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Monitoring of the application of the European Charter of Local Self-Government in North Macedonia

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

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Summary

This report follows the fourth monitoring visit, carried out remotely, in North Macedonia since the country ratified the European Charter of Local Self-Government in 1997.

A positive climate was noted with regard to the reform on further decentralisation in North Macedonia. The report welcomes the strong emphasis placed by the government in its development strategy, as evidenced by the adoption of a new *Programme for Sustainable Local Development and Decentralisation 2021-2026*. It also notes with satisfaction that since the previous recommendation in 2012, the Additional Protocol to the European Charter of Local Self-Government was signed and ratified.

Nevertheless, the report expresses concerns over the persistence of a lack of clarity in law and in practice regarding the division of competences, which leads to an overlapping of competences. It underlines that local authorities lack adequate financial resources to perform their tasks, and that municipalities continue to be highly dependent on central government transfers. The report notes that there is a general need to increase compliance with integrity obligations in local appointments.

Consequently, the recommendation invites the authorities of North Macedonia to clarify the division of competences and devolve further powers to local self-government as part of the decentralisation process. To this end, national authorities must ensure the adequate and commensurate funding to enable municipalities to carry out new tasks provided by the legislation. The recommendation suggests that the government of North Macedonia increase municipalities' own share of local budget revenues and introduce a broader system for equalisation of their revenues. Finally, national authorities are encouraged to increase digitalisation, implement capacity-building programmes at local level and further consolidate anti-corruption measures.

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

RECOMMENDATION 466²

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

- a. Article 2, paragraph 1.b, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;
- b. Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, stipulating that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member States and in States which have applied to join the Council of Europe, and shall ensure the effective implementation of the principles of the European Charter of Local Self-Government.”
- c. Chapter XVIII of the Rules and Procedures of the Congress on the organisation of monitoring procedures;
- d. the Congress priorities set up for 2021-2026, in particular priority 6b that concerns the quality of representative democracy and citizen participation;
- e. 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;
- f. Guidelines for civil participation in political decision making, adopted by the Committee of Ministers on 27 September 2017;
- g. 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;
- h. Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities’ activities, adopted on 4 April 2019;
- i. Congress Recommendation 329(2012) on Local democracy in “the former Yugoslav Republic of Macedonia” ;
- j. the explanatory memorandum on the monitoring of the European Charter of Local Self-Government in North Macedonia;
- k. the contemporary commentary on the explanatory report to the European Charter of Local Self-Government adopted by the Congress Statutory Forum on 7 December 2020.

2. The Congress recalls that:

- a. North Macedonia joined the Council of Europe on 9 November 1995, signed the European Charter of Local Self-Government (ETS No. 122, hereinafter “the Charter”) on 14 June 1996 and ratified it without reservations on 6 June 1997. The Charter entered into force in North Macedonia on 1 October 1997;
- 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) decided to examine the situation of local democracy in North Macedonia in the light of the Charter. It instructed Harald BERGMANN, Netherlands (L, ILDG) and Zdenek BROZ, Czech Republic (R, ECR) with the task of preparing and submitting to the Congress a report on monitoring the application of the Charter in North Macedonia;
- c. The monitoring visit took place remotely from 20 to 21 April 2021. During the remote meetings, the Congress delegation held discussions with the representatives of various institutions at all levels of government. The detailed programme of the meetings is appended to the explanatory memorandum;

² Discussed and approved by the Chamber of Local Authorities on 27 October 2021 and adopted by the Congress on 28 October 2021, 3rd sitting (see Document [CPL\(2021\)41-02](#), explanatory memorandum), co-rapporteurs: Harald BERGMANN, Netherlands (L, ILDG) and Zdenek BROZ, Czech Republic (L, ILDG).

3. The co-rapporteurs wish to thank the Permanent Representative of North Macedonia to the Council of Europe and all those whom they spoke to during the remote meetings for their assistance.

4. The Congress notes with satisfaction that in North Macedonia:

a. a strong emphasis is placed by the government on further decentralisation in its developmental and fiscal strategies as evidenced by the adoption of a new *Programme for Sustainable Local Development and Decentralisation 2021-2026*; the re-establishment of a high-level working group for the continuation of the decentralisation process, which includes representatives of local authorities, and the adoption of new legislation and policies on balanced regional development (*Strategy for Regional Development 2021-2031*);

b. a partnership between the national government and the Association of Units of Local Self-Government (ZELS) plays a significant role in the consultation process, including on the reform of legislation on local self-government with the aim of granting municipalities additional powers and financial resources;

c. the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority [CETS No. 207] was signed on 21 November 2013 and ratified on 30 September 2015.

