed below. Major territorial reforms were accomplished in 2005 and 2013/14.

13. Turkey is a centralised country. For state administration purposes, the national territory is divided into provinces (*vilayets*), under Article 126 of the constitution. At present there are 81 provinces and each province is divided into districts, totalising 922 districts. Both the provinces and the districts have their own bureaucratic apparatus (deconcentrated state administration). At provincial and district levels there are branch offices of the state agencies and departments; there are district election boards and province election boards, etc. The head of the provincial administration is the province governor (*vali*) but each district also has a district governor. There are no regional governments (see below).

14. As regards the local government system *stricto sensu*, Turkey has 51 "Special Provincial Administrations" (second-level local entities) and 1389 Municipalities (*Belediye;* first-level units). Ankara (5,5 million) and Istanbul (15 million) are the most populated cities. Municipalities can be sorted into different

3 Parliamentary Assembly (2018): Observation of the early presidential and parliamentary elections in Turkey", 24 June 2018), Rapporteur: O.Sotnyk, Ukraine (Alliance of liberals and Democrats). Document 14608, of 3 September 2018.

groups, according to status, dimension or territorial scope: there are 30 “metropolitan” municipalities, 519 “metropolitan district” municipalities (within metropolitan municipalities), and 840 “regular” or non-metropolitan municipalities (in those provinces in which there are no metropolitan municipalities). The “regular” municipalities may be sorted into three types:

a. 51 municipalities that are the capital of their respective provinces;
b. 403 district municipalities (municipalities that are the capital of their districts) and
c. 386 “town municipalities”. Town municipalities (*belde)* consist of human settlements with at least 2 000 inhabitants and are usually of rural nature, engaged in agriculture and production of livestock.

15. Apart from these entities, the smallest local government unit is the village (*köy*), a human settlement under 2 000 inhabitants, of which there are roughly 18 300. There are also thousands of “neighbourhoods”, with elected heads (*muhtars*) but these settlements neither have legal personality nor are considered as true local authorities.

16. The model of the “metropolitan municipality” is by far the newest and most important type of local authority in Turkey, and that deserving closest attention. This model or status was granted first in 1984 to Istanbul, Ankara and Izmir, the largest three cities in the country. The model was further extended to more cities (for instance, in provinces with over 750,000 inhabitants) to reach the current figure of 30. It is estimated that 77% of the Turkish population currently lives within the boundaries of metropolitan municipalities. In the case of metropolitan municipalities, the boundaries of the metropolitan municipalities were extended to match those of the respective provinces, and “Special Provincial Administrations” and “villages” were abolished.

17. The name “municipality” given to those entities may be misleading at least at first sight, since they have neither the extent nor the settlement pattern of the “cities” or “communes” present in other countries. A Turkish “metropolitan” municipality contains within its boundaries several “district municipalities”; it has a large extent (that of the pre-existing province), and contains different types of human settlements: rural and urban areas, developed and non-developed land, etc.

18. Metropolitan municipality’s administrative structure is as follows: Municipal board, Municipal council and mayor. The municipal council meets under the chairmanship of the mayor.

19. The territorial basis of the Turkish local government system is rather peculiar and specific, in the sense that most municipalities are very large in territorial scope, similar to that of provinces, “*départements*” or counties in other European countries, as a result of successive processes of mergers of municipalities and reorganisations of local government. For instance, under Law No. 6360, the “*belde*” (“town municipalities”) located in the “metropolitan municipalities” (old provinces) were abolished as of 30 March 2014. This feature has produced local authorities, with an average population of roughly 56 400 inhabitants per municipality, which is one of the highest in Europe, and well beyond the figure of 5 600 inhabitants per municipality which is the average in the EU for first-tier local governments.[4]

20. Another peculiar feature is that some municipalities (first-tier units) are parts of the territory of larger municipalities (also first-tier units). For example, “metropolitan district” municipalities are part of the territory of “metropolitan” municipalities.

21. For these and other reasons the difference between “first-level” local authorities (municipalities) and “second-level” ones (provinces or “Special Provincial Administrations”) is blurred or more difficult to establish in Turkey. The reason is that the current “metropolitan municipalities” have succeeded the old “provinces” in many parts of the country and they too can be considered “second-tier” local authorities, to the same extent as Special Provincial Administrations are “second-tier” entities in the places where they remain in operation. In their profile, Turkish metropolitan municipalities are comparable to the Italian “*città metropolitana”.*

22. At present the local government system may be defined as a “dual” and uneven system, since there are parts of the country where there are two levels of local entity (“Special Provincial Administrations” and “municipalities”), and parts of the country where there is another system (“district” municipalities and metropolitan municipalities). Thus, the “Special Provincial Administrations” as a second-level local authority

4 2016 data. Source: Network of Associations of Local Authorities of South East Europe (NALAS) (2015), “*Fiscal decentralisation indicators for South-East Europe: 2006-2014”*.

exists only in part of the country. Consequently, the local government system does not correlate with the territorial state administration: although there are still 81 provinces for state governmental purposes (and 81 governors), there are not 81 "Special Provincial Administrations" as local entities but only 51, since in the remaining 30 provinces the "new" local entity is the "metropolitan" municipality. Another example of asymmetry is the fact that the "villages" exist only where there are no metropolitan municipalities, since the villages included in the territory of metropolitan municipalities were abolished when these new entities were established.

23. Consequently, the current system of local authorities in Turkey may be described as follows:

a. In the Provinces where metropolitan cities have not been established, the local authorities comprise (i) the Special Provincial Administration as second-level local authority; and (ii) the province-centre municipality, the district municipalities, the town municipalities and the villages as first-level local authorities.

b. In the Provinces where "metropolitan cities" have been established: here, the only local authorities are the metropolitan city, and the district municipalities underneath them. Neither the villages (as micro first-tier local authorities) nor the Special Provincial Administrations (as second-tier local authorities) exist anymore in such provinces.

24. On the other hand, there are no genuine "regions" in Turkey. The constitutional system in Turkey is based on a formal uniformity throughout the country, as presented at point 5, below.

25. The last local elections took place in Turkey on 31 March 2019 (see below) while re-run elections took place in Istanbul on 23 June 2019 following a decision rendered by the Supreme Electoral Council (YSK). These elections were observed by the Congress, resulting in a report and explanatory memorandum.[5]

26. On 15 July 2016, Turkey suffered a failed coup d'état initiated by a group within the Turkish armed forces in an attempt to overthrow the country's democratically elected institutions and the constitutional order, which resulted in 249 people being killed. The Turkish authorities attributed the organisation of the attempted coup to FETÖ (Fetullahist Terrorist Organization) members in the military. Following the failed coup d'état, which was immediately condemned by the Council of Europe, the Turkish Government declared the state of emergency and started legislating through emergency decree laws. As the Turkish government underlined during the consultation procedure, the failed coup had a profound social and psychological impact on the country, making national security and unity of the Turkish nation one of the most important issues, as well as boosting solidarity of the Turkish people.

27. In the wake of the political, social and governmental reaction to that crisis, a set of important constitutional amendments were introduced (backed by a positive popular referendum in 2017). Many laws and regulations were approved on grounds of "national security", which increased dramatically the powers of the police and the prosecutors and tightened up the criminal justice system. A "state of emergency" was declared, which was eventually lifted in July 2018.

3. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

3.1 Local government system (Constitutional and legislative framework, reforms)

Constitutional framework

28. The Turkish Constitution includes only sketchy provisions on the territorial structure of the country, on decentralisation and local government issues. To begin with, as noted above (Article 3) the constitution declares that the country is an indivisible entity, and the value of indivisibility and unity is reinforced in Article 5.

29. The constitution lays down very few provisions and principles for local government and local public administration, and no mention is made to any regional government whatsoever. In reality, the only relevant constitutional provision is Article 127, according to which:

5 Monitoring Committee (2019) "Local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019)", Rapporteur: Andrew DAWSON, United Kingdom (R, ECR). Document CG/MON14(2019)06, Restricted; 28 August 2019).

- Local authorities are defined as “public corporate bodies” established to meet the common local needs of the inhabitants of provinces, municipal districts and villages, “whose principles of constitution and decision-making organs elected by the electorate are determined by law”.
- The formation, duties and powers of such authorities “shall be regulated by law in accordance with the principle of local administration”[6].
- Elections for local administrations shall be held every five years.
- “[S]pecial administrative arrangements may be introduced by law for larger urban centres”.
- An important provision, as regards this report, may be found in the fourth indent of Article 127: “The loss of status and objections regarding the acquisition of the status of elected organs of local administrations shall be decided by judiciary. However, as a provisional measure until the final court judgment, the Minister of Internal Affairs may remove from office those organs of local administration or their members against whom an investigation or prosecution has been initiated on grounds of offences related to their duties”.
- Equally important is the practice or idea of administrative supervision or “tutelage” of local authorities by central authorities: “The central administration has the power of administrative tutelage over the local administrations in the framework of principles and procedures set forth by law”[7].
- Finally, “the formation of local administrative bodies into a union with the permission of the President of the Republic for the purpose of performing specific public services; and the functions, powers, financial and security arrangements of these unions, and their reciprocal ties and relations with the central administration, shall be regulated by law. These administrative bodies shall be allocated financial resources in proportion to their functions.”

30. Consequently, the constitutional references to local government do not proclaim or enshrine the principle of local autonomy as such, and they do not mention the competences of the local authorities. These entities enjoy a capacity to act in the framework of the administrative tutelage of the central government.

Legislative framework for local government

31. The organisation, competences, finances and operational aspects of Turkish local authorities are regulated by a comprehensive set of laws and regulations. The most important piece of legislation is the Act No. 5393, the Municipality Law or “Municipal Law”, of 3 July 2005, as amended. This statute repealed the Municipalities Act of 1930, which was in force for many years, and operates as a code for the local administration system. It regulates the organisation of the “regular” municipalities, their competences, their internal administration, the forms of control over their activities, their property and financial resources, and the forms of association and co-operation. Also relevant are the following statutes:
- Act No 5216, of 10 July 2004, on metropolitan municipalities.
- Act No 5302, of 22 February 2005, on Special Provincial Administration.
- Act No 2972, of 1984, as amended, on elections for local administrations, neighbourhood mukhtars and boards of councillors. This is a specific statute regulating local elections, within the general legal framework for elections in Turkey, constituted by Act No 298, on Basic Provisions on Elections and Voters Registers, enacted in 1961, and subsequently amended.
- Act No 5018, on Public Financial Management and Control.
- Law No. 6360 on the Establishment of Metropolitan Municipalities and Twenty-Seven Districts in Fourteen Provinces and Making of Amendments to Certain Laws and Decree Laws”

3.2 The status of the capital city

32. According to the Turkish Constitution, the capital of the Republic is Ankara (Article 3, fourth indent). This provision cannot be amended, and its amendment cannot even be proposed. Ankara has been the capital of Turkey since 1923. It has a population of 5.5 million inhabitants. In addition, Ankara has the status of “metropolitan city” and its territory encompasses the territory of the former “province” of the same name. Consequently, the new metropolitan city of Ankara has taken over the pre-existing “Special Provincial Administration” of Ankara province. The metropolitan city of Ankara includes within its boundaries 25 “district municipalities”.

33. The city of Ankara is the seat of most of the state administration offices and departments, for foreign embassies and delegations of international firms, and entertains a strong international co-operation with other cities (see below).

6 As amended on July 23, 1995; Act No. 4121.
7 As amended on April 16, 2017; Act No. 6771.

34. Despite the administrative and political importance of the capital, Ankara does not enjoy a specific or particular "capital status", and is governed by the general laws and regulations on local government (in this case, mainly by the Law on Metropolitan Municipalities). Legislation does not grant Ankara a true "special status" similar to that of other big European capitals, in terms of competences and financing. The sources of funding of Ankara are, in principle, the same as other Turkish metropolitan cities, and so are its competences. Thus, there is no specific benefit enjoyed by the city for the reason of being the capital of the country; for instance, Ankara does not collect any special tax. Likewise, the metropolitan mayor and council of Ankara have the same status and competences as in any other metropolitan municipality. Similar to other metropolitan municipalities, the basic organisation of Ankara consists of a mayor, a metropolitan council (with 148 members) and a municipal committee.

35. According to our interlocutors, the current situation is not seen per se as a negative one, and the delegation did not hear specific claims for obtaining a "special" or specific status for the capital.

36. The main complaint heard by the delegation about the current situation had to do with financing. As in the case of other capitals, Ankara allegedly does not receive enough funding. On the one hand, Ankara representatives complained that the regular scheme for local finances does not allow them to undertake large and strategic projects for the capital, such as the construction or expansion of "metro" underground train lines. They would even prefer that those infrastructures be built and financed by the state and later transferred to the city. Moreover, Ankara has some extra obligations for reasons of security, but it does not receive any extra income for that.

37. In conclusion, Ankara has no "special" status, but the local rulers do not make claims in favour of having such status, while they complain that the specificities of the capital are not reflected in the system of local finances.

3.3 Legal status of the European Charter of Local Self-Government

38. Since the Charter is an international treaty, ascertaining its legal status in the domestic legal order of Turkey needs to take into account some general features pertaining to Turkish constitutional law and the place and force of international treaties in that country. To begin with, international treaties are dealt with in Article 90 of the Turkish Constitution. This provision regulates the requirements for an international treaty to become the law of the land in Turkey. They differ according to the type and importance of the treaty. The most important ones are those regulated in the first indent: "the ratification of treaties concluded with foreign states and international organisations on behalf of the Republic of Turkey shall be subject to adoption by the Grand National Assembly of Turkey by a law approving the ratification". This has been the case of the Charter.

39. Once an international treaty has become applicable in Turkey, the constitution provides that it has the force of law. The Charter can accordingly be invoked before the regular courts. "No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional" (sentence added on 7 May 2004, Act No. 5170). The constitution further provides that: "in the case of a conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail". Consequently, the Turkish Constitution provides explicitly (and only since 2004) only for the prevalence of international treaties such as the European Convention on Human Rights over domestic statutes. Other treaties do not, in principle, benefit from this legal strength. The question of the position of "regular" international treaties in the Turkish legal system is unclear and is controversial for Turkish scholars. The question of the precedence of the treaties over domestic legislation is the source of much academic debate, and some scholars have even spoken of the existence of a "structural ambiguity concerning the status of international law in the Turkish constitutional order."[8]

40. The prevailing view is that the Charter, once ratified, was introduced in the Turkish legal system by an Act of Parliament, but that this source of law is not hierarchically superior to domestic legislation. In addition, the Charter cannot be invoked in the Constitutional Court to support a claim of unconstitutionality.

8 Ikboljon Qoraboyev: "International law in the Turkish legal order: Transnational judicial dialogue and the Turkish Constitutional Court", January 2017.

41. According to the rapporteurs' interlocutors, the Charter has never been invoked in the Constitutional Court in the context of actions for constitutional review of legislation (one of the two pillars of forensic activity of the court) and there are no cases where the said Charter has been invoked. Additionally, the Constitutional Court has very limited case law on the concept or principles of local self-government under Article 127 of the constitution. In 2007 there was a case in which the Constitutional Court analysed the principle of local autonomy, but in recent years there has been no decision rendered, and no case is pending.

42. Therefore, the concept and the principles of local autonomy have so far played no role in the context of constitutional review of legislation. It should also be noted that local authorities do not have standing to sue in the Constitutional Court in a challenge on unconstitutionality (see below 4.10). In addition, it is considered that the constitutional regulation of local government lacks detail and leaves a broad room for political discretion on the legislator.

43. On the other hand, the Constitutional Court has not received applications or appeals challenging the decrees regulating the suspension of mayors. The suspension of mayors (a hot issue in the landscape of local democracy in Turkey, see below) has therefore not yet been considered by the Constitutional Court. However, even if this type of lawsuit were to be brought in the future, Article 127 of the constitution would not play a role in the procedure in respect of individual applications, since the court only takes into consideration only the European Convention on Human Rights (ECHR) and its related case law. Article 127 plays a role only in direct challenges alleging unconstitutionality.

44. During the consultation procedure, the Constitutional Court indicated that the Charter cannot be relied upon under the individual application system in the Constitutional Court since the subject-matter jurisdiction of individual application is limited to cross-protection of the Constitution and the ECHR (see supra para.37).

45. To end this brief analysis, it should be added that the Constitutional Court has no jurisdiction whatsoever in local elections, since the competence to adjudicate claims connected with the local elections belongs to the electoral administration system, with the Supreme Electoral Council (YSK) at the top, and the decisions of this body are not challengeable in courts.

46. In light of the foregoing considerations, it can be concluded that the application of the Charter in constitutional adjudication is very limited in Turkey.

3.4 Previous Congress reports and recommendations

47. Local government in Turkey has deserved the close attention of the Congress in recent years. The last monitoring visit, carried out in stages, took place between 2007 and 2009 and eventually resulted in Congress Recommendation 301 (2011) on the situation of local and regional democracy in Turkey.[9] In those recommendations the Congress made recurrent calls for the reduction of the administrative tutelage over local authorities.

48. Apart from these general monitoring exercises, some aspects of local government and local democracy have also been closely monitored by the Congress. Thus, in 2007 a Congress fact-finding delegation went to Turkey to investigate the situation in Sur/Diyarbakir and this resulted in Recommendation 229 (2007). In 2016, the Congress asked its rapporteurs on Turkey to conduct a fact-finding mission on the detention and removal from office of an increasing number of elected mayors and municipal councillors. Following the attempted coup of July 2016, the new measures introduced in the framework of the State of Emergency resulted in dozens of local elected representatives being placed in pre-trial detention and replaced with persons appointed by the central authorities. The said fact-finding mission took place along two visits in October and December 2016 and resulted in Resolution 416 (2017) and Recommendation 397 (2017)[10].

9 See: Congress of Local and Regional Authorities, Monitoring Committee (2011): "Local and regional democracy in Turkey". Rapporteurs: A. KNAPE, Sweden (L, EPP/CD), H. V. STAA, Austria (R, EPP/CD), Document CG(20)6, of 1 March 2011.
10 Both were debated and adopted by the Congress on 29 March 2017 (Explanatory memorandum: Co-rapporteurs: A. KNAPE, Sweden (L, EPP, CCE) and L. VERBEEK, Netherlands (R, SOC/G/PD), Document CG32(2017)13).

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

4.1 Article 2 – Constitutional and legal foundation of local self-government

Article 2 – Constitutional and legal foundation for local self-government
The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution.

49. To begin with, it should be explored whether the principle of local self-government is recognised in the Turkish Constitution. As pointed out in section 3.1, the Turkish Constitution does not explicitly recognise the principle of local self-government. Article 127 defines and lays down different rules and provisions on local government but does not enshrine the said principles. The second indent of Article 127 provides that "the formation, duties and powers of such authorities shall be regulated by law in accordance with the principle of local administration".[11] The "principle of local administration" (some versions say: "the principle of decentralisation"[12]) is not the same as the principle of local self-government or the principle of local autonomy. The principle of local administration means a process of transfer of competences from the centre (state) level to the local (or "peripheral") level, but does not necessarily imply that the territorial level that receives the said powers is "autonomous".

50. Regular legislation should then be considered. In this vein, the most important piece of legislation is the 2005 Municipality Law (Act No. 5393). As noted above, this is the most important and comprehensive regulation of local government in Turkey. For the sake of this analysis, a very interesting provision is Article 3 (titled "definitions"). The first indent provides that: "The terms listed below shall have the following meanings wherever they are used in this Law; Municipality: A corporation established in the statute of public legal entity having powers of self-government (autonomous) both administratively and financially."

51. In the case of metropolitan municipalities, the relevant statute is Act No 5216, on metropolitan municipalities, of 10 July 2004. This statute provides at Article 3(a) that "metropolitan municipality" means a public entity having administrative and financial autonomy which comprises at least three district or first-tier municipalities…". Finally, the controlling statute on Special Provincial Administrations (SPA) contains similar provisions: Article 3 of the Act on Special Provincial Administrations of 2005 provides that a Special Provincial Administration is a "public entity having administrative and financial autonomy which is established to meet the common local needs of the people in the province and whose decision-making body is elected by voters".

52. Therefore, the key statutes for the three basic types of local governments proclaim the principle of local autonomy as a constitutive element in the definition of municipalities, metropolitan municipalities and Special Provincial Administrations. Certainly, it would be better if the principle of local autonomy were recognised in a general statute on local administration, but the rapporteurs assess that the Turkish legislative context satisfies the minimum requirements of Article 2 of the Charter

53. In light of the precedent, the Republic of Turkey complies with Article 2 of the Charter.

4.2 Article 3 – Concept of local self-government

Article 3 – Concept of local self-government
1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

11 Official translation of the Grand National Assembly. The Turkish version says: *Mahallî idarelerin kuruluş ve görevleri ile yetkileri, yerinden yönetim ilkesine uygun olarak kanunla düzenlenir*
12 See: English version of the Constitution in the website of the Union of Municipalities of Turkey (www.tbb.gov.tr).

4.2.1 Article 3.1 (analysis and conclusion)

54. In order to determine whether Article 3. 1 of the Charter is respected in a given country, it is necessary first to identify the competences, powers, services and functions that can be exercised and implemented by local authorities, and then ascertaining whether this realm of action, this "group" of competences, is sufficient or "substantial" under most common European standards.

a. ***Municipalities***

55. The competences, services and activities of municipalities are identified in more detail below (see Article 4.1 of the Charter). These competences include a substantial number of functions in many domains, such as land development; water, sewers and sanitation; urban public transport; collection, sorting and land filling of waste; basic infrastructures such as roads, streets, squares and parks; cemeteries and funeral services; fire-fighting, etc. Apart from these "mandatory" tasks, municipalities may also discharge "optional" functions and activities in other areas such as poverty reduction and social services, education, culture and sports, social aid, occupational courses, home care for the poor, and construction and maintenance of state schools. Municipalities also have the power to issue binding municipal regulations.

56. It is commonly understood that the domain of activities of municipalities was substantially enlarged in the 1980s, and that different processes of decentralisation have expanded the said powers.[13]

b. ***Special Provincial Administrations***

57. The competences of Special Provincial Administrations (SPAs) are also presented in more detail below (see section 4.1). SPAs are in charge of building facilities and infrastructures for education, healthcare and sports as well as infrastructures for rural settlements and agricultural production across the province. It should be noted that Special Provincial Administrations discharge services via a dual regime: in "rural" areas they discharge certain types of function and in "urban" areas they discharge other types of function. In rural areas, for instance, SPAs help and co-operate with the villages in the discharge of their own competences and services.

58. In light of the foregoing, Article 3.1 is respected in Turkey.

4.2.2 Article 3.2 (analysis and conclusion)

59. Different aspects of the Turkish system of local governments must be analysed here: first, the basic organisation of the local authorities; then, the local elections; and finally, the methods by which citizens can participate in the running of local affairs.

The key organs of the local authorities

Municipalities and metropolitan municipalities

60. The main organs of all types of municipalities are (i) the council, (ii) the executive committee and (iii) the mayor.

i The council

The municipal council is the decision-making body of the municipality. The municipal council has between 9 and 55 councillors, elected by the people every five years, depending on the population of the city. In addition, the mayor is also a natural member of the municipal council, and its chair.

13 See: U. Barayktar (2007): "Turkish municipalities: Reconsidering local democracy beyond administrative autonomy", *European Journal of Turkish Studies*.

61. In metropolitan cities, however, the council follows special rules, as its members are not elected in a separate election: one fifth of the municipal councillors are elected at district level (specifically those who receive the most votes) and these also become councillors in the metropolitan council. Further, district mayors are also natural members of the metropolitan council. The metropolitan mayor is also the speaker of the metropolitan council. The size of the metropolitan council differs from district or other types of municipalities. For instance, the metropolitan council of Istanbul has 311 councillors plus the mayor.

62. The major competences of the municipal council are:

- to approve the municipality's strategic plan, the works programme and the investment programme;
- to approve the municipal budget and the annual report for the previous year;
- to approve the municipal land development plans, at a given geographical scale;
- to decide on granting concessions, the setting up of municipal companies and on the sale of such companies;
- to allow the municipality to borrow, purchase and sell property;
- to set the rates of the user fees for municipal services;
- to decide on the organisation of the municipality.
- to grant approvals or permits.

63. An important element of the local organisation, form the perspective of the Charter, is the responsibility of the mayor vis-à-vis the municipal council. In this respect, and apart from the above listed competences, the municipal council is the supervisory body. The council carries out that function by posing questions to the mayor or, in some cases, by tabling a motion of censure against the mayor. In this latter case, a majority of at least three fourths of the full membership of the council shall be required to reject the annual report or to declare the mayor incompetent. The resolution on incompetence of the mayor shall have legal effect only after it is upheld by the Council of State. However, as our interlocutors have underlined, "it is almost impossible to remove a mayor from office by this method. There has been no mayor removed by a resolution of incompetence in the nine years since the entry into force of the Law."[14]

ii The executive committee

64. The municipal executive committee is a multi-member organ that implements the resolutions of the council. It is comprised of the mayor and a number of members ranging from 10 (in metropolitan municipalities) to 4, according to the population. The mayor is also the chair of the municipal executive committee.

65. This a "hybrid" type of commission: one half of the members are councillors elected by the municipal council, and the other half are municipal administrators selected by the mayor (one of whom should be the "fiscal administrator" of the municipality). The main functions of the municipal executive committee are:

- to review the municipality's strategic plan, the annual work programme, the budget and documents on the previous year's revenues and expenditures (which is submitted to the municipal council);
- to adopt expropriation decisions;
- to hold tenders on the purchase, sale and lease of property;
- to impose penalties and administrative sanctions.

iii The mayor

66. Mayors, like the municipal councillors, are elected for five years in elections held on the same day as the council elections. Re-election is not limited. The mayoral election is a single round, first-past-the-post voting system, that is, the candidate with the highest number of votes wins. The mayor performs the following main functions:

- To chair the meetings of the municipal council and of the municipal executive committee, and implement their decisions and resolutions;
- To run the municipality in accordance with the strategic plan, the work programme and the resolutions of the municipal council;

14 Union of Municipalities of Turkey (TBB) (2015): "Local governments in Turkey", 2015, p. 40.

- To collect the municipality's revenues and receivables;
- To represent the municipality; to sign the contracts on behalf of the municipality;
- To appoint municipal administrators and employees;
- To manage the municipality's affiliated entities and municipal enterprises, and to administer the municipality's property.

67. Although the basic idea is that the mayor is an "executive counterbalance" of the Council, the reality is that the Turkish system produces a model of very powerful mayors, probably one the strongest models for mayors in Europe. The mayor is a very strong political officer since election is by direct popular vote and the mayor is speaker of the council and the chair of the executive committee. The mayor is also administratively strong because the office-holder controls the municipal budget and manages the staff. The mayor appoints and removes all municipal administrators and employees except certain officials. Moreover, the mayor has the right of veto over council decisions[15], although the office-holder can veto a decision only once if the Council re-confirms such decision, it becomes final. This strong mayoral profile has been underlined by Turkish academics, and some scholars even speak of "powerless councils vis-à-vis strong mayors".[16]

68. Despite this political superiority of the mayor, the council still holds an ultimate mechanism of control, through non-approval of the mayor's annual activity report. If the report is rejected by three fourths of the council, the mayor is considered unfit to continue in office and may be dismissed from his functions with the approval of the Council of State. However, as Turkish academics point out, "this legal mechanism of control is very hardly used and there has been almost no example of such a dismissal of mayor by the council's vote"[17].

69. The metropolitan mayors whom the delegation met reported that the Municipality Law clearly defines the spheres of action of the municipal council and of the mayor, and that there is no overlapping or encroachment among these two bodies in the day-to-day running of the local entity.

Special Provincial Administrations

70. The key organs of the Special Provincial Administration are (i) the general provincial council, (ii) the provincial executive committee, and (iii) the governor. In addition, the secretary-general conducts, on behalf of the governor, the affairs of the Special Provincial Administration. The secretary-general is appointed by the Minister of the Interior on a proposal from the governor.

i The general provincial council

71. The general provincial council is the body for policy discussion and the supreme decision-making body of the Special Provincial Administration. Its functions and powers are similar to those of the municipal council. As in the case of municipal councils, provincial councillors are directly elected by popular vote to the general provincial council, on the same election day. The councillors in a general provincial council are elected to represent the districts in the province: in a district with up to 25 000 inhabitants, two councillors are elected, but this figure grows progressively, and five councillors are elected in districts having up to 100 000 inhabitants (special rules apply for higher populations).

ii The provincial executive committee

72. The provincial executive committee is a "hybrid" organ, like the municipal executive committee. Three members of this committee are elected by the general provincial council and three other members are appointed by the governor, who, in addition, is the chair of the committee. The executive power of the Special Provincial Administration is shared between the governor and the provincial executive committee. The committee implements the resolutions of the general provincial council. It also acts as a decision-making body on such matters as the sale and lease of property owned by the Special Provincial Administration and other technical matters.

15 See: TBB: *Local governments* …, op. cit., footnote 12.
16 U. Barayktar (2007), "Turkish municipalities: Reconsidering local democracy beyond administrative autonomy", European Journal of Turkish Studies at note 14.
17 U. Barayktar (2007), "Turkish municipalities: Reconsidering local democracy beyond administrative autonomy", European Journal of Turkish Studies at note 14.

iii The governor

73. The governor (*vali*) is a pivotal figure in Turkish peripheral state administration and plays the same key role as the *préfet* in the French system and other equivalent agents in those nations that have followed this model (Italian *prefetto*, Spanish *gobernador civil,* etc.). The governor is appointed by the presidential decree. The governor not only represents the state in the province, but is also the executive organ of the Special Provincial Administration. It should be noted that, until 2005, the governor also acted as the chairman of the general provincial council, but in that year the model was changed by legislative amendment and since then the provincial councillors elect a chair of the council from among themselves.

74. Today however the governor still acts as the chair of the provincial executive committee. According to Article 29 of the Law on Special Provincial Administrations, the governor shall be "the head of the Special Provincial Administration and the representative of its legal entity".

75. In view of the present arrangements, compliance with Article 3.2 of the Charter is only partial in the case of the provincial administrations. The democratic origin of the members of the council is undeniable. However, the fact that the governor is the key executive organ of the Special Provincial Administration and, in addition, chair of the executive committee is not compatible with the said provision, since the Governor is an organ of state administration. The Turkish system enshrines then a subjective-organic confusion between the state administration and the Local Administration, contrary to the spirit of the Charter, according to which local administration should be a distinct and different bureaucratic organisation from the state administration, having its own rationale, legitimacy and rulers.

76. In addition, the governor is *de iure* the chair of the executive and the governor's decisions cannot be reversed by the council. In practice, the governor is the ruler of the province, as is clear from the powers endowed by legislation (see Article 30 of the Law on Special Provincial Administrations). Although there is certain responsibility of the governor before the council, the possibility of a motion of censorship is not provided for, as it happens at municipal level in relation to the mayor and the council. The very fact that the governor (a state agent) is considered an organ of the provincial administrations totally blurs the necessary separation between the state and the local administration.

Local elections

77. Local elections are held every five years in Turkey. The last local elections took place on 31 March 2019, while re-run elections took place in Istanbul on 23 June 2019 following a highly debated decision rendered by the Supreme Electoral Council (YSK).

78. In the local elections of 2019, Turkish people were called upon to elect different local officials and representatives:

a. at provincial level, they were to elect members of the provincial councils;[18]
b. at "first" local level, they were to elect mayors[19] and members of the municipal councils[20], according to the type of local authority concerned:
   - in the larger municipalities ('metropolitan municipalities', such as Ankara and Istanbul) electors voted for the metropolitan mayor and also for the mayors of the different "districts municipalities" (district mayors) and for the members of the councils of the district municipalities;
   - in small municipalities, electors voted only for the mayor and for members of the municipal council. They also voted for "mukhtars" in neighbourhoods and villages.

79. These elections were observed by the Congress, resulting in a report and an explanatory memorandum describing in detail the conduct of the local elections, the electoral administration, the political and media context, and the compliance with the Venice Commission's Code of good practice in electoral matters[21]. In summary, the Congress found that the elections were run in a highly professional and in general democratic

18 The figure of provincial council members to elect was 1,277. The provincial Executive office, though, is headed by the Governor, appointed directly by Ankara.
19 1,399 such mayors.
20 Some 23,000 in all Turkey.
21 Monitoring Committee: "Local elections in Turkey and mayoral re-run in Istanbul (31 March and 23 June 2019)", Rapporteur: Andrew DAWSON, United Kingdom (R, ECR). (CG37/2019/14 final; 31 October 2019). At its session of 29 October 2019 the Congress adopted Resolution 450(2019) and Recommendation 439(2019).

way and registered a very high turnout (84,6%). Although voting is obligatory under the law, violation of this legal obligation is infrequently enforced. However, the report also noted some flaws in the impartiality of the electoral administration: involvement of the President of the Republic in the electoral race (in his capacity as leader of the political party and in accordance with the Turkish law) that was too deep and improper, a climate of lack of true freedom for the media, and lack of an effective level field of play.

80. Apart from the problems in Istanbul that have been referred to, there were also other negative outcomes of the local elections: candidates belonging to the HDP party won the mayoral elections in 65 municipalities located in the south-east of the country, but the provincial electoral administration refused to grant to 6 of HDP co-mayors (officially nominated ones) the required “certificate” of election (*mazbata*) which is a pre-requisite to entering the position of mayor, on the ground that they were unfit for the position since they had been previously dismissed from their jobs with government decrees under emergency rule. Instead, that certificate was eventually granted to candidates from other parties who were placed in second position in the electoral results, and therefore to candidates who had not won the elections.

81. The issue of refusal of election certificate to opposition mayors has been addressed in the Congress reports, recommendations and resolutions mentioned above. In particular, the President of the Congress strongly criticised this situation since it is contrary to the principle of fairness in elections whereby rules that applied prior to election day must also apply after election day. The Congress also declared that the candidates who were reviewed by the Supreme Electoral Council during the pre-election period and admitted to stand in the elections should also have the effective right to carry out their mandate if they were elected.

82. During the consultation procedure, a representative of IYI party indicated that after the CHP won the last local elections in some cities, the government representatives (AK Party) by various means tried to obstruct the decision-making process in those city councils and undermine operational management.

83. As an example was mentioned a situation in Ankara metropolitan municipality where CHP won the election, and accordingly, the board members of municipal companies had to be replaced. However, the Ministry of Commerce issued a circular letter for the municipal companies to take the authority from the mayor and assign it to the municipal council, contrary to the provisions of the Municipal Law. It has been reported that the opposition party challenged the decision in the court and won the case. As a result, the board members of the companies could finally be replaced.

84. According to the information received from the HDP during the consultation procedure, after the local elections, the Ministry of Interior removed 32 co-mayors and replaced them with "governor-trustees," including the three metropolitan municipalities that HDP won. That makes a total of 38 out of 65 municipalities. 26 HDP co-mayors have been arrested, 3 of them were later released. Of the arrested co-mayors, 13 are female. The HDP underlined that since the local elections, 60 HDP municipal council members and 7 HDP general provincial council members were removed and 8 HDP municipal council members were arrested.

Public participation in municipal governance

85. The last sentence of Article 3.2 of the Charter states that Article 3.2 shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where permitted by statute. In this respect, it should be noted first that Turkey has not yet signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, of 16 November 2009 (ETS No. 207).

86. Despite this, the laws governing the different types of local authority do include some provisions on this matter. To begin with, Article 15 of the Municipality Law provides that “the municipality may engage in popular vote or public research activities to find out the opinion of the inhabitants”. Secondly, municipal council meetings are public, and the citizens and the press may freely observe those meetings. Moreover, some large municipalities (such as Istanbul) have taken the initiative to broadcast in streaming mode the meetings of the metropolitan municipal council, so that any citizen may have immediate access to its deliberations and decisions. On the other hand, meetings of the municipal council commissions are usually open to relevant professional organisations, civil society organisations and representatives of other organisations.

87. Thirdly, we should make reference to the "citizens assemblies", as provided by Article 76 of the Municipality Law.[22] A citizens assembly consists of representatives of professional organisations, civil society organisations, universities, other public organisations and trade unions. The citizens' assembly may submit proposals to the municipal council, and the municipal council has the obligation to consider those proposals. Therefore, the citizens assemblies play a significant role in channelling the concerns of local residents towards the council, in domains such as the protection of the environment, women's and youth affairs, integration of people with disabilities and the like.

88. Finally, Article 7 of the Law on Special Provincial Administrations provides that these local authorities may conduct public opinion polls and surveys to ascertain public views and opinions on their services.