5. The Congress expresses, however, its concerns over the following issues:

a. ambiguity in law and in practice regarding local government competences persists, leading to overlapping of competences, while special laws about specific delegated functions risk constraining the powers assigned to local government under the organic Law on Local Self-Government;

b. local authorities lack adequate financial resources to perform their tasks. Municipalities have been affected in unequal ways by the transfer of powers through the decentralisation process and do not all benefit from commensurate funding from central government to enable them to carry out their tasks;

c. municipalities continue to be highly dependent on central government transfers, which are mostly composed of earmarked grants. Consequently, local authorities have limited possibilities for establishing and increasing local taxes. This impedes diversification of municipal income, limits municipalities' financial autonomy and reduces their ability to exercise policy discretion;

d. the existing equalisation system does not fully mitigate the urban-rural per capita revenue disparity;

e. municipalities, in particular smaller ones, experience difficulties in recruiting appropriately qualified staff. Furthermore, there is a general need to increase compliance with integrity obligations in local appointments.

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

a. clarify the division of competences and devolve further powers to local self-government as part of the decentralisation process;

b. when transferring powers to municipalities ensure adequate and commensurate funding to enable them to carry out new tasks provided by the legislation;

c. increase municipalities' own share of local budget revenues and change the ratio between ear-marked grants and general-purpose grants in order to diversify municipal income, reduce local self-government dependence on central grants and strengthen local financial autonomy;

d. introduce a broader system for equalisation of municipal revenues to reduce horizontal fiscal disparities;

e. increase digitalisation, implement capacity-building programmes at local level and further consolidate anti-corruption measures to foster a culture of good governance and integrity.

7. 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 application of the European Charter of Local Self-Government and its explanatory memorandum in their activities relating to this member State.

EXPLANATORY MEMORANDUM

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

1. Pursuant to Article 1, paragraph 3, of the Charter of the Congress of Local and Regional Authorities (hereinafter referred to as “the Congress”) appended to Statutory Resolution CM/Res(2020)1 relating to the Congress, the Congress regularly prepares reports on the state of local and regional democracy in Council of Europe member States. The monitoring missions of the Congress pursue the overall aim of guaranteeing that the commitments entered into by all member states having ratified the European Charter of Local Self-Government (hereinafter “the Charter”, ETS no. 122) are fully honoured.

2. North Macedonia is one of the parties to the European Charter of Local Self-Government. The country joined the Council of Europe on 9 November 1995, the 38th member of the Council and signed the European Charter of Local Self-Government on 14 June 1996, ratifying it without reservations on 6 June 1997. The Charter entered into force on 1 October 1997. The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority [CETS No. 207] was signed on 16 November 2009, the Protocol was ratified on 30 September 2015 and came into force on 1 January 2016.

3. 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) decided to examine the situation of local democracy in North Macedonia in the light of the Charter. It entrusted Harald BERGMANN, Netherlands (L, ILDG) and Zdenek BROZ, Czech Republic (R, ECR) with the task of preparing and submitting to the Congress a report on monitoring the application of the European Charter of Local Self-Government in North Macedonia. The delegation was supported by a representative of the Congress secretariat and was assisted by Dr. Bríd QUINN, Ireland (member of the Group of Independent Experts, GIE). The co-rapporteurs wish to express their thanks to the expert for her assistance in the preparation of this report. This group of persons will be hereinafter referred to as “the delegation”.

4. In view of the ongoing COVID-19 pandemic the monitoring was carried out remotely. The virtual monitoring visit took place from 20 to 21 April 2021. During the virtual visit, the Congress delegation engaged with representatives of local authorities, representatives of the government and other institutions. The detailed programme of the visit is appended to the present report.

5. According to Rule 88.3 of the Rules and Procedures of the Congress of Local and Regional Authorities of the Council of Europe, the preliminary draft report was sent on 9 July 2021, 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. INTERNAL AND INTERNATIONAL NORMATIVE FRAMEWORK

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

6. North Macedonia is a parliamentary republic with the Prime Minister as Head of Government. In 1991, the country gained its independence. Subsequently, its socio-political development has been shaped by both the international environment and internal events. Intermittent democratic evolution has resulted in institutional development (e.g., party and electoral systems; citizen participation and policies concerning human rights and the media). A long dispute over the country’s name ended in June 2018 with the Prespa Agreement³. North Macedonia became a NATO member in 2020. Although an EU candidate country since 2005, it was only in 2020 that the European Council agreed to open accession negotiations. However, a veto by Bulgaria has stalled the process. The agreement to open accession negotiations followed the European Commission’s assessment that North Macedonia had ‘delivered further tangible and sustainable results in the key areas identified in the Council Conclusions of June 2018 such as the judiciary, fight against corruption and organised crime, intelligence services reform and public administration’⁴. Decentralisation and strengthening sub-national government capacity are among the priorities identified for the accession negotiations.