89. In light of the foregoing considerations, it may be concluded that Article 3.2 is respected in Turkey as regards municipalities but is only partially respected in the case of Special Provincial Administrations, for the reasons explained regarding the position of the Governor in the provincial organisation. However, the practice of appointing non-elected officials to replace the elected mayor to run a local community is another problematic issue in terms of Article 3.2 that has been raised by the Congress on numerous occasions and will be dealt with in detail under section 6 of this report.

4.3 Article 4 – Scope of local self-government

Article 4 – Scope of local self-government

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

4.3.1 Article 4.1 (analysis and conclusion)

90. The Turkish Constitution does not specify precise competencies of local authorities. Therefore, those competencies are laid down or codified in the general statutes on local government, plus on the sectoral administrative legislation.

Municipalities

91. Article 15 of the Municipality Law includes a long list of competences and powers of municipalities. The key ones are as follows:

- to publish regulations, to give orders and to impose penalties and administrative sanctions;
- to grant permits and licences;
- to impose, assess and collect the taxes, duties and levies due to the municipality;
- to supply utility and industrial water; to enable disposal of waste water and rain water; to construct and operate plants for such purposes;
- to establish and operate all kinds of public transport facilities including procurement of bus, sea and water carriers and the construction of tunnels and railway systems;
- to render all kinds of services related to the collection, transportation, removal and storage of solid waste;
- to acquire immovable property, to deal with expropriations and other real estate operations;
- to borrow loans and to accept donations;

22 http://projects.sklinternational.se/tuselog/files/2013/07/Law5393_EN.pdf

- to build and operate markets, bus terminals, exhibition centres, slaughterhouses yacht harbours and, quays according to the relevant legislation;
- to issue licences for public resorts and entertainment places and to inspect those businesses;
- to regulate street trade and confiscate illegal foodstuff;
- to inspect workplaces and to watch over for public health and environment in the city;
- to fight environmental pollution;
- to clean streets and public spaces, and to regulate and control the transit of vehicles;
- to approve land-development plans and supervise the buildings and land-development operations;
- to set up fire-fighting departments.

Metropolitan municipalities

92. Metropolitan municipalities have, on top of the competences of regular municipalities, additional competences in accordance with their size and territorial scope. In summary, metropolitan municipalities:

- Approve the implementation plans (1/1 000 scale) prepared by the districts;
- Prepare land development plans at a higher territorial scale (1/5 000 to 1/25 000);
- Supervise the compliance of the land-development plans approved by the district with the plans approved by the metropolitan municipalities;
- Produce land slots and housing to ensure orderly urbanisation;
- Build infrastructures as required for industry and trade;
- Draw up the metropolitan transport master plan, and manage the public transports;
- Build squares, boulevards, avenues and main roads;
- Protect and develop the environment, agricultural land and water basins of the city;
- Provide municipal police services;
- Recycle and store solid waste;
- Deliver water and sewer services;
- Build open and closed parking spaces;
- Build regional parks, zoos, museums and sport and leisure facilities;
- Build cemeteries, wholesale food markets and slaughterhouses;
- Provide fire-fighting and emergency services;
- Build and maintain big infrastructures for gas and water.

Special Provincial Administrations

93. As noted above, the competences discharged by provincial administrations may be sorted into two groups, in accordance with the peculiar dual nature of these second-level local authorities. To begin with, they discharge some competences across the full territory of the province, among which stand the following:

- to build, maintain and repair primary and secondary schools and cultural centres;
- to develop preventive health services, social services; to encourage the development of industry and trade;
- to build infrastructures for amateur sports;
- to develop agriculture;
- to execute the central government's investments for which appropriations are transferred to them.

94. On the other hand, Special Provincial Administrations undertake some other competences only in areas outside municipal boundaries ("rural areas"). These competences are thus discharged in the villages, and for the benefit of the populations of the said villages. It could be said that provinces discharge those competences as "substitutes" of the villages, which usually lack the technical and financial resources to discharge them. Among those competences are the following:

- to make land development plans on a small scale;
- to supervise and license buildings and the construction thereof;
- to license businesses;
- to construct, maintain and repair village roads;
- to collect, store and dispose of waste;
- to protect the environment and the soil;
- to reduce poverty.

95. During the two parts of the monitoring visit, the delegation, on several occasions, asked various local representatives whether they were satisfied with the number and importance of the competences attributed to the local authorities. In general, local representatives seemed satisfied with this, and nobody made significant claims for having or obtaining more competences. Rather, they were more worried about having their actual competences properly financed.

96. In light of the foregoing considerations, it may be concluded that Turkey complies with Article 4.1 of the Charter.

4.3.2 Article 4.2 (analysis and conclusion)

97. Apparently, the Turkish legislation does not include any provision enshrining clearly the so-called "general competence clause". However, art 15 of the Act on Municipalities of 2005 includes a long list of competencies and powers of municipalities, and the first competence or power therein listed is the one consisting in "to carry out all kinds of activities and ventures in order to meet the common requirements of the inhabitants of the county". This seems a mild reception of the principle laid down in Article 4.2 of the Charter. No similar provision, though, may be found in either the Act on Special Provincial Administrations or in the Law on Metropolitan municipalities.

98. In the light of the precedent considerations, it may be concluded that Article 4.2 of the Charter is respected in Turkey.

4.3.3 Article 4.3 (analysis and conclusion)

99. As noted above, the Turkish Constitution provides in Article 127 that "the formation, duties and powers of the local administrations shall be regulated by law in accordance with the principle of local administration" *(Mahallî idarelerin kuruluş ve görevleri ile yetkileri, yerinden yönetim ilkesine uygun olarak kanunla düzenlenir).* This principle is recognised by the constitution; therefore it has a constitutional value and relevance.

100. Consequently, the attribution of powers and competences do respect this guideline, in the sense that competences such as land use planning and the provision of the key public services are provided by local government, and this is done at different scales according to the type of local government that conducts the planning. Moreover, each type of local authority has different types of competences and powers and provides different services, according to their size and resources.

101. In light of the foregoing considerations, the rapporteurs conclude that Article 4.3 of the Charter is respected in Turkey.

4.3.4 Article 4.4 (analysis and conclusion)

102. As noted above, Turkish local authorities have a notable group of competences and powers. Theoretically those powers are full and exclusive in the sense of the Charter, since they are depicted so in the applicable statutes on local government. However, our local interlocutors made different complaints as to the "exclusive" or free discharge of their competences. They complained about the following phenomena:

a. overregulation by the central government
b. too much state control or State interventionism in planning decisions
c. too many inspections
d. too much administrative tutelage

Most of these features will be considered in more detail under various headings of this report.

103. In light of the foregoing considerations, the rapporteurs believe that Article 4.4 of the Charter is not respected in Turkey.

4.3.5 Article 4.5 (analysis and conclusion)

104. In the constitutional system of Turkey, the only possibility for intragovernmental delegation of powers (in the true meaning of the word) is that between the central government and the local authorities. However, the different key pieces of legislation on the several different types of Turkish local authority ("regular"

municipalities, metropolitan municipalities and Special Provincial Administrations) do not regulate the practice of the delegation of powers from the State to the local authorities. It seems that this is not a common practice, and that the State does not delegate tasks or competences to local authorities. Consequently, the local authorities discharge their own powers (as enshrined in the applicable legislation) as “original” powers and not as “delegated” ones.

105. Consequently, in light of the very limited use of this practice, there are no grounds on which to conclude whether or not Turkey complies with this provision of the Charter.

4.3.6 Article 4.6 (analysis and conclusion)

106. From the outset, it should be noted that Turkey did not include Article 4.6 among the provisions of the Charter that were ratified by it. Consequently, Turkey is not bound by this provision. However, for the sake of completeness, mention should also be made of this aspect of local administration.

107. In the Turkish system of government, no body, administrative organ or bilateral commission has been specifically established for consultation with local authorities and to allow their participation in the decision-making of the state bodies on matters that concern them. Moreover, the laws regulating the different types of local authority (regular municipalities, metropolitan municipalities and Special Provincial Administrations) do not deal with the issue of intergovernmental consultation or negotiation, either in the functional or in the organic sense of this term.

108. The rapporteurs, however, reported that there is a *de facto* pattern of consultation, that the local authorities are heard by state organs and bodies, and that local authorities find ways to send their message to the state officials. Different examples were provided. For instance, shortly before the mission, the President of the Republic met with the mayors of the 30 metropolitan municipalities and invited them to make proposals for legislative initiatives and amendments. Another example is the fact that the President of the Republic receives a delegation of the mukhtars of Turkey every year, and that on that occasion they may forward or advance petitions and convey their concerns. During the consultation procedure, the Union of Municipalities of Turkey pointed out that the ministries have many thematic and legally acknowledged commissions, which are authorised to consult with stakeholders (including municipalities) for the draft laws and regulations and in which the Union of Municipalities is largely present.

109. On the other hand, officials from the Ministry of Environment and Urbanisation (the key body dealing with local authorities in the central government) stated that they keep frequent and fluent contacts and conversations with the national association of local authorities, especially when there are new laws and regulations affecting the local authorities. Representatives of the Union of Municipalities of Turkey also reported that they were involved in the process of legislative drafting on matters concerning local authorities, and that individual mayors provide information and feedback to the government when this is needed. They went on to say that the national association produces every year an annual report on the local governments, and that the central government pays close attention to that document in order to fix problems or dysfunctions detected at local level. The government, the delegation was told, usually accepted those considerations and concerns.

110. Consequently, there seems to be a certain factual pattern of political consultation or interchange of information and views among central and local stakeholders, but consultation is not embodied in the law and is not obligatory for the state.

111. During the consultation procedure, the Ministry of Environment and Urbanisation indicated that the procedure of soliciting views and the modality of preparation of draft legislation is defined in the “Regulation on the Principles and Procedures of Legislation” based on which all government agencies shall prepare their draft legislation. It underlined that this Regulation requires that views of local administrations, universities, unions, professional bodies that qualify as government agencies and civil society organisations should be sought before the draft is submitted to the Presidency, that such views shall be submitted in 30 days and if the draft charges Ministries and other public bodies with responsibilities, feedback from such parties concerned shall also be obtained and the draft law prepared jointly. The Ministry also underlined that the views of the Union of Municipalities of Turkey, of which all municipalities are members, and various government bodies shall be sought for all initiatives regarding laws and regulations that concern local administrations and that when draft laws are considered by the relevant commissions of the Grand National

Assembly before their submission to the General Assembly, views of the representatives of the Union are also sought so that they can be incorporated into those documents.

112. The rapporteurs maintain that there is no legal provision establishing the obligation to meet, and there is no institutional mechanism. It seems also that the pattern of "informal" consultation is influenced by political considerations, such as the political affinity between the parties ruling the local governments and the central institutions. Under a contemporary reading of the Charter, this *de facto* situation is certainly positive, but it is not enough to meet the requirements of Article 4.6, which requires more in terms of institutionalisation and requires obligatory intragovernmental dialogue.

113. In light of the foregoing considerations, the rapporteurs believe that the requirements of Article 4.6 of the Charter are not met by the present situation of local government in Turkey, although, as noted above, Turkey is not bound by this provision.

4.4 Article 5 – Protection of local authority boundaries

Article 5 – Protection of local authority boundaries
Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

114. The establishment of and modifications to the boundaries of local entities are regulated in the legislation governing the different types of local authority. Thus, Article 4 and following of the Municipality Law of 2005 provide various rules, principles and procedures in this domain. For the purposes of this report, the key point is whether a "consultation" with the affected municipalities takes place. In this sense, Article 8 of the statute regulates the voluntary mergers and "unifications" of towns and villages. In such cases, an affirmative vote of the citizens is required, and the merger shall take place if the municipal council finds it appropriate. Unifications and mergers in metropolitan municipalities are to be resolved in the metropolitan municipal council, taking into account the opinion of the district or first-tier municipal council as regards the absorbing the town. Therefore, Turkish law explicitly provides for the alteration of local authorities' boundaries through the will of local residents.

115. However, Article 5 of the Charter covers another type of alteration of boundaries, namely that decided by "higher" administrations, either by regional or (more frequently) by state authorities. In this sense, it should be noted that over the last decades Turkey has undergone a comprehensive strategy and programme of re-structuring of local authorities. This inevitably involved the modification or change of the boundaries of the pre-existing local authorities, which were transformed or merged in an executive manner by plans, laws and decisions of the State authorities and bodies. Moreover, some local authorities were abolished, like the villages in the metropolitan municipalities (see above).

116. Thus, the current territorial pattern and geographical distribution of Turkish local governments are the result of successive processes of mergers of municipalities and reorganisations of local governments. A number of points may be noted in this regard, for instance:

- In 2014, the Special Provincial Administrations were abolished in several provinces.
- According to Law No. 6360, the *belde* ("town municipalities") located in "metropolitan municipalities" (old provinces) were abolished as of 30 March 2014.
- The inception of the metropolitan municipalities in 2014 meant the closure of many small municipalities and the transformation of their neighbourhoods. Small towns were dissolved or eliminated.
- While the number of municipalities was 3,225 in 2002, 10 years later more than 50% of existing municipalities had been abolished, reducing the total figure to 1 397 (2013 figures). This means that roughly 1 800 local authorities were abolished within a decade.

117. Those massive mergers, dissolutions and reorganisations were carried out by parliamentary legislative enactments, based on reasonable arguments such as effectiveness, rationality and resource deployment. However, and according to the statements of the local representatives met by the delegation, these changes and reforms were carried out without consultation with the affected local authorities. Neither the populations, the municipal councils nor the mayors were consulted, nor had they the opportunity to negotiate these measures. Some towns even wanted to become districts, but they were disregarded and transformed into simple neighbourhoods. In this respect, some of the interlocutors during the visit stated that these territorial

reforms were in some cases carried out only to perform what they consider as some sort of "gerrymandering",[23] an allegation that the delegation can just record here.

118. In light of the foregoing considerations, the rapporteurs see here a violation of Article 5 of the Charter in Turkey.

4.5 Article 6 – Appropriate administrative structures and resources

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

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

4.5.1 Article 6.1 (analysis and conclusion)

119. Although Turkey did not include Article 6.1 among the ratified provisions of the Charter and is not bound by it, mention should also be made of this aspect of local administration for the sake of completeness.

120. In Turkey, local authorities have some – albeit limited – capacity to determine their own internal administrative structures. Article 48 of the Municipalities Law no 5393 states: "Municipality organisation consists of the editorial office, financial services, civil works department and municipal police units, in accordance with the standard staff requirements. When necessary and by taking into consideration the population, physical and geographical structure, economic, social and cultural characteristics of the town and its potential for development; health, fire brigade, zoning (development), human resources, legal affairs, and depending on the needs, other departments may be constituted, in accordance with the principles and standards of staff requirements. These departments are established, abolished or merged with the decision of the Municipal Council".

121. In the opinion of the rapporteurs, the national legislation, by regulating in such a comprehensive and almost exhaustive way the organs and the bureaucratic structures of those entities, achieves its objective of establishing a maximum homogeneity and standardisation across the country, but at the price of falling in overregulation and reducing too much the organisational discretion of local authorities.

122. In the case of regular municipalities, only the council is recognised as having mild powers to form certain "specific committees" (see: Article 24 Municipality Law) within the said council, but here again the national law leaves little room for "ad hoc", free organisational decisions, since the law determines even the minimum and maximum number of members of the said committees, the duration of their terms and the subject matter of their activities. Specific rules apply to the auditing committee (Article 25, Municipality Law). Similar provisions may be found in the Law on Special Provincial Administrations (Article 16), with the same regulatory restrictions.

123. This limited self-organisation power falls short of the requirements of Article 6.1 of the Charter. For the foregoing considerations, the rapporteurs believe that the Turkish situation does not meet the requirements of Article 6.1 of the Charter, although that provision is not binding on Turkey.

4.5.2 Article 6.2 (analysis and conclusion)

124. The number of local government employees is relatively low in Turkey: it only accounts for only 13%[24] of the total number of public sector employees, one of the lowest percentages in the OECD. Comparison of this figure with that of countries with a very developed local sector[25] may lead to a negative conclusion about the relative size of local government in Turkey.

23 "Gerrymandering may be defined as a negative and manipulative act of politicians to redraw the legislative/electoral district boundaries to deprive the representation that another group or party would enjoy". From Venice Commission Report on Constituency Delineation And Seat Allocation, Study No. 873 / 2017, 12 December 2017 CDL-AD (2017)034 https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2017)034-e

24 Data provided by the Ministry of Environment and Urbanisation of Turkey

25 In Sweden or Denmark that percentage is around 70%.

125. There is no specific legislation for civil servants and other employees working at municipalities; they work under the legislation specific to their status, that is, the Law on Civil Servants and the Labour Law. To a large extent, the conditions of service of local government employees are regulated in a rather comprehensive manner by national laws and regulations.

126. To begin with, the statutes governing different types of local authorities establish basic rules regarding local staff. Municipal employees are organised in the organisational chart of the municipality as described in the Municipality Law (Articles 48-49) or in the structure of the Special Provincial Administrations (Article 35, Act No 5302 of 2005). In metropolitan cities there is a specific staff position, that of the "secretary-general". This official is the highest professional manager in the municipal organisation and may have assistants. The units under the secretary-general or director-general are set up as "departments" or "services". Then, each department or service is run by a "head", who also reports to the secretary-general. In the case of affiliated municipal companies (like for water, sewage and transport) the top position is that of director-general. However, in non-metropolitan municipalities the position of secretary-general does not exist, and the different units are affiliated by the mayor to his/her deputies.

127. Personnel regulations are chiefly established at national level, again with the objective of attaining maximum homogeneity and standardisation across the country. For instance, the Municipality Law imposes a limit on expenditure on personnel: it may not exceed 30% of the municipal budget. If such limit is exceeded, the municipality cannot recruit additional staff. In addition, national legislation also regulates the different categories of personnel that local authorities may employ: civil servants, contract staff and other workers. Civil servants are predominantly employed in managerial positions. Where a municipality does not have qualified staff for such positions as architects, engineers and lawyers, it may employ staff on the basis of fixed-term contract. In addition, municipalities may have workers from private companies who are employed through outsourcing. The recruitment and remuneration of administrators, technical staff and office workers in the municipality are governed by the Law on Civil Servants, which is a national statute. A point of criticism is that, apparently, the stability of employment of local staff is not as strong as it would be desirable, as some interlocutors stated that it is common practice after a local election for the mayor to dismisses some of the staff (those on temporary contracts) and hire people who have his/her confidence or have an affinity with him/her.

128. The delegation did not hear complaints about unsatisfactory conditions of employment of local government employees. Interlocutors complained, rather, about the fact that the national laws and regulations left them too little freedom to articulate their own personnel policy or to decide on remuneration, careers and incentives. Another limitation derives from the fact that, when a new vacancy for civil servants happens in a municipality, the local body cannot recruit new staff members on the basis of their own initiative. Instead, it has to refer the vacancy to the central administration. The central ministries periodically organise state civil service examinations (public personnel selection examination (KPSS)), and the applicants who succeed are included in a reserve list that is valid for two years. Then, when a municipality "asks" for a suitable candidate to fill a given vacancy, it declares employment requirements and minimum score of the KPSS, and the ministry sends to the municipality a list of candidates included already in that reserve list by order of the score. The local authority must choose among those short-listed candidates.[26] This was a matter that attracted criticism, together with the overly strict limit on personnel expenditures, which does not allow the local rulers to adapt that expenditure to the actual needs of the local entity.

129. However important these autonomy-related aspects are, they are not covered by Article 6.2 of the Charter, since this provision focuses only on the "objective" quality or adequacy of the conditions of office of the staff of local authorities.

130. For these reasons, the rapporteurs believe that Article 6.2 is respected in Turkey, but local authorities should be given more autonomy in the management of their own human resources.

26 In the case of contractual staff, local authorities have a larger room of manoeuvre, though.

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

Article 7 – Conditions under which responsibilities at local level are exercised
1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

4.6.1 Article 7.1 (analysis and conclusion)

131. Article 7.1 of the Charter provides that "the conditions of office of local elected representatives shall provide for free exercise of their functions". This is a rather broad provision in the Charter, which allows for different interpretations, especially as regards the term "free exercise" of local functions. In a modern interpretation, it is understood that local representatives should act in a legal and social context that does not exert undue pressures or threats to the independence of their decision-making. Those pressures may come from different sources and situations and may be tantamount to mass-media or governmental pressure.

132. From this perspective, the Turkish situation presents a rather unsatisfactory aspect that has unfortunately become a consolidated pattern over the last years: that is, the recurrent situation under which mayors and municipal councillors are suspended from office by the state authorities' decision, when a specific type of investigation, such as offences related to terrorism or occupational offences[27], is opened against them. The situation is unsatisfactory due to the systematic recourse to a measure that, from the perspective of local democracy, should be of extraordinary nature.

133. This situation has reached worrying proportions and has deserved the close attention of the Council of Europe as a whole[28] and, more specifically, of the Congress. In 2007, a Congress fact-finding report analysed the situation in the municipalities of Sur and Diyarbakir and the dismissals of their mayors, and the monitoring mission carried out in 2011 also carefully considered this situation.[29] In February 2016 the Bureau of the Congress asked its rapporteurs in Turkey to conduct a new fact-finding mission on the detention and removal from office of an increasing number of elected mayors and municipal councillors. At that time, the new measures introduced under the State of Emergency resulted in dozens more local representatives being placed in pre-trial detention and replaced with persons appointed by the central authorities. The fact-finding mission resulted in Congress Resolution 416(2017) and Recommendation 397 (2017).[30]

134. This situation, unfortunately, is still present nowadays and is considered in more detail in section 6 below.

135. In light of the foregoing considerations and those contained in section 6 below, the delegation believes that Article 7.1. of the Charter is not respected in Turkey.

4.6.2 Article 7.2 (analysis and conclusion)

136. The remuneration of local elected representatives is regulated, like many other local matters, by national laws and rules governing the different types of local authority. Under such rules, municipal councillors are paid out of the municipal budget for the meetings they participate in (assistance allowances). The amount of such allowances is one third of the allowances that are paid to the mayor. Councillors are also reimbursed for expenses whenever they are assigned outside the city. For their part, mayors and vice-mayors receive a monthly remuneration established in national legislation, which is calculated on the basis of the population of the local authority.

137. The municipal executive committee convenes at least once a week on an agenda outlined by the mayor. The chair and the members of such committee are also paid a monthly allowance, determined in

27 Article 47, Municipality Law (See para 255)
28 Parliamentary Assembly (2016), The functioning of democratic institutions in Turkey,
22 June 2016, Resolution 2121(2016); Commissioner for Human Rights (2016), Memorandum on the human rights implications of the measures taken under the state of emergency in Turkey, October 2016.
29 The situation of local and regional democracy in Turkey, March 2011 (CG20(6). See footnote 7.
30 See "Fact-finding mission on the situation of local elected representatives in Turkey",
29 March 2017, Rapporteurs: A. Knape and L. Verbeek, Document CG32(2017)13 final.

national laws and regulations. For instance, Article 16 of the law on Metropolitan Municipalities (Act No. 5216 of 2004) provides that those officials be paid a gross monthly allowance “the amount of which shall be the product of the monthly coefficient applied to civil servants and an index figure of 12 000”, but civil servants who are members of the executive committee are paid half of such amount. Article 36 of the Municipality Law lays down similar provisions for “regular” municipalities.

138. The delegation specifically raised the question of remunerations of local elected representatives but did not hear complaints about insufficient remuneration for local representatives, and the mayors met during the visits in general declared themselves to be happy with their salaries.

139. In light of the foregoing considerations, the rapporteurs believe that Article 7.2 of the Charter is respected in Turkey.

4.6.3 Article 7.3 (analysis and conclusion)

140. From the outset, it should be noted that Turkey did not include Article 7.3 among the ratified provisions of the Charter. Although Turkey is not bound by this provision, reference to this issue should be made for the sake of completeness.

141. The national laws and regulations governing the different types of local authorities identity the functions and the activities which are deemed to be incompatible with the holding of local elective office. This is clear in the case of mayors. For instance, Article 17 of the Law on Metropolitan Municipalities (Act No 5216 of 2004) provides that “during their terms of office, the metropolitan mayors or mayors of district and first-tier municipalities in the metropolitan areas may not hold office on the executive or supervisory bodies of political parties, nor serve as presidents or managers of professional sports clubs”. Article 37 of the Municipality Law includes a similar provision: the mayor may not take part in the management and auditing organs of the political parties during the period of service in the municipality; and may neither be nominated as the executive of professional sporting clubs nor take part in the management of such clubs. Both laws, then, include a noticeable provision regarding sport clubs.

142. Other pieces of legislation also prohibit mayors from carrying out other activities: for instance, they cannot assume duties as a parliamentary deputy or any other public office.

143. Activities that are incompatible with the discharge of the position of mayor or vice-mayor or with membership of the executive committee are clearly regulated, since these are full-time local representative roles. Activities concerning the members of the municipal council are not regulated in the law, which is understandable since the members act as local representatives only when they attend the meetings of the council, and they are not professional politicians.

144. In light of the foregoing considerations, the delegation believes that Article 7.3 of the Charter is respected in Turkey.

4.7 Article 8 – Administrative supervision of local authorities’ activities

Article 8 – Administrative supervision of local authorities' activities

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

4.7.1 Article 8.1 (analysis and conclusion)

145. The Turkish system of local administration provides for many instances of supervision or control by the central administration. The option for central authorities, agencies and ministries to supervise and control the activities of local authorities is deeply embedded in the political tradition of the country and most of the local representatives whom the delegation met did not question this feature of the Turkish local government landscape, at least as a matter of principle. As a matter of fact, that pattern, known in Turkish as

"administrative tutelage", is expressly provided for in the constitution: "The central administration has the power of administrative tutelage over the local administrations in the framework of principles and procedures set forth by law with the objective of ensuring the functioning of local services in conformity with the principle of the integrity of the administration, securing uniform public service, safeguarding the public interest and meeting local needs properly" (Article 127). Thus, decentralisation and tutelage are enshrined in the same constitutional provision, in such a way as to underline that administrative tutelage is a sort of counterbalance to decentralisation and local autonomy. Here, again, the unitary character of the republic is a powerful principle.

146. The unity of the country, then, triggers the need to ensure coordination, uniformity and homogeneity in governmental activities. In addition, new criteria such as economic efficiency and public expenses control have captured the limelight.

147. A broad overview of the types of control and supervision carried out by the central bodies over Turkish local entities includes the following: inspections, tutelage controls, dissolution of the council, removal of mayors, and control by the court of auditors. They are presented briefly in the following paragraphs.

Inspections of municipalities; warnings and replacement of mayors

148. The Ministry of the Interior is authorised to inspect the activities, services and decisions of municipalities through its own inspectors (the ministry has inspectors working at its provincial offices). Such inspections relate to the compliance of municipal activities and decisions with legislation, to the fairness and regularity of public procurement, and to the efficiency and quality of service delivery. Thus, according to the Municipality Law (Act No. 5393), the purpose of the inspection in the municipalities is to perform an impartial analysis and comparison of the services delivered by the local authority, taking certain performance standards as a reference point. As a result of the inspections, a report is prepared containing findings to be submitted to the relevant authorities, with a view to avoiding the "failures" detected in the activities of the municipality and improving the quality and efficiency of the local services.

149. Under Article 55 of the Municipality Law, municipalities undergo "external" and "internal" inspections. Both types of inspection must be performed according to the provisions of the Law No. 5018 related to Public Finance Management and Control. Furthermore, in addition to local financial transactions, the spatial strategy plan of the municipality may also be inspected by the Ministry of Environment and Urbanisation to confirm that they comply with the development plans and administrative strategies. The inspection results shall be disclosed to the public and submitted to the municipal council in the form of an activity report. If the ministry finds an illegality it may decide to file an application for criminal investigation with the public prosecutor, or it may file an application for action with the Ministry of the Interior.

150. Administrative tutelage gives the Central Government the power to monitor the legality of local decisions. In general, the Ministry of the Interior (through its territorial offices and branches) may control all municipal decisions and regulations and check whether they comply with applicable laws and regulations. For instance, the ministry implements an *ex officio* supervision over municipal licences. This is a control of legality. If an illegality is found, the ministry does not have the power to quash or to annul the decision but can make a request to the municipality to have the decision amended in order to make the decision compatible with legislation. If the decision is not amended after this request, in some cases the Minister may amend the municipal decision under ministerial authority, and if the local entity is not happy about this outcome, it may sue the ministry in the administrative courts to have the ministerial intervention reversed.

151. Another noticeable mechanism is the "warning" regulated at Article 57 of the Municipality Law: the Ministry of the Interior may request from a justice of the peace a determination that there has been a gross negligence in the municipal services, constituting a risk to public health, peace and safety. In such cases, the Minister of the Interior shall warn the mayor "by granting reasonable period for recovery of this negligence".

152. The most dramatic outcome of this mechanism is that, if the mayor fails to fix the situation detected within the time limit determined in the warning, then the governor of the province "shall be asked to perform this service". That is, the mayor may be substituted by the governor in those cases where municipal services fail to such extent that the public health and the well-being of the population are vitally affected. In such case, the governor shall try to "redirect the situation" by using the human and technical resources of the municipality, but he may eventually ask for the assistance of the other public institutions and corporations.

The costs of these “extraordinary” measures will at first be covered by the Bank of Provinces, but this amount will later be deducted from the local budget of the defaulting municipality.

153. According to some interlocutors, this exceptional mechanism has happened only once in the last decade.

Prior controls and permissions derived from administrative tutelage

154. Various ministries and central government agencies have tutelage power over municipal decisions and actions in the form of supervision, approvals, deferments and the like. Apart from the cases presented at other headings in this report the major examples of tutelage are listed here:

- As noted above, the standard job positions included in the organisational structure of municipalities are defined by the Ministry of the Interior and by the State Personnel Department.
- The appointment of the secretary-general in metropolitan municipalities and directors-general of affiliated companies must be confirmed by the Minister of Environment and Urbanisation upon a proposal from the metropolitan mayor.
- The content of the municipal strategic plan is defined by the Ministry of Environment and Urbanisation, and the format and content of the annual municipal report by the Ministry of Finance.
- Regulations on preparing land development plans are issued by the Ministry of Environment and Urbanization, which also monitors and oversees the local land development plans and their amendments.
- The Ministry of Environment and Urbanization defines the environmental responsibilities of municipalities and controls the public resources that municipalities may deploy to improve the environment.
- Resolutions of municipal councils do not enter into force without being communicated to the governor or district governor.
- Certain planning decisions need the approval of the Ministry of Environment and Urbanisation;
- The a priori approval of the Central Government is needed for some borrowing operations;
- The a priori approval of the Central Government is needed for transnational co-operation among local authorities;
- The a priori approval of the Central Government is needed for some big infrastructure projects.
- For urgent expropriations, or for setting up a municipal company, in certain cases the approval of the Presidency of the Republic is needed.

Dissolution of municipal or provincial councils

155. According to the Municipality Law, the Ministry of the Interior may request the Council of State to dissolve a municipal council that fails to perform its functions or passes resolutions on political matters not relevant to the municipality. Council meetings may be suspended until the Council of State reaches a decision. If the mayor votes affirmatively in the council resolutions leading to dissolution, this may lead to removal from office by the Council of State.

156. In the case of provincial councils, Article 22 of the Law on Special Provincial Administrations provides that those organs may be dissolved by a decision of the Council of State after the latter has been notified by the Ministry of the Interior. This may happen in the following cases: (a) the general provincial council neglects to perform its statutory duties in a timely manner and such failure impedes or delays the works of the Special Provincial Administration, or (b) the general provincial council passes resolutions on political issues unrelated to the duties conferred on the Special Provincial Administration. The Ministry of the Interior may also request that the council meetings be postponed until the Council of State decides. The Council of State shall rule on this point within one month.

157. After the dissolution, a new election takes place and the new council elected in place of the dissolved council is to complete the remainder of the term of office.

Dismissal of mayors

158. Another extraordinary way for the central government to intervene in the functioning of the local authority is the dismissal of elected representatives. Mayors and municipal councillors against whom investigations or prosecutions have been initiated may be suspended by the Minister of the Interior until the completion of the investigation or prosecution; this feature has been mentioned above (see section 4.6.1) and is presented in more detail at section 6 below.

Audit of the Court of Accounts

159. Municipalities have autonomy to approve their own annual budgets, with due respect to some basic rules and limits, such as that mandating that the budgets must be consolidated and balanced. The budgets of the local governments, however, are submitted to the national parliament, making it possible for all public expenditures (including that of local governments) to be monitored according to international standards.

160. Municipalities, like the rest of the public sector, are subject to audit by the Court of Accounts, which audits on behalf of the Grand National Assembly. The Court of Accounts not only performs a regularity/legality audit of the spending processes of local administrations but also measures activity results regarding the objectives and indicators specified at central level in the framework for the performance audit of local administrations. The main legislative provision in this area is Law No. 6085, on the Court of Accounts. The audit of local administrations consists of regularity audits and performance audits.

161. The Court of Accounts performs an *ex post* external audit. As per Article 68 of Law No. 5018, the purpose of such *ex post* audit is to monitor the financial activities, decisions and transactions of local bodies in terms of their compliance with the laws, institutional goals, and objectives and plans, and to report the results within the framework of the accountability of public administrations. After the Report Evaluation Board of the Court of Accounts delivers opinion on audit reports on local governments, they are sent to the assemblies of the relevant local governments for information and necessary action.

162. The Court of Accounts also regularly reviews whether municipal revenues and expenditures comply with laws and regulations, and whether the municipal assets are appropriately protected. If it is found during an audit that the public resources have incurred in a loss, a recovery decision is returned by the Court of Accounts, a decision that has the effect of a court order and is not subject to appeal in another jurisdiction. Moreover, if the Court of Accounts finds a case of financial corruption, it refers the case to the public prosecutor. The Court of Accounts prepares an annual general evaluation report on external audit, with a specific chapter for local authorities.

163. Finally, in the domain of audit, municipalities are supposed to provide for internal audit mechanisms, by means of specific audit commissions, although this type of internal controls falls outside the scope of Article 8.1 of the Charter. Nevertheless, these mechanisms should be noted in an index as evidence of institutional capacity, social reputation and self-responsibility in the spending of public monies. The delegation was informed that many local authorities do not have an efficient internal system of financial control, and that many do not meet the legal requirements set by Law No. 5018; for instance, they do not have certified accountants.

164. The external audit of local authorities that have been presented in the above are regulated by law, and some are even recognised by the constitution. Moreover, the constitution itself requires that administrative tutelage be implemented with due respect to “principles and procedures set forth by Law” (Article 127).

165. Article 8.1 of the Charter provides that “any administrative supervision of local authorities may be exercised only according to such procedures and in such cases as are provided for by the constitution or by statute”. All the controls presented above are recognised or regulated by the constitution (tutelage) or by statute. For that formalistic reasons, the rapporteurs consider that Article 8.1 of the Charter is respected in Turkey, although the aggregate weight of these controls may be contradictory to Article 8.3 (see below).

4.7.2 Article 8.2 (analysis and conclusion)

166. The previous section has presented the most important types of intra-administrative controls that the State or central authorities may carry out regarding the decisions, plans and actions of the local authorities. Many of them may be characterised as true legality controls. Another example of a legality control is that implemented in the Special Provincial Administrations by governors. Pursuant to Article 15 of the Law No. 5302, on Special Provincial Administrations, in order to finalise the decisions taken by the general provincial assembly, the full text of the decisions shall be submitted to the governor within five days. The governor is entitled to return to the general provincial assembly the decisions that are found to be contrary to the law, within seven days, stating the grounds for the finding, for the decisions to be discussed again in the next council meeting. If the council persists in its decision, the decision becomes final, but in this case the governor may, within 10 days, file a claim in the competent administrative court to obtain the suspension of the implementation of the said

decision. These proceedings shall be adjudicated by the Council of State within 60 days at the latest. The law allows the intervention of the State bodies in a legal context containing broad and open-ended mandates, which may hide expediency controls. Moreover, as a rule the Charter allows expediency controls only in respect of tasks the execution of which is delegated to local authorities. However, as it was stated above, pure delegation of tasks is rare in the Turkish local government landscape. In other cases, such as in the domain of planning or in the setting of standards for the quality or performance of local services, the state implements apparently real expediency controls over local authorities' own competences, tasks and functions.

167. For these reasons, the rapporteurs have found here a partial violation of Article 8.2 of the Charter

4.7.3 Article 8.3 (analysis and conclusion)

168. As a preliminary observation, Turkey did not ratify Article 8.3 of the Charter, and consequently it is not bound by this paragraph. However, for the sake of completeness, mention should also be made of this aspect of local administration.

169. As seen in the foregoing items, Turkish central authorities implement a large set of practices and mechanisms for intervening in the activities of local authorities. It is true that these practices are all regulated in legal rules, but the question arises as to whether they respect the principle of proportionality embodied in Article 8.3 of the Charter. The rapporteurs believe that they do not, since the depth and scope of those controls and their aggregate weight result in a pressure on local authorities that respects neither the letter nor the spirit of the Charter. The cumulative effect of these practices does not respect the required proportionality in intervention in local affairs. Moreover, the dismissal of mayors and the appointment of government trustees in their place is a practice that is especially intrusive and disruptive of local democracy and one is implemented in disregard of possibly more proportionate mechanisms.

170. For these reasons, the rapporteurs consider that Turkey does not comply with Article 8.3 of the Charter, even though this provision is not binding on that country.

4.8 Article 9 – Financial resources

Article 9 – Financial resources of local authorities

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

4.8.1 Article 9.1 and Article 9.2 (analysis and conclusion)

171. The analysis of Article 9.1 and Article 9.2 of the Charter will be performed jointly, since they are strongly connected.

172. Turkish local authorities are entitled to financial resources of their own, of which they can dispose within the framework of their powers. From the legal point of view, the most important pieces of legislation

are Law No. 2464 on Municipal Revenues; the Law No. 5779, passed in 2008, as amended; Law No. 5018, on public fiscal administration and control; and the annual Acts on the General Budget of the Republic of Turkey.

173. As a dimension of their financial autonomy, local authorities are free to approve their own annual budgets, with due respect for statutory rules and the drafting guidelines issued by the Ministry of Treasury and Finance. Moreover, within the scope of Law No. 5393, the mayor sends the draft budget to the Ministry of Environment and Urbanization to be added to the draft central government budget, but the ministry does not have the power to amend or modify the local budget in any way. On the other hand, municipalities are also free to make their own spending decisions, except in the case, of course, of block or earmarked grants. This freedom is compatible with the duty to report periodically to the Ministry of Finance on the state of execution of the local budgets.

174. Although Article 59 of the Municipality Law and articles of other related statutes contain an enumeration of the different sources of income of Turkish local authorities, for the purpose of this report we may divide the said financial revenues into the headings listed in the next paragraphs.

i **Shared taxes**: under Law No 5779, passed in 2008, as amended, local governments are entitled to a share or proportion of the annual collection of some state taxes, a chapter known as the General Budget Tax Revenues (GBTR). The most important tax is the personal income tax (PIT). The central government collects such taxes and distributes different shares or percentages to local authorities. The share or proportion of the GBTR allocated to the different types of local authority is as follows: metropolitan municipalities are allocated 6%of the taxes collected by the state within the respective metropolitan municipalities; 0.50% of the GBTR is allocated to Special Provincial Administrations; 1.50% of the GBTR is allocated to non-metropolitan municipalities; 4.50% of the GBTR is allocated to the metropolitan district municipalities (30% of the share of the metropolitan district municipalities is transferred to the metropolitan municipalities.)[31] The dominant criterion for the determination of such shares is the population of the local entity, but other marginal criteria are also set in order to perform an equalisation function of the system (see below, section 4.8.5). This source of income has increased over the years in the resources structure of local authorities and constitutes the largest part of the total municipal budgets.

175. Despite the fact that domestic practice and terminology identify this source as “shared taxes”, and technically they are depicted as “unconditional transfers”, it should be underlined that local governments do not have any regulatory, managerial or executive powers in relation to those taxes. Local authorities do not collect those taxes, they do not have the right to impose a surcharge on the rate set by the central government, etc. Local authorities have little, if any, “share” in the regulation and collection of those taxes: they simply receive the monies from the central government. Consequently, and according to its rationale and management, this source of revenue could also be conceptualised as a “general grant” or as a financial equalisation instrument (see below section 4.8.5).

ii **Own taxes**: Turkish local governments do not have the power to tax revenue (either the personal or corporate revenue) as this is an exclusive competence of the state. However, local authorities may collect a number of other taxes, of which the real estate property tax is the most important. These taxes are presented below in connection with Article 9.3 of the Charter.

iii **Charges and fees**: local authorities may collect user fees and charges for the use of public property or for the discharge of certain local services such as the issuance of permits or certificates. These are presented in more detail in connection with Article 9.3 of the Charter

iv **Grants (block and investment grants)** that the local authorities receive from the state budget. They are presented below in more detail in connection with Article 9.7 of the Charter.

v **Fines and penalties** for petty offences, such as parking violations.

vi **Private law revenues**, such as those obtained through the sale, rent or lease of municipal properties, and the economic benefits obtained by local companies, the sale of publications or the product of privatisation operations. Municipal councils are entitled to decide on the privatisation of the companies, enterprises and subsidiaries of the municipality. The revenues from privatisations are recorded as revenue in the budget by

31 Data provided by the Ministry of Treasury and Finance in January 2020

the local government. The revenues derived from local companies and municipal property operations represented 14.8% of the total municipal revenues in 2013[32.]

vii **Borrowing** and access to the capital markets. This source of income is presented in more detail below, in connection with Article 9.8 of the Charter.

viii **Other** miscellanea and minor sources, such as donations.

176. For the purpose of this report, the revenues coming from the sources identified at numbers (ii), (iii), (v), (vi) (vii) and (viii) may be categorised as "own revenues". According to the Union of Municipalities of Turkey, the own revenues chapter collectively accounts for 48.8% of the municipal budgets[33,] which is a pretty fair percentage in the European perspective, and especially in the south-east of the continent. Another estimate of the relative importance of the "own revenues" of local authorities is that performed by the Network of Associations of Local Authorities of South-East Europe (NALAS). According to this organisation, "Turkish local authorities derive more than 42% of their revenue from sources over which they have some control, which is a proportion in line with most European standards."[34]

177. In order to determine how "adequate" the financial resources of Turkish local governments are, and how deep the level of fiscal decentralisation is, different data and indicators should be taken into consideration. In this vein, the most commonly used indicators are the local revenues and expenditures as shares of total public revenues and expenditures, and as a percentage of Gross Domestic Product (GDP). In this sense, local government revenue represents 5% of total GDP, while the central government revenue represents 33.2% of GDP (2015 data). Another interesting reference factor by which to measure the degree of financial decentralisation is expenditure of local government as a percentage of total public sector expenditure. This figure is usually assessed at around 12-13%, a figure that is relatively small by European standards, especially if one considers that there is no regional level of government in Turkey.

178. The composition or structure of local government revenues is a relevant factor in determining the financial autonomy of local governments. In 2015 those data for Turkey were as follows:
a. own revenues: 42%
b. shared taxes: 50%
c. general grants: 8%[35]

179. As for expenditures, the composition of Turkish local government expenditures in 2015 was as follows:
- investments: 34%
- wages: 17%
- goods and services: 42%
- grants and transfers: 3%
- other: 4%

180. During the different meetings of the delegation with various interlocutors, the rapporteurs did not hear recurrent or relevant complaints about local authorities being underfunded, or that they lacked finances to perform a given competence or function. On the contrary, they generally expressed their satisfaction with their current financial situation and arrangements.

181. In view of the foregoing considerations, the rapporteurs believe that Turkey complies with Article 9.1 and Article 9.2 of the Charter.

4.8.2 Article 9.3 (analysis and conclusion)

182. As noted above, Turkish local authorities have their own "local" taxes, in the genuine sense of this word, and may collect different types of charges and fees.[36] Both categories are presented below.

32 Source: Union of Municipalities of Turkey (TBB) (2015), "Local governments in Turkey".
33 Ibid.
34 See: Network of Associations of Local Authorities of South East Europe (NALAS): *Fiscal decentralisation indicators for South-East Europe: 2006-2014,* (2015).
35 See: NALAS, op. cit. previous footnote. The difference between the figures offered in the concept of "own revenues" by NALAS and the UMT may derive from a different categorisation of some sources of revenues, since the term "own revenues" is not a legal terminology and may be subject to different interpretations.
36 See: TBB, *Local governments*…op.cit, footnote 12, p. 50-52

i **Own taxes:** Turkish local governments do not have the power to tax the revenue, as this is an exclusive competence of the State. However, local authorities may collect a number of other taxes, such as:

- *Property tax:* The property tax is the most important of all municipal taxes. The rate is 0.1% of the property value for residences and 0.2% for other buildings (in metropolises, these rates are doubled). The property value is appraised and renewed every four years by a multi-governmental commission.

- *Sanitation tax***:** Households and workplaces are levied this tax for the solid waste services provided by municipalities. For households, the sanitation tax is collected along with water charges. The sanitation tax for workplaces is assessed on the basis of criteria such as the number of employees or the accommodation capacity of hotels, for example.

- *Announcement and advertisement tax***:** This tax is levied for announcements and advertisements made within municipal boundaries. The rate is calculated in proportion to the space occupied by the advertisement. The lower and upper rates of this tax are set by law. The Presidency of the Republic of Turkey classifies the municipalities and sets the rates for each group of local authorities.

- *Entertainment tax:* The operation of entertainment businesses within municipal boundaries (movie theatres, betting places, etc) is affected by this tax, the rates of which are determined by the Presidency of the Republic of Turkey.

- *Electricity and coal gas consumption tax*

- *Communication tax*.

183. As may be seen, the number and types of local taxes is rather varied, and tax revenues account for 22-23% of municipal "own" revenues. However, it should be underlined that the regulation and rates of such taxes are exclusively imposed by the state. Consequently, local authorities have no power to modify or adapt the rates of such taxes to the municipal needs, thus causing this approach to fall short of the requirements of the Charter.

ii **Charges and fees**: Local authorities may collect user fees and charges, as presented summarily below.

a. Charges: To begin with, municipalities collect charges against certain services delivered, such as the construction of buildings and the issuance of business licences, and there are also various other charges such as urban development charges and spring water charges. Most of those charges (such as the construction of buildings and the business licence charges) are calculated according to the square meterage of the building or facility. Charges represent a significant revenue item constituting 9.16% of municipal own revenues.[37] The lower and upper rates of the charges are set by national Law. Within this range, the Council of Ministers classifies the municipalities by indices of economic development, and the municipal council sets the specific rates that may be charged in each section of the city.

184. Finally, those using the public places such as roads, bridges and walkways for commercial purposes within municipal boundaries must pay certain charges, such as vehicle parking charges at public places.

185. The lower and upper limits of the charges are set in Law No. 2464 on Municipal Revenues. The Council of Ministers classifies municipalities by development ratio. The rate of charge is established on the basis of such classification. However, the municipal council has the power to set different charge rates for neighbourhoods or sections having different levels of economic development.

b. Special contributions: Apart from strict charges, Turkish municipalities may also charge a "contribution to investment expenditures" on real estate owners. This is supposed to help finance the construction of local roads and water and sewer infrastructures by local governments.

c. Service fees: Fees are charged for various services provided by the municipality at the request of individuals and firms, and cannot affect things already subject to taxes, charges or contributions. The most important service fees collected by municipalities include potable water fees and public transport fees.

37 Source: Union of Municipalities of Turkey: *op. cit* footnote 12.

Municipalities also provide paid services such as water tank cleaning, chimney shaft cleaning and the like. The fee schedules are to be set by the municipal council.

186. In light of the foregoing, the rapporteurs believe that local taxes, fees and charges are sufficiently large and diversified, but that local governments have a limited capacity to determine the rate of the local taxes. Consequently, Turkey complies only partially with Article 9.3 of the Charter.

4.8.3 Article 9.4 (analysis and conclusion)

187. Turkey did not include Article 9.4 among the ratified provisions of the Charter. Consequently, Turkey is not bound by this provision. However, for the sake of completeness, mention should also be made of this aspect of local administration.

188. In light of the system and structure of local finances, as they are presented in this report, it may be concluded that the different types of local government revenues are sufficiently diversified, as they cover all possible sources of local funding usually included in most European systems of local finance. As for the "buoyancy" nature of the local financial system, this is more difficult to assess and would need deeper analysis, since it is a very subtle and even controversial concept. In any case, during (and after) the mission, the local representatives did not make claims that the financial system in Turkey prevented them keeping pace with the real evolution of the cost of carrying out their tasks. As a matter of fact, most of the different items comprising the local finance system are updated or increased regularly. However, in some domains, such as the service fees and charges, local authorities have a limited capacity to increase those revenues.

189. In light of the foregoing, the rapporteurs believe that Turkey complies with Article 9.4 of the Charter.

4.8.4 Article 9.5 (analysis and conclusion)

190. In Turkey, financial equalisation is mainly achieved through the instrument of shared taxes, and by means of the amounts that each local authority is entitled to get every year under this concept.

191. For instance, as pointed out above, metropolitan municipalities are allocated 6% of General Budget Tax Revenue. However, not all metropolitan municipalities get the same "mathematical" share. Certainly, all metropolitan municipalities get 60% of such apportionment directly, but the remaining 40% is pooled in a special account or fund. In that account, 70% is redistributed to metropolitan municipalities according to their population, and 30% according to their surface area. Equalisation is thus effected among metropolitan municipalities by allocating more funds to the municipalities having lower local revenues. The Ministry of Treasury and Finance is the body that distributes such apportionments to metropolitan municipalities.

192. In the case of district municipalities, it was pointed out above that they get 4.5% of the state tax intake. However, not all such municipalities get exactly that share, since 90% of that general share is distributed among the different municipalities on the basis of their population, and 10% according to their surface area. The use of geographic size as a distributive criterion is supposed to promote equalisation in favour of municipalities with lower population density.

193. In the case of other municipalities, it was said above that they receive 1.5% of the state tax collection. However, here again there are different sub-percentages, calculated to obtain a somehow redistributive effect of such state transfers: 80% of this global entitlement is distributed among the several municipalities according to their population, and 20% according to a so-called "index of social and economic development". This index divides local governments into five groups, with the least developed group getting 23% of the pool and the most developed group receiving 17%. Thus, financial equalisation among regular municipalities is obtained by giving larger shares to the less developed authorities.

194. Another 0.1% of the general budget revenues is allocated to municipalities having a population smaller than 10 000 inhabitants (there are 708 of these). Out of this apportionment, 65% is distributed across the board, and 35% according to the respective populations. This constitutes a secondary financial equalisation for smaller municipalities. Finally, Special Provincial Administrations get 0.5% of the general budget tax revenues, 50 percent of the Special Provincial Administrations apportionment is distributed according to the population, while 10 percent is distributed according to the surface area; 10 percent is distributed according to the number of villages, 15 percent is distributed according to the rural population and 15 percent is distributed according to the development index of the provinces.

195. During the various meetings held by the delegation, the local representatives stated that in general they were satisfied with the current system of financial equalisation.

196. In light of the foregoing considerations, the rapporteurs consider that Turkey complies with Article 9.5 of the Charter.

4.8.5 Article 9.6 (analysis and conclusion)

197. Turkey did not include Article 9.6 among the ratified provisions of the Charter and so is not bound by it. However, for the sake of completeness, mention should also be made of this aspect of local administration.

198. In this respect, the rapporteurs believe that what has been noted above in connection with Article 4.6 of the Charter (right of local authorities to be consulted in general) may be reproduced *mutatis mutandis* as regards the specific aspect covered by Article 9.6. In Turkey there is no specific body for the consultation of local authorities or for political intragovernmental negotiation on local finances. There is no specific, positive pattern of consultation when it comes to local finances. On the contrary, the central government decides unilaterally on most questions in this area, and even determines not only the rates of some local taxes, but even the minimum and maximum amounts of many municipal charges. Moreover, there is "consistency" in Turkey's ratification of the Charter, since neither Article 4.6 (the general provision) nor Article 9.6 (the specific provision) were ratified. This may certainly be a sign of a lack of willingness to open an intraterritorial dialogue, which once more reinforces the tendency towards centralisation in the country.

199. In light of the foregoing considerations, the rapporteurs consider that Turkey does not comply with Article 9.6 of the Charter.

4.8.6 Article 9.7 (analysis and conclusion)

200. Article 9.7 is another provision of the Charter that has not been ratified and that is not binding on the country, but reference should be made to this aspect of local government.

201. The state allocates different types of transfers to local authorities in the form of earmarked grants (block grants, investment grants, etc) from the state budget. Conditional grants are generally used to help poorer local authorities. For example, in the past the *Koydes* Programme provided additional support for villages and the *Beldes* Programme provided support for small districts. These programmes helped villages and districts to complete investment projects that they could not carry out themselves. These investment projects have typically focused on water supply, water sanitation and the construction of local roads.

202. Mention should also be made of the "municipality subsidy", a special fund that is included in the Strategic Budget of the Presidency for the realisation of investment projects needed by the municipalities; this fund may be used by the municipalities upon authorisation of the President.

203. Even if the share that local governments receive in the state taxes ("shared taxes") is considered to be "grants", as a rule these transfers are not "earmarked", since they serve to cover the general operational and running costs of the local authority. The proportion of strictly "earmarked" grants within the local budgets is very limited.

204. Local representatives, however, made the complaint that although the "regular" or "objective" revenues of municipalities are quite transparent (shared taxes), the specific or extraordinary financing (like the grants here presented) are nevertheless subject to political and subjective considerations, such as the political affiliation of the mayor and whether the mayor is in tune with the central government.

205. In light of the foregoing, the rapporteurs believe that Article 9.7 is respected in Turkey, since most of the grants to local authorities are not earmarked for the financing of specific projects.

4.8.7 Article 9.8 (analysis and conclusion)

206. Municipalities may have access to borrowing as an extra source of revenue where the apportionments from the state budget and their own revenues are insufficient. Investments in subway systems, wastewater treatment facilities and other large infrastructure are usually financed by borrowing. Municipalities may also

issue bonds to finance projects included in the local investment programme. Articles 68 and following of the 2005 Municipality Law are the most relevant provisions in this area, coupled with the Law No. 4749 related to public finance and management of debts.

207. Traditionally, the EU defined general government public debt in Turkey has been relatively low (32.2% in 2019 Q2)[38], and the share of local government in that figure has also been very low. Consequently, the debt of local authorities does not represent a worry in the country.

208. The Ministry of Treasury and Finance keeps a close eye on the debt of local authorities and includes specific references to this item in a specific report called the *Public Debt Management Report*, which is published every month. According to this government source, the total amount of the central government debt in June 2019 was roughly 1 334 350 million Turkish lira (TL), while local government debt accounted for only 72 214 million TL.[39]

209. As in most European countries, the law imposes certain limits and restraints on the borrowings and indebtedness of local authorities. On the one hand, a municipality is barred from borrowing for the purpose of covering its operational costs, and borrowing is authorised only for investment purposes. Second, a municipality cannot borrow more than the total of its revenues for the previous year (one-and-a-half times the previous year's revenues in the case of metropolitan municipalities). However, no restriction applies to borrowing for an infrastructure project requiring advanced technology and large financial resources, if the Council of Ministers approves the project.

210. On the other hand, any borrowing of the municipality is subject to the approval of the municipal council, and except in certain cases the approval of the central government is also required. In this regard, for borrowings undertaken by the municipality of up to 10% of revenues for the previous year, the approval of the central government is not required, but for amounts exceeding this threshold, the consent of the Ministry of Environment and Urbanisation must be sought.

211. Another precaution is that borrowing operations that represent more than 100% of the municipal revenue for the previous year are possible only in the case of big infrastructure investments and upon the approval of the Presidency of the Republic.

212. Borrowing from foreign credit companies is also limited, in the sense that it is only possible in the case of infrastructure investments and upon the approval of the Presidency of the Republic. For foreign borrowing, the affirmative opinion of the Under secretariat of Treasury must be obtained if the municipality wants to obtain the guarantee of the national treasury. The Ministry of Finance must also authorise the operation when a local authority wants to issue bonds in the domestic market. If a municipality undertakes a borrowing operation in violation of these limits and procedures, the relevant local officials may incur in financial liability.

213. Metropolitan municipalities are supposed to provide comprehensive information on their finances to the Ministry of Finance twice a year to allow the ministry to check whether they comply with the statutory and regulatory limits on local indebtedness.

214. In the domain of borrowing, mention should also be made of the Bank of Provinces (ILBANK). This body was established in 1933 to finance the land-development activities of municipalities and to provide technical financial assistance to local authorities, and its founding shareholders were the Special Provincial Administrations and municipalities[40].

215. The Bank of Provinces is funded by a percentage of the shares of local governments in the State tax revenues (as presented above), with such shares being deducted from the apportionment to the municipalities and transferred to the bank. The Bank of Provinces provides assistance in the design of projects for local authorities and also provides financing in the form of loans for the infrastructure investment projects of municipalities (up to $400 million). The bank grants short-term loans for cash needs and investment funding at lower rates than the market. In this sense the Bank of Provinces may be characterised as a government development bank for local authorities.

38 Data of the Republic of Turkey Ministry of Treasury and Finance provided in January 2020.
39 Republic of Turkey Ministry of Treasury and Finance, "Public debt management report", No 172, November 2019
40 TBB, *Local governments*, op. cit, at footnote 12, p. 55.

216. Finally, municipalities may also borrow from such organisations as the European Investment Bank, the Asian Investment Bank and other international institutions. This is governed by specific regulations.

217. In light of the foregoing considerations, the rapporteurs understand that Turkey complies with Article 9.8 of the Charter

4.9 Article 10 – Local authorities' right to associate

Article 10 – Local authorities' right to associate

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

4.9.1 Article 10.1 (analysis and conclusion)

218. Turkish local authorities are entitled to co-operate and to form consortia and other types of collective structures and bodies with other Turkish local authorities. Thus, Turkish municipalities may establish associations or partnerships among themselves in order to carry out tasks of common interest and to discharge common local services. Intermunicipal co-operation takes place mainly in the fields of economic and technical infrastructure, municipal services, social services, cultural services, institutional capacity-building and economic development. Those co-operation efforts do crystallise in general in a "partnership agreement".

219. As of 2015, there were 342 different municipal associations of this type, 99 of which worked in the field of environmental protection and infrastructure building and maintenance, and 92 in the domain of potable water distribution and sanitation[41]. Furthermore, the vast majority of metropolitan municipalities have their own twinning relationships with other Turkish cities. Almost half of those relationships have been established by Istanbul, Izmir, Bursa, Ankara and Antalya.

220. Local authorities' representative associations may also serve as a forum for fostering intermunicipal co-operation. For instance, the Union of Marmara Municipalities (UMM, see below) has since its foundation in 1975 played an important role in the formation of a culture of agreement and collaboration among the partner local authorities, and in the development of co-operation structures between those municipalities.

221. In view of the foregoing considerations, the rapporteurs believe that Turkey complies with Article 10.1 of the Charter.

4.9.2 Article 10.2 (analysis and conclusion)

222. Turkey did not include Article 10.2 in its instrument of ratification and, consequently, is not bound by this paragraph of the Charter. However, for the sake of completeness, mention should be also made of this aspect of local administration. To perform this analysis, two different dimensions should be considered: the right to join a national association, and the right to belong to international associations.

Domestic associations

223. In Turkey, local authorities are entitled to belong to associations for the protection and promotion of their common interests. A specific piece of legislation regulates unions of local administrations (The Law of Unions of local governments No. 5355).[42]

224. The most important municipal association is the Union of Municipalities of Turkey (UMT; *Türkiye Belediyeler Birligi* in Turkish, TBB). It was established in 1945 as a public benefit association and in 2002 it was established in its current status by a decision of the Council of Ministers. It is unique in the sense that it

41 See: TBB; local governments in Turkey, op. cit
42 http://www.lawsturkey.com/law/law-of-unions-of-local-governments-5355

gathers all municipalities in Turkey: all are natural members of the UMT. Therefore, it is the only such association operating at the national level.

225. The mission of the UMT is to protect the rights and interests of all municipalities in Turkey; to lobby for municipalities and to represent them in national and international fora and platforms; and to provide them with consultancy, training for municipal staff, and technical support and assistance.[43] The UMT also promotes intermunicipal co-operation and delivers opinions on legislative drafts of interest to municipalities. In this sense, the delegation was told that both parliamentary commissions and line ministries consult those union´s opinions on legislative drafts. The union is funded through membership fees, which are paid by all Turkish municipalities. The delegation drew the impression that the UMT is a strong and powerful union, endowed with notable facilities and a large staff and probably one of the strongest local authority associations in Europe.

226. However, the UMT is not the only representative association of local authorities in Turkey. There are other regional unions for municipalities such as Black Sea, South Eastern Municipalities, Aegan, Trakyakent, etc.

227. For instance, the "Marmara Municipalities Union" (MMU), founded in 1975 represents roughly 200 local authorities located around the area of the Sea of Marmara (including Istanbul) to carry on important activities in areas such as training, consulting, local libraries and publications, scientific activities, coordination and co-operation, migration and social cohesion studies, environmental management and capacity-building.[44]

228. During the consultation procedure, the HDP pointed out that recently, the Ministry of Interior terminated membership of 70 members of the Union of Southeast Anatolia Municipalities (Guneydogu Anadolu Belediyeler Birligi – GABB), all of them HDP councillors, and this is how HDP lost the majority at the general assembly of the GABB. It occurred after the suspension of the mayor of Diyarbakir who chaired the GABB.

229. Finally, the Union of Provinces represents the still existing Special Provincial Administrations, the second-level local authorities in Turkey.[45]

230. As part of the monitoring mission, the Congress delegation held a specific meeting with the UMT and with the Union of Provinces. Their top representatives conveyed the message that, in general, they were satisfied with the situation of local government and democracy in Turkey, in terms of legal framework, competences and financing. They firmly believed that Turkish local governments are strong and democratically empowered units of governments, and key elements for a correct territorial structuring of Turkey. They were, in general satisfied with the current level of decentralisation, which (according to them) complies with most common European standards and fits correctly into Turkey's history and current political landscape.

International associations

231. The general freedom enjoyed by Turkish local authorities to form or to join domestic national or regional representative associations is not matched in their capacity to join international associations. Here, a rigid understanding of the exclusive competence of the Turkish Republic in the field of foreign affairs imposes a restrictive approach to this specific international dimension of local authorities. In accordance with this policy, Article 74 of the Municipality Law of 2005 (titled "Foreign Relations") lays down various provisions on the matter. To begin with, municipalities may participate in international institutions and organisations related to their field of operations as founding members or members, upon decision of the municipal council. On the other hand, the municipality may realise joint activities and service projects, or establish urban fellowship relations with these institutions, organisations and foreign local administrations. However, "it is a basic principle to carry out these activities … in compliance with the foreign policies and international agreements, and to obtain the permission of the Ministry of Environment and Urbanization beforehand".

232. As can be seen, the Ministry Environment and Urbanization may make a decisive intervention in this domain, which may curtail the free and full deployment of the international cooperative dimension of local authorities. This does not mean that, as a matter of reality, Turkish associations of local authorities are isolated from the rest of the world. For instance, the Union of Municipalities of Turkey (UMT) is a member of

43 See the institutional website of the association: www.tbb.gov.tr
44 See: en.marmara.gov.tr
45 See: http://www.vilayetler.gov.tr/

the Council of European Municipalities and Regions (CEMR), the oldest and broadest European association of local and regional governments, and the Union of Marmara Municipalities (UMM) is a partner of NALAS, an international association grouping national or regional local authority associations in the south-east of Europe.

233. However, the need to obtain the permission from the central government to engage in such activities is a feature causing the Turkish situation to fall short of the requirements of the Charter in this respect, according to the rapporteurs.

234. In view of the foregoing considerations, the rapporteurs believe that Turkey complies only partially with the requirements of Article 10.2 of the Charter

4.9.3 Article 10.3 (analysis and conclusion)

235. Turkey did not include Article 10.3 among the provisions of the Charter that were ratified by it, but for the sake of completeness, mention should also be made of this aspect of local administration.

236. To begin with, under current Turkish law all the co-operation initiatives or projects of the municipalities with foreign local authorities are subject to the approval of the central government. For instance, a request to become a sister municipality of a municipality of another country requires such approval.

237. On the other hand, Turkey has signed (1998) and ratified (2000) the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 106), an international treaty that entered into force for Turkey on 12 October 2001.

238. In any case, and at least as a matter of fact, Turkish local authorities are engaged in many initiatives and projects of co-operation with local authorities located in other states. Those transnational efforts are frequently fostered by the local authorities' representative associations, and the UMT regularly mediates between Turkish and foreign municipalities and undertakes joint projects with foreign local government associations. For instance, the national association carries out many co-operation and partnership projects with foreign local authorities and associations, such as the Project for Municipal Partnership Network (*Tusene*t) with the Swedish association of local authorities and regions *(*SALAR); the "Logo" project with the Dutch association VNG; and the promotion of international partnerships between Turkish and Spanish municipalities. As a result of such efforts, several dozen Turkish municipalities have established twinnings and other cooperative relations with Dutch, Swedish and Spanish municipalities. The union also delivers training and transfers experience to local governments in other countries, namely in Balkan and Middle East countries. Another example of fostering international co-operation among local authorities is the Union of Provinces, which will organise a major international conference on town twinning in 2020.

239. Apart from these activities carried by representative associations, many Turkish municipalities have their own actions and projects through which they co-operate with local authorities in other countries. Of course, this report cannot provide a comprehensive description of such activities, since many Turkish local authorities have formed sister-city twinnings with foreign local authorities, mainly from the Western and eastern Balkans, northern Cyprus, the Arabic Countries and the Middle East. For instance, Ankara alone entertains strong international co-operation with other cities; it has signed 51 twining agreements with other capitals of the world.

240. In view of the foregoing considerations, the rapporteurs believe that Turkey complies *de facto* with the requirements of Article 10.3 of the Charter, even though this provision is not legally binding on the country.

4.10 Article 11: Legal protection of local self-government (analysis and conclusion)

Article 11 – Legal protection of local self-government
Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

241. From the outset, it should be noted that Turkey did not include Article 11 among the ratified provisions of the Charter. Consequently, Turkey is not bound by Article 11. However, for the sake of completeness, mention should be made also of this aspect of local administration.

242. Analysis of the legal protection of local self-government in the Republic of Turkey must consider two different aspects: on the one hand, the regular access of local authorities to ordinary courts, and, on the other hand, the access of such entities to the Constitutional Court to defend the principle of local self-government. As regards the first aspect, Turkish local authorities do enjoy *locus standi* to go to the regular or administrative courts in order to defend their rights, properties and interests, just as other juridical persons would. For instance, when a justice of the peace, at the request of the Ministry of the Interior, decides that the governor must take over the running of the municipality in cases of gross negligence by the mayor (see above), the municipality may file an objection to the civil court of first instance against the decision of the justice of the peace (Article 57, Municipality Law).

243. The delegation did not hear any complaint from local leaders or representatives regarding this. This situation must be coupled with the principle that all persons have the right to go to the courts, a fundamental principle proclaimed in the Turkish Constitution at Article 36: "everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means and procedures.

244. This general right of access to the courts should not prevent analysis of whether Turkish local authorities have a specific remedy or judicial process by which to defend the principle of self-government in the regular or administrative courts. The reality is that they do not. A local authority may claim that its property or rights may have been affected by a governmental measure, but Article 11 of the Charter requires something more, a specific remedy or legal process whereby the local authorities may claim infringement of the principles of local self-government.

245. The possibility for local authorities to stand in the Constitutional Court are even more remote, even non-existent. The reason is that under current Turkish law, local authorities do not have standing to sue in the Constitutional Court alleging the unconstitutionality of a law or in relation to a specific claim that the principle of local self-government (or that of decentralisation) has been infringed. In such proceedings, standing is restricted to certain qualified applicants, such as one fifth of the members of Parliament, or the President of the Republic. However, it would be possible for a local authority to trigger a lawsuit in a regular or administrative court and for that court to submit a preliminary question on the constitutionality of the statute that must be applied in the adjudication of the proceedings in relation to violation of Article 127 of the constitution, but this has never happened.

246. The result of all that, as noted at section 3.3, is that until now the concept and principle of local autonomy have played no role in the context of constitutional review of legislation.

247. The other important field of activity of the Constitutional Court is the remedy called "individual application", by which an individual or corporation claims violation of a fundamental right protected by the constitution or by the European Court of Human Rights. Here again, there is no Constitutional Court case-law connected with local autonomy, since the Charter is not considered to be a treaty in the domain of human or fundamental rights, like the ECHR and local autonomy is not considered a fundamental right (as most constitutional courts consider it).

248. In light of the foregoing considerations, the delegation believes that, in the present circumstances, the Turkish system of local government only partially meets the requirements laid down in Article 11 of the Charter, although this provision is not binding on Turkey.

5. ANALYSIS OF THE SITUATION OF REGIONAL DEMOCRACY IN LIGHT OF THE REFERENCE FRAMEWORK FOR REGIONAL DEMOCRACY

249. As noted above, there are no genuine "regions" or regional self-governments in Turkey, in the way that this term is commonly understood in Europe. The constitutional system in Turkey is based on a territorial uniformity throughout the country, and there are no regional bodies or authorities in the sense of the Council of Europe Reference Framework for Regional Democracy. The Special Provincial Administrations are genuine second-level local authorities (so are the metropolitan municipalities, as reasoned above), and cannot be considered "regional" bodies or governments.

250. The country is certainly divided into seven "regions" (*bölge*) for economic policy, statistical and other managerial purposes, but these are not public law bodies in the full sense of the term and cannot be

considered regional instances; rather they are mere subdivisions of the national territory for the functional purposes of the State (namely, the economic development of the nation).

6. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL SELF-GOVERNMENT

251. Any report on the situation of local democracy in Turkey would be incomplete if it did not touch on what is probably the most delicate and controversial aspect of the whole landscape: the specific situation of local governments and local democracy in the south-east of the country. This large area of Turkey encompasses the territory of several provinces. In this area, for historical reasons, a high proportion of the population is of Kurdish origin. Kurds constitute a population with a certain historical culture, traditions and their own languages.

252. In brief, three different aspects relating to that area should be mentioned, from the narrow perspective of this report: first, a large proportion of the Kurdish population has expressed in different ways its aspirations to obtain some sort of self-government or greater autonomy, whereby the Kurdish cultural and linguistic distinctness could be recognised and supported; second, in the local elections held in that area, the HDP and other related pro-Kurdish parties regularly win large political representation, and their affiliates run many local authorities (102 in the 2014 elections, 64 after the 2019 elections). The HDP which has gained over 10 percent of the vote nationally in elections and held seats in the national Parliament since 2015, contends that there is a "Kurdish problem", an unresolved political conflict, while the central authorities absolutely deny the very existence of such conflict and view it as a problem of terrorism. The third relevant aspect is that in the late 1970s, the region saw the birth of the PKK/KCK, which advocates for its strong autonomy or, in the past, even full independence from Turkey. This organisation and its affiliates have pursued a violent armed struggle against the Turkish state, resulting in the deaths of tens thousands of people (military personnel, PKK fighters, and civilians) since 1984. In 2002, the PKK was included in the EU list of terrorist organisations. Terrorist attacks still occur active in the region: a bloody terrorist attack took place in Diyarbakir shortly before the mission (12 September 2019), causing the death of seven people.

253. In order to combat terrorism, Turkey passed some anti-terror legislation, the most important of which is the Anti-Terror Law (law no. No 3713, of 12 April 1991), which has been amended several times. Human rights groups and the EU in its annual progress reports on Turkey have repeatedly criticized the wide use of the Anti-Terror Law over many years to prosecute and convict people for their non-violent speech, writings and association without compelling evidence that they have committed activities that reasonably meet the threshold to be counted as crimes. As a consequence of the attempted coup in July 2016, a State of Emergency was declared in the country, and additional and extraordinary legal measures (decree-laws) were introduced to fight both against the coup and against terrorism. It has been estimated that, as a consequence of this double struggle, more than 125 000 public officials, holding positions in the government, local administration, universities and the military, were dismissed or suspended from their positions on the grounds of suspected involvement in the coup bid, affiliation with a terrorist organisation or for posing a threat, and that more than 75 000 people were imprisoned pending trial, according to official statistics and NGOs. The State of Emergency was officially lifted on 18 July 2018. However, some of the legal norms adopted during its term (such as those affecting local governments) were ratified by parliament as permanent by-laws and remain in force.

The dismissal of mayors

254. The dismissals of mayors in different parts of the country, and in particular in the south-east have unfortunately become a recurrent trend in the Turkish system of local government. As noted above, this issue has already given rise to some Congress reports, the last in 2017[46], at a time when the State of Emergency was in force (see section 4.6.1): in 2016, some 94 mayors and vice-mayors (most of them belonging to the HDP's sister party Democratic Regions Party (DBP), were suspended from office and many had been arrested, in the period after the attempted coup, and were replaced by government-appointed "trustees" (see below).

255. Since this question has already been considered and assessed several times by the Congress, in this report we should not repeat in detail what has been said in the past, with all the conclusions, resolutions and

46 *Fact-finding mission on the situation of local elected representatives in Turkey*, 29 March 2017.

recommendations adopted by the Congress, and we focus on the facts and events that have taken place since the last local elections, in March 2019, deriving the pertinent conclusions.

256. After the lifting of the State of Emergency, the legal framework for those suspensions was Article 127 of the constitution and the Municipality Law, Act No. 5393, as amended by Decree-Law No. 674, of 1 September 2016. For the sake of completeness and clarity, both provisions are reproduced here:

- Article 127, Turkish Constitution (fourth indent): "Loss of status and objections regarding the acquisition of the status of elected organs of local administrations shall be decided by judiciary. However, as a provisional measure until the final court judgment, the Minister of Internal Affairs may remove from office those organs of local administration or their members against whom an investigation or prosecution has been initiated on grounds of offences related to their duties."

- Article 47, Municipality Law: Suspension from office: "The municipal organs or the members of these organs subject to investigation or prosecution due to an occupational offence, may be suspended from office as a precautionary measure until the rendition of the final judgment. The precautionary measure shall be re-assessed in every two months. The precautionary measure, which seems to be not useful in terms of public interest, shall be lifted. The precautionary measure seeking suspension from office shall also be lifted in case no permission is given for investigation or court decision is obtained not to prosecute, or in case of abatement of public action, or acquittal; or declaration of amnesty, or conviction of an offense not requiring suspension from office."

- Decree-Law No 674 of 1 September 2016 included some articles having a direct impact on local democracy since they modified the Municipality Law in different ways: (a) under the modified wording of Article 45.1, where a mayor, deputy mayor or council member is suspended from duty or detained due to offences related to terrorism, a replacement "shall be assigned by the authorities"; (b) under the new Article 57, where it is established that a strong disruption of service will affect the municipality, the governor shall perform the service concerned or have it performed by state institutions or organisations. This may lead to the confiscation of municipality resources. The state may also dismiss the local staff concerned. The decree law also allows for the "retroactive" replacement by trustees of mayors who had been suspended in the past and who had been replaced under "regular" procedures enshrined in Article 45 of the Municipality Law (see below).

257. Another structural pattern, still in force, is that the Turkish government accuses the pro-Kurdish HDP of acting as the political wing of the PKK and claims that the HDP refuses to brand PKK as a terrorist organisation and publicly renounce it. Government officials repeatedly stated that HDP mayors and local leaders work in favour of the PKK by morally and financially supporting its actions, by transferring municipal finances to the terrorist organisation, by using municipal premises to hide terrorists or to help them in their actions. During the consultation process, the representatives of the HDP contested this statement, since, as they underlined, no single Kurdish mayor has ever been indicted with the charge of transferring municipal funds to the PKK. HDP representatives also invoked their presumption of innocence rights. Therefore, one of the critical questions is whether the Turkish Republic is fighting terrorism efficiently or whether, an overly broad definition of "terrorism", may jeopardize the balance between a strong and effective response to terrorism on the one hand and preserving democratic values and human rights on the other hand. The fact is that several HDP local representatives have been sentenced to prison by the criminal Heavy Penal Courts,[47] and in many cases those sentences totalling many years of imprisonment, have been confirmed by the Supreme Court of Appeals[48]. On this fact, HDP representatives argue that the criminal code is wrongly applied and that the courts are not impartial in Turkey. In this respect, the rapporteurs would like to refer to

47 For instance, the "co-mayor" of Karayazi, Ms Göksu was sentenced to 7 years and 6 months in prison for "membership of a terrorist organisation" by the Erzurum heavy penal court and the sentence was confirmed by the Supreme court of appeals. Also, Ms Buluttekin, the co-mayor of Sur municipality, was sentenced to 10 months in prison for "propaganda of a terrorist organisation" on 17 September 2019.

48 See: Daily Sabah: "41 dismissed mayors receive over 237 years on terrorism charges", 4 September 2019, reporting that 41 out of 94 mayors who were dismissed from their duties for allegedly having links with terrorism organisations received different imprisonment sentences. See also: BIA News Desk: "Supreme Court of Appeals upholds prison sentences of three HDP MPs and one Mayor", 24 September 2019.

the concerns repeatedly raised by the Council of Europe Commissioner for Human Rights[49] and the Venice Commission regarding the rule of law and independence of judiciary in Turkey[50].

258. The delegation was informed that, in the run-up to the March 2019 municipal elections, 50 Kurdish "co-mayors" were still in prison, 29 of whom had been under pre-trial arrest for about two years. Furthermore, the delegation learned the status of various local elected representatives from the south-east of the country, some of whom the rapporteurs met in Diyarbakir (see the attached programme of the monitoring visit). In particular, the delegation knew about three different mayors in that area, whose circumstances attracted not only much media coverage[51] but also the attention of prominent international organisations such as the European Union.[52] We refer here to the metropolitan mayors of Diyarbakir, Van and Mardin, who were suspended from mayoral positions, and replaced by "trustees" (see below). The circumstances of the three suspended mayors are presented below in brief.

259. *Mr Adnan Selçuk Mizrakli*, mayor of Diyarbakir metropolitan municipality. He was suspended and removed from office shortly before the first leg of the visit. The suspension was approved by the Ministry of the Interior on 19 August 2019.

260. The delegation was given a file summarising the grounds for this governmental decision by the Ministry of the Interior. According to that file, Mr Mizrakli was the subject of one trial in the Diyarbakir Heavy Penal Court on terrorist charges*,* that is, for allegedly establishing and managing a terrorist organisation (Charge No. 2017/123). Moreover, there were eight different criminal investigations by the chief public prosecutor and three more by the Ministry of the Interior. The investigations concerned various alleged crimes, such as "making propaganda of a terrorist organisation, praising a crime and criminal", and "being a member of an armed terrorist organisation".

261. Shortly after his suspension, Mr Mizrakli filed an appeal against this measure in the Diyarbakir administrative court, requesting a stay on the execution of the Minister´s decision (2 September 2019), and its annulment. In his plea (a copy of which was given to the delegation), Mr Mizrakli mainly claimed that the charges made against him related to actions performed before he took office as mayor, and that consequently the investigation did not pertain to offences performed in the discharge of his mayoral duties, but as a regular citizen. Therefore, the ministerial decision was illegal as it was driven by political purposes. These legal proceedings were still pending at the time of the monitoring mission.

262. Shortly before the second part of the visit, Mr Mizrakli was arrested and kept in pre-trial detention, being transferred to a State penitentiary close to Ankara (early November 2019).

263. *Ms Bedia Özgökce Ertan*, mayor of Van metropolitan municipality. She was removed from office shortly before the first leg of the monitoring mission. The delegation was given a dossier summarising the grounds for her removal from office by the Ministry of the Interior. According to that file, Ms Ertan was the object of one trial in the Van Heavy Penal Court for terrorist charges, that is for allegedly spreading propaganda of a terrorist organisation (Charge No. 557/2016). Moreover, six different criminal investigations on terrorist charges were opened by chief public prosecutor against her and three more by the Ministry of the Interior. The investigations concerned various alleged crimes, such as "making propaganda of a terrorist organisation", and "being a member of an armed terrorist organisation".

264. *Mr Ahmet Türk*, mayor of Mardin metropolitan municipality. He was removed from office shortly before the first leg of the monitoring mission. According to the file prepared by the Ministry of the Interior, Mr Türk

49 https://www.coe.int/en/web/commissioner/-/turkey-needs-to-put-an-end-to-arbitrariness-in-the-judiciary-and-to-protect-human-rights-defenders; https://www.coe.int/en/web/commissioner/-/commissioner-mijatovic-intervenes-before-the-european-court-of-human-rights-in-the-case-of-mehmet-osman-kavala-v-turkey

50 Among recent Venice Commission opinions see: Opinion on the amendments to the Constitution adopted by the Grand National Assembly on 21 January 2017 and to be submitted to a National Referendum on 16 April 2017, CDL-AD(2017)005, 13 March 2017; Opinion on the Measures provided in the recent Emergency Decree Laws with respect to Freedom of the Media, CDL-AD(2017)007, 13 March 2017; Opinion on the duties, competences and functioning of the criminal peace judgeships, CDL-AD(2017)004,13 March 2017; Opinion on the Provisions of the Emergency Decree-Law N° 674 of 1 September 2016 which concern the exercise of Local Democracy, CDL-AD(2017)021, 9 October 2017; Opinion on articles 216, 299, 301 and 314 of the Penal Code of Turkey, CDL-AD(2016)002, 15 March 2016 ; Opinion on Emergency Decree Laws N°s667-676 adopted following the failed coup of 15 July 2016, CDL-AD(2016)037, 12 December 2016

51 See: "Turkey: 3 Kurdish mayors removed from office", Human Rights Watch, 20 August 2019.

52 See: European Parliament: *Resolution of 19 September 2019 on the situation in Turkey, notably the removal of elected mayors* (2019/2821(RSP))

was the object of two trials in the Mardin Heavy Penal Court on terrorist charges, that is, for "establishing and managing a terrorist organisation" and performing "terrorist propaganda". Moreover, Mr Türk was the subject of four other investigations on the same charges. In this case, the alleged conduct is similar to that mentioned above, and included: appointing to a municipal position a person who was a suspected terrorist or who was a brother of a terrorist; standing in silence in memory or praise of a terrorist; participating at a rally in support of the "liberation of Kurdistan", etc.

265. Once these facts were discovered by the delegation on the occasion of this monitoring mission, some basic observations were necessary. The first observations have to do with the instrument of mayoral suspension, analysed *in abstracto:*

- The possibility of suspending a mayor is a measure recognised in the constitution, and legislation of Turkey. The legal context is *prima facie* clear, democratically legitimate and constitutional.
- The loss of status of the mayor can be declared only by a court.
- The suspension of the mayor is depicted as an administrative measure, having an interim character, until a final court judgment is rendered.
- It is optional, and not automatic.
- It is a precautionary measure; it aims to prevent the destruction of evidences or the continuation of the criminal conduct.
- The measure is temporary and must be renewed periodically (every two months).
- The measure must be related to actions and decisions adopted in the discharge of the mayor's duties, and not as a consequence of personal or private actions.
- A criminal investigation needs to have been opened previously by the judicial branch.
- the decision is taken by the Minister of the Interior, who has discretion in analysing the seriousness of the facts before him.
- The dismissed mayor has the right to challenge the Minister´s decision in the competent court, seeking protection for fundamental rights and the presumption of innocence, and that court has the power to stay or even annul the ministerial suspension.
- During the suspension, the mayor continues to receive two thirds of the salary, and the related social rights and benefits.

266. The majority of the features listed above comply with most common accepted standards on the protection of rights and are in harmony with the set of acceptable measures that a democratic state may implement to combat crime and terrorism. However, there is one feature that is, *prima facie*, incompatible with those standards: namely the fact that the suspension decision is taken by an official of the executive branch. This is not acceptable, as the decision to remove (even temporarily) a mayor or council member should be taken by a court of law.

267. Apart from this basic flaw, there are two additional problems. The first is the overly generic and excessively vague definition of "terrorism" included in the anti-terror legislation, which allows for people to be accused of terrorist crimes on the basis of conduct that may be trivial, that may be only remotely connected with terrorism, or that may even be understood as the exercise of human rights such as freedom of speech, or freedom of association and assembly. This major flaw in the legislation was already stated by the Congress 2016 fact-finding mission[53] and is still affecting not only the local level, but also the national, parliamentary level (once more affecting HDP and CHP politicians)[54].

268. A second faulty aspect is the application and implementation of removal of mayors by the executive. It seems that this practice is not implemented – as it should be – as an extraordinary measure adopted in light of unequivocal evidence of a committed crime and with due protection of fundamental rights and liberties (namely the right to engage in political activity and stand for election, Article 67 of the Turkish Constitution) and for the presumption of innocence (Article 38 Turkish Constitution). It appears that the reverse is the rule. The executive implementation of this exceptional measure appears to be indiscriminate and systematic, and the measure is not implemented with due attention to the constitutional principles of decentralisation and local autonomy.

269. Unfortunately, the suspension of mayors is not the only worrying development in the south-east of the country. The first is that many winning HDP candidates for mayor were denied their certificate of election (*mazbata*) in the last local elections in March 2019. Instead, mayoral positions were eventually granted by

53 See: footnote 8.
54 SCMP.com: "Turkey opposition leader Canan Kaftancioglu gets nearly 10 years in jail for insulting president", 6 September 2019 (for insulting the President in social media posts between 2012 and 2017).

the electoral administration to non-winning candidates from AK Party. Several HDP council candidates were also denied the said certificate. Second, many HDP mayors and council members have been arrested or put in pre-trial detention over the last number of months. A third worrying issue is the media and governmental pressure on the HDP, as denounced in the explanatory memorandum of the Congress mission to observe the Turkish local elections.[55] In this regard, all the HDP politicians met by the delegation during the two legs of the visit have consistently denounced a systematic campaign of political harassment by the central government against its affiliates, politicians and local elected officials. If one combines all these events, facts and situations, one could easily conclude that the government might be pursuing an agenda of systematically acting against the HDP local elected representatives, using the mechanisms available in Turkish legislation, that is, by having recourse to abusive prosecutions. During the visit, the rapporteurs were not made aware by the authorities of any court decision regarding proved links between the suspension of mayors and terrorism.

270. Lastly, reference should be made to the fact that, when mayors are arrested, the "co-mayor" is usually also arrested in the same move. For instance, in 2016 the two "co-mayors" of the city of Diyarbakir were place in detention.

271. The position of "co-mayor" is a practice that has been in place since the 2014 local elections in the municipalities run by HDP politicians, whereby a "co-mayor" is appointed at the top of the municipal executive, with the same attributions and competences as the "real" or formal mayor. In essence, the system wants to implement a sort of "diarchy" in the running of the municipality whereby the leaders jointly discharge the mayoral role. Usually, the "co-mayor" is a female if the mayor is a male, and vice versa. The HDP is allegedly trying to implement an agenda of gender equality in local politics through this practice, in a country where women's rights are not fully developed and where the involvement of women in politics is very low.

272. Despite toleration of the practice previously, the Government now contends that, on the contrary, the practice of co-chairmanship is also used also for terrorist purposes because, when one co-mayor is dismissed or arrested, the other co-mayor would allegedly continue to implement the same strategy and conduct. Allegedly this is what happened in Mardin, Diyarbakir and Van.

273. The practice of "co-mayorship", however, has no explicit basis in the national legislation on local government. As seen above, in municipalities of all sorts it is foreseen that there will be only one position of "mayor". Using a traditional administrative law term, the position of "mayor" is clearly a "monocratic" organ, and therefore that position cannot be discharged by two people simultaneously. The laws allow for the appointment of "vice-mayors", "deputy mayors" and "acting mayors", but do not recognise the possibility of appointing a "co-mayor". Furthermore, this possibility is allowed in no European country, as least as far as the rapporteurs know.

274. The practice of co-mayors was considered during the Congress 2016-2017 Congress fact-finding mission, and the final memorandum also concluded that the term "co-mayor" does not appear in Turkish legislation, but it stated, quoting the then Minister of the Interior, that the Government had tolerated this practice "for the sake of conciliation".

275. In conclusion, the rapporteurs are fully aware that Turkey is facing a serious problem of terrorism. The rapporteurs also concede that fighting terrorism is an overarching and compelling governmental interest, which is beneficial not only for Turkey, but also for the whole European continent. However, the legitimate fight against terrorism cannot be used as an excuse to criminalise as a full-fledged terrorist organisation a political party that is legal and democratic under domestic law.

The appointment of "trustees" at municipal level

276. This is another highly controversial and worrying feature of the Turkish system of local government and is closely linked to the suspension of mayors. After the Ministry of the Interior takes the decision to suspend a mayor who is under criminal investigation, the government appoints a "trustee" or temporary administrator, a substitute who takes care of the local administration and takes up the running of the city. This person may be the governor (*vali*) of the corresponding province, in the case of metropolitan municipalities, or the vice-governor or district governor in the case of district or regular municipalities, or another governmental official appointed by Ankara. They are acting mayors, also known as "care-takers"

55 See: footnote 19.

or “curators”. The trustees run the municipality with the exclusive assistance of certain administrative officials, without convening the council. The council, for its part, is prohibited from convening on its own motion, and the competences and functions of the municipal council are discharged by the municipal executive committee.

277. The system of trustees comes to an end when new local elections are held in the country. Therefore, all the trustees appointed in 2016-2017 completed their functions after the March 2019 elections. However, new trustees were appointed shortly after such elections, to replace newly dismissed mayors. For instance, by 31 August 2019 trustees were appointed in 16 local authorities (among which are three metropolitan municipalities).

278. This element of the local landscape is very controversial, for legal and democratic reasons and for the extensive use of this practice by the central government in the south-east of the country: from September 2016 to February 2018, the local leaders were removed in 94 of the 102 local governments run by the DBP party (HDP sister party in local politics at that time), including 3 metropolitan and 10 provincial municipalities in the south-east of Turkey, and were replaced by trustees.

279. This was possible thanks to the decree-law approved during the duration of the State of Emergency and discussed previously (Decree-Law No. 674 of 1 September 2016). This decree-law introduced several amendments to the Municipality Law and laid down exceptional rules enabling the filling of vacancies for the positions of mayor, vice-mayor and local council member by the way of governmental appointment.

280. This pattern from the past still continues nowadays, as the delegation noticed during this monitoring visit. In the case of the three municipalities mentioned above, governors were again appointed as trustees to the municipalities. Other events that happened shortly before the first leg of the mission are worth mentioning here: on 17 September 2019 the Diyarbakir Kulp municipality co-mayors Ms Fatma and Mr Fatih Tas were arrested on charges related to a terrorist attack and a trustee (in that case, the vice-governor) was appointed to Kulp municipality.[56] The rapporteurs were informed during the consultation procedure, that both were released after their first hearing two months later as the accusation lacked credible evidence. On 18 September 2019 Ms Göksu, the “co-mayor” of Karayazi district municipality (Erzurum) was arrested on charges of “terrorist propaganda” and the vice-governor was appointed as a trustee to the said municipality.[57]

281. The Turkish government contends that this system of acting mayors is more than justified when local representatives are criminally investigated for allegedly using municipal facilities and resources for the benefit of the PKK terrorist organisation. The government argues, for instance, that in 2015 some local authorities in the south-east, headed by HDP or DBP leaders, took erroneous decisions involving the proclamation of self-determination and engaged in disruptive activities known as “pit, trench and barricades events” (in places such as Van, Sur, Silvan, Diyarbakir, etc.). In view of these serious breaches of the national integrity, the duty of the state – the central government alleged – is to protect the fundamental rights and freedoms and the indivisible integrity of the nation. Therefore, an exceptional measure is needed to “return” the running of those local authorities to normality, a measure that follows a procedure that is regulated in the law. In this regard, 94 mayors, who were allegedly under the guidance of PKK and supported terrorism, were dismissed because of the criminal investigations opened against them, and were replaced by trustees.

282. The government holds that this system is not only legitimate and justified, but that it is beneficial for the nation. During the visit, the rapporteurs also heard an argument from the government officials that, it prevents the dismissed mayors from continuing to transfer financial resources to terrorist organisations through the municipalities that they are running; the government also claims that, the acting mayors have succeeded in restoring the management of local government to “normal”, local services have been resumed and countless local infrastructures and facilities have been finalised. Government officials whom the delegation met also claimed that the trustees have been welcomed by locals as they have brought new services, reinstated the normality in the financial management of the local entity and repaired the damaged drinking water and wastewater infrastructures, or built new ones.[58] However, the fact that candidates belonging to the HDP were again directly elected as mayors during the 2019 local elections shows that they

56 https://m.bianet.org/english/human-rights/213122-kulp-district-co-mayors-arrested-trustee-appointed
57 http://bianet.org/english/politics/213202-karayazi-district-mayor-replaced-with-trustee-after-her-arrest?bia_source=rss
58 The Delegation was handed over a fully pictured dossier including a comprehensive explanation of the achievements accomplished by the acting mayors in the municipalities where they were appointed in 2015: Turkish Republic Ministry of the Interior, “The report on the curator system in the municipalities and current situation”, 2016.

enjoy the trust of the population, which, in this respect, seems to contradict the abovementioned assumption of the government officials.

283. During the consultation procedure, the representatives of the HDP underlined that there was no *legal case against the HDP dismissed mayors that charges them with financing PKK; and no indictment raising this accusation.*

284. The rapporteurs also heard that in some municipal councils, the HDP councillors were dismissed and as a result the majority in the council shifted to the AK Party.

285. For their part, the HDP leaders claim that the replacement of their mayors with government appointees is a political, not a legal decision; that the trustees, far from acting just as transitory or "emergency" commissioners implement their own political agendas and priorities; that in most municipalities they have terminated or suppressed services and facilities designed to develop women´s rights; and that in most municipalities the trustee system has resulted in the financial collapse of the local authority, that the mayors elected on March 31, 2019 inherited high levels of debt from the trustees and the fact that the trustees had rendered the municipality administratively inoperable.

286. During the consultation procedure, the rapporteurs were also informed that the Ministry of Interior is supposed to evaluate the dismissals every two months (due to the fact that the suspension is a temporary measure). However, there has not been a case where a mayor was returned to office or the municipal council was allowed to elect a new mayor.

287. This practice of appointing non-elected officials of the State administration to run a local community is hard to reconcile with elementary principles of local democracy, and this has already been condemned not only by the Congress[59] but also by other prominent organisations, such as the European Union.[60]

288. At this point it can just be noted that, from the perspective of the Charter, it appears that this measure is incompatible with the requirements of the Charter, as it is clearly disproportionate, thus violating Article 8.3, and involves a deep and radical disruption of local democracy, thus violating Article 3.2. Also, as regards the requirements of the Charter, it should be said that the fight against organised crime and terrorism is a compelling governmental interest deserving the highest protection, but that this fight must be conducted while respecting and upholding human rights and values such as democracy. From this perspective, it is possible to suggest that other remedies could be used, instead of appointing an unelected acting mayor, who – in addition to being unelected – is an organ of the State administration, and therefore totally alien to the local community. The fact that criminal investigations are opened against one mayor should not be the basis or justification for the central government taking over a local authority; the paralysis imposed on the local council eliminates any remnant of democracy at the local government level.

289. Other options would be more compatible with the Charter. For instance, on the suspension of the mayor the deputy mayor could take over, and in case where the deputy mayor is also suspended, new elections should be held in that municipality. Another feasible way of reconciling legitimate counter-terrorism efforts and the obligation to protect human rights and respect local democracy may indeed be found in the original wording of the Municipality Law. In effect, before the amendments by Decree-Law No. 674, Article 45 stipulated that, if the office of mayor becomes vacant for any reason, the governor will call the municipal council for a meeting within 10 days and that it will nominate "a mayor in case of vacancy in the post of mayor, or imposition of punishment restricting him from public service in such a way to exceed the election period", or "a deputy mayor in case of suspension of the mayor from office or imposition of punishment restricting him from public service in such a way not to exceed election period". The law goes on to say that "the Mayor or the Deputy Mayor shall be elected among the members of the Municipal Council by way of balloting", by way of simple majority voting. The office period of the newly elected mayor shall be limited to the office period of the former mayor. Finally, "the Deputy Mayor shall undertake the duties of the Mayor until the election of the new mayor, or the mayor who is suspended or dismissed from office, or arrested by any reasons whatsoever, returns to office".

59 See: 2016-2017 Congress fact finding mission to Turkey, footnote 8.
60 In his 19 September 2019 Resolution (see, footnote 44 supra), the European Parliament has strongly criticised "*the arbitrary replacement of local elected representatives by unelected trustees, which further undermines the democratic structure of Turkey*".

7. CONCLUSIONS

290. In the last 40 years, the Republic of Turkey has seen many changes happening in the domain of decentralisation and local autonomy. From a time where most local affairs were decided by a Directorate General in Ankara, the situation has evolved and today there are roughly 1 400 local authorities, handling a fair share of administrative functions and local services. Furthermore, the current 1982 Turkish Constitution recognises the principle of local administration (Article 127).

291. Local democracy and local government units were strengthened in the last decades. Additional financial transfers to local authorities were implemented, more competences were granted, and local democracy was reinforced. For instance, under a 2005 legal amendment the governors ceased to be the chairs of the provincial councils and since that date the provincial councillors elect their own council president.

292. Regular local elections (in place since 1950) raise strong interest among Turkey's citizens, and the impressive turnout in local elections (above 84% in 2019) is probably the highest in the Council of Europe member states. There is a strong popular belief in local administration, and there is a vibrant popular democratic culture.

293. Local government issues and strategic decisions are part of a broader political picture, where the national authorities face a complex and challenging scenario: Turkey has to simultaneously fight the security threat, that of military revolt and the threat posed by a terrorist group. In recent years, an unprecedented influx of refugees and asylum seekers has raised complex social and political issues.

294. The present monitoring mission has noted that Turkey is still a very centralised country, probably one of the most centralised in Europe. Mayors are seen by many as State representatives in the local communities and a large part of the population believes in a strong and unitary country, combined with a mild form of local decentralisation. There are no regions in the genuine sense of the word.

295. No major changes in the legal framework of local democracy are to be expected in the short or middle term. The current legislative framework seems stable and legislative amendments are not foreseen or expected for the moment. The Central Government is not implementing any strategic document or programme in favour of decentralisation. During the consultation procedure, the representatives of the HDP underlined that, on the contrary, the government has been preparing a bill that would further increase the tutelage of the central government over local authorities.

296. The constitution, in the same article as that proclaiming the principle of local administration, enshrines the principle of administrative tutelage by the central government over the activities and decisions of the local authorities.

297. The territorial system of local authorities is asymmetric, since there is a part of the country where there are metropolitan municipalities and other parts where Special Provincial Administrations are still operative.

298. Various indicators reflect the relatively low size and importance of the local governments in the wider public sector: local government employees represent only 13% of the total human resources working in the whole public sector, and the local expenditures do only represent 13% of the total public sector. Those figures may be assessed as low, especially in light of the fact that there are no regions or regional governments in Turkey.

299. The Charter has been only partially ratified by Turkey, and the number of "reservations" or non-ratified provisions of the Charter is high by Council of Europe standards. Furthermore, the Charter does not play a significant role in constitutional adjudication or in judicial proceedings where local authorities act as plaintiffs.

300. The monitoring mission has revealed that Turkey does not comply with several articles or paragraphs of the Charter, and that some are only partially respected.

301. The level of communication and intragovernmental dialogue between the central Government and local authorities (and the degree of institutionalisation) is not satisfactory. There is no formalised or obligatory pattern of dialogue and negotiation between the central government and the local authorities.

302. Appropriate internal financial controls are not in place in many local authorities.

303. Local authorities have limited autonomy in the management of their own staff, as too much regulation is imposed at state level. In addition, professionalisation and employment stability are weak in relation to local government staff.

304. There are too many situations of administrative tutelage in the form of prior or *ex ante* controls, especially in the domain of physical planning.

305. There is a trend towards re-centralisation, evidence of which is the dissolution of hundreds of local authorities, unilaterally decided by the state authorities, in the context of the recent territorial reforms of 2012-2014.

306. A big proportion of local revenues (more than half) still comes from the State budget. The financial autonomy enjoyed by local authorities is limited and the state of local finances has a clear margin for improvement in terms of the proportion of "own" revenue, and in terms of the proportion of local spending in total public expenditures.

307. In the south of the country local governments also face additional pressures: Turkey has already received some 3.7 million refugees. This is causing a massive challenge to the local governments in those areas since they must contribute to meeting the needs of those people (housing, food, sanitation). In some cities (such as Kilis) the refugee population outnumbers the local population.

308. The political context for the exercise of mayoral functions is negatively pervaded by the intensive use of criminal prosecutions against mayors and other local representatives for terrorism-related offences and by the subsequent suspension of mayors and local officials by decision of the Minister of the Interior and not by a court of law.

309. The overly broad definition of "terrorism" included in the anti-terror legislation leaves the door open to charges that in many cases do not appear to be really related to "true" terrorist actions, or that have a trivial nature or that relate simply to the exercise of political freedoms. Moreover, it appears that such charges are brought mostly against members of certain political parties, including the HDP. Not only does this situation provoke tensions and conflicts within the population, it also departs from democratic principles. As an example, the dismissal of the mayor of Diyarbakir, who had been elected with 62% of the vote, could be compellingly argued to blatantly disregard the citizens' votes.

310. When a mayor is suspended by the Ministry of the Interior, the province governor, the district governor or another Central Government official is appointed as trustee. A non-elected state agent takes control of the municipality. The rapporteurs deem this an unacceptable practice under elementary considerations of local democracy.

APPENDIX – Programmes of the Congress monitoring visits to the Republic of Turkey

PROGRAMME
THE FIRST PART OF THE VISIT
***Ankara*, *Diyarbakir, Batman* (1-3 October 2019)**

Congress delegation:

Rapporteurs:

Mr Jakob WIENEN	Rapporteur on local democracy Chamber of Local Authorities, EPP/CCE[61] Deputy Head of the Dutch delegation Netherlands
Ms Yoomi RENSTRÖM	Rapporteur on regional democracy Chamber of Regional Authorities, SOC/G/PD Head of the Swedish delegation Sweden

Congress Secretariat:

Ms Stéphanie POIREL	Secretary to the Monitoring Committee

Expert:

Prof. Angel Manuel MORENO MOLINA	Chair of the Group of Independent Experts of the Congress on the European Charter of Local Self-Government (Spain)

Interpreters:	Ms Nazan KIZILTAN SUZER Mr Kudret SUZER

The working language of the meetings will be Turkish. Interpretation from and into English will be provided.

61 EPP/CCE: European People's Party Group in the Congress
SOC/G/PD: Group of Socialists, Greens and Progressive Democrats
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

Tuesday, 1 October 2019
Ankara

JOINT MEETING WITH MEMBERS OF THE TURKISH DELEGATION TO THE CONGRESS, NATIONAL ASSOCIATIONS

- **NATIONAL DELEGATION OF TURKEY TO THE CONGRESS**

- **Mr Cemal BAS,** Member of the municipal council of Keçioren/Ankara
- **Mr Rafet VERGILI,** mayor of Karabük
- **Mr Haci Mustafa PALANCIOGLU,** mayor of Melikgazi district/Kayseri metropolitan municipality

- **UNION OF MUNICIPALITIES OF TURKEY**

- **Ms Fatma ŞAHİN**, President
- **Mr Zeynel Abidin BEYAZGÜL**, mayor of Sanliurfa Metropolitan Municipality
- **Mr Ahmet KAZAN**, Secretary General of Union of Municipalities of Turkey

MINISTRY OF INTERIOR

- **Mr Muhterem İNCE**, Deputy Minister

COURT OF ACCOUNTS

- **Mr Mehmet ÇIVGIN**, Head of Section

OMBUDSMAN

- **Ms Celile ÖZLEM TUNÇAK**, Ombudsman

Wednesday, 2 October 2019
Ankara

MINISTRY OF ENVIRONMENT AND URBANISATION

- **Mr Turan KONAK**, Director General of Local Administrations

MINISTRY OF TREASURY AND FINANCE

- **Mr Yalçın YÜKSEL**, Acting Director General
- **Mr Halil İbrahim AZAL**, Acting Deputy Director General
- **Dr. Serhat KÖKSAL**, Acting Deputy Director General
- **Mr İzzet YERDEŞ**, Acting Head of Department

ANKARA CITY HALL

- **Mr Hayrettin ÇETİN**, Vice mayor

CONSTITUTIONAL COURT

- **Mr Murat ŞEN,** Secretary General

THE GRAND NATIONAL ASSEMBLY

- **Dr. Necip Fazıl KURT**, Chief Advisor to the Speaker and Head of Foreign Relations and Protocol Department
- **Mr Celalettin GÜVENÇ**, Chair of the Standing Committee on Internal Affairs
- **Mr Emre AKBULUT,** Chief Advisor to the Speaker
- **Mr Selçuk GİŞİ**, Deputy Secretary General

Thursday, 3 October 2019
Diyarbakir, Batman

HDP LOCAL ADMINISTRATIONS OFFICE

- **Mr Adnan Selcuk MIZRAKLI**, Suspended co-mayor of Diyarbakir
- **Ms Bedia Özgökçe ERTAN**, Suspended co-mayor of Van
- **Ms Halime BAYRAM**, City Councillor of Diyarbakir
- **Mr Mehmet AKDOGAN**, City Councillor of Diyarbakir

- **Ms Hediye KILIÇ**, HDP Local Administrations
- **Mr Koçali ÖZİPEK**, Advisor
- **Ms Zerin TÜRK**, Advisor
- **Ms Filiz KILIÇER**, Advisor

CITY HALL OF DIYARBAKIR

- **Mr Hasan Basri GÜZELOĞLU**, Governor, acting metropolitan municipality mayor of Diyarbakir

CITY HALL OF DIYARBAKIR YENİŞEHİR MUNICIPALITY

- **Ms Belgin DİKEN**, mayor

BATMAN MUNICIPALITY

- **Dr. Mehmet DEMİR**, Co-mayor
- **Ms Songül KORKMAZ**, Co-mayor

PROGRAMME
THE SECOND PART OF THE VISIT
Ankara, Istanbul (11-13 November 2019)

Congress delegation:

Rapporteurs:

Mr Jakob WIENEN	Rapporteur on local democracy Chamber of Local Authorities, EPP/CCE[62] Deputy Head of the Dutch Delegation Netherlands
Ms Yoomi RENSTRÖM	Rapporteur on regional democracy Chamber of Regional Authorities, SOC/G/PD Head of the Swedish Delegation Sweden

Congress Secretariat:

Ms Stéphanie POIREL	Secretary to the Monitoring Committee

Expert:

Prof. Angel Manuel MORENO MOLINA	Chair of the Group of Independent Experts of the Congress on the European Charter of Local Self-Government (Spain)

Interpreters:	Ms Nazan KIZILTAN SUZER Mr Kudret SUZER

The working language of the meetings will be Turkish. Interpretation from and into English will be provided.

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SOC/G/PD: Group of Socialists, Greens and Progressive Democrats
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

Tuesday, 12 November 2019
Ankara

- **REPUBLICAN PEOPLE'S PARTY (CHP)**

  - **Mr Yunus EMRE**, Vice President
  - **Mr Seyit TORUN**, Vice President

- **JUSTICE AND DEVELOPMENT PARTY (AKP)**

  - **Mr Mehmet ÖZHASEKI**, Chairman of local administrations

- **NATIONALIST MOVEMENT PARTY (MHP)**

  - **Mr Sadir DURMAZ**, Vice-President, Chairman of local administrations

- **DELEGATION OF THE EUROPEAN UNION TO TURKEY**

  - **Mr Christian BERGER,** Head of Delegation

- **EMBASSIES OF SWEDEN AND NETHERLANDS**

  - **Mr Magnus COLLETT**, Deputy Head of Mission, Embassy of Sweden
  - **Mr Erik WESTSTRATE,** Deputy Head of Mission, Embassy of the Netherlands
  - **Mr Marijn SPETH-CATH**, First Secretary, Political Affairs, Embassy of the Netherlands

- **PEOPLE'S DEMOCRATIC PARTY (HDP)**

  - **Mr Sezai TEMELLI,** Co-chair of HDP
  - **Mr Nazmi GÜR**, Deputy Co-chair of HDP
  - **Mr Evren ÇEVIK**, Coordinator member of HDP Foreign Affairs Commission
  - **Ms Berivan ALATAŞ**, Member of HDP Foreign Affairs Commission
  - **Mr Lokman SAZAN**, Member of HDP Foreign Affairs Commission
  - **Mr Abbas KILIÇOĞLU**, Member of HDP Local Authorities Commission

Wednesday, 13 November 2019
Istanbul

- **MEETING WITH THE REPRESENTATIVES OF HUMAN RIGHTS WATCH**

  - **Ms Emma SINCLAIR-WEBB,** Turkey Director

- **ISTANBUL MAYOR**

  - **Mr Ekrem İMAMOĞLU**, mayor
  - **Mr Fahri Murat TUNCAY**, Director of Foreign Relations, Istanbul Metropolitan Municipality