³ As of 12 February 2019, the official name of the country changed to North Macedonia

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD:2020:351:FIN>

7. The Republic of North Macedonia is a unitary state with a single level of local government. The country has a civil law system which involves judicial review of legislative acts. The codified constitution outlining North Macedonia's system of government and basic human rights was adopted in November 1991. Amendments may be proposed by the President of the Republic, by the government, by at least 30 members of the Assembly, or by petition of at least 150,000 citizens. Final approval of constitutional amendments requires a two-thirds majority vote by the Assembly. The Constitution has been amended 36 times since 1991.

8. The structure of local government has evolved considerably. Following independence in 1991 there were 34 administrative districts, communes, or counties. As part of a 1996 reform, 123 municipalities were established. The number was reduced to 84 from 2005 with the county level being abolished. Some further amalgamations took place in 2013. Currently, under the Law on Territorial Organization of Local Government (*Official Gazette* no. 55/04; 12/05; 98/08; 106/08; 149/14). Local government is territorially organised into 80 municipalities with the City of Skopje as a separate local government. North Macedonia is divided into rural and urban municipalities and there are eight planning regions which serve statistical and planning purposes and correspond to the EU's NUTS level 3. Each region has a council made up of the mayors of its constituent municipalities. A new Law on Balanced Regional Development 24/2021 was introduced early in 2021, building on a 2007 law which had introduced a regional development fund to allocate money to the regions according to a specified formula. It is expected to strengthen the role of local authorities in planning for regional development because the local authorities will (through the Council for Development of the Planning Regions) determine the development programmes of the planning regions and, in consultation with citizens, determine the annual priority projects.

9. The principles of local self-government and decentralisation are enshrined in the Constitution of 1991 (Articles 8,114-117 and Amendments XVI and XVII). These Articles and Amendments provide for the right of citizens to local self-government; the establishment of municipalities and the possibility to establish forms of neighbourhood self-government within municipalities; autonomy as regards competences; guarantee for "own" financial sources as well as State funding for municipalities. The division of powers between the different levels of government is determined by some specific laws: the 2002 *Law on Local Self-Government* (adopted under the Ohrid Framework Agreement of 2001); the 2004 *Organic Law on Territorial Organisation of Local Self-Government*; and the 2004 *Law on Financing the units of local self-government*. Other significant laws include the *Law on Local Elections*; the *Law on Participation of Citizens in the decision-making process*; the *Law on Inter-Municipal Cooperation*; the *Law on the State Inspectorate for Local-Self Government* and the *Law on Balanced Regional Development*.

10. Local elections are held every four years. Councillors are elected using a proportional system, applying the D'Hondt method for the distribution of seats. The number of Councillors reflects the number of inhabitants in the municipality (not less than nine if the population is less than 5,000 and not more than 33 members if the population is above 100,000). The City Council of Skopje comprises 45 members. Local elections were last held in 2017. The Congress observed the elections and concluded that 'in general, the municipal elections held in "the former Yugoslav Republic of Macedonia" on 15 October 2017 were well organised and in line with international standards, by and large'⁵. The turn-out was 59.51 % for the first round and 51.92% for the second round. The SDSM party was declared the winner with 56 municipalities plus the City of Skopje, VMRO-DPMNE won five municipalities, DUI ten, Alliance for Albanians three, Besa, DPA and DPT each won one municipality, while three municipalities were won by independent candidates. Only 15 women ran in the 2017 local elections out of 260 mayoral candidates, and only six were elected as mayors. Out of 1,388 local councillors, 415 were women⁶. Local elections are due to be held in North Macedonia in October 2021.

11. Mayors are directly elected for a four-year term by majority vote. The Mayor is an executive body in the Municipality and responsible to the citizens. In the City of Skopje, voters elect the Mayor and the members of the City Council of Skopje as well as the Mayor and the members of the Municipal Council of their individual municipalities. In the 2017 local elections, 45 municipalities elected a mayor in the first round, and 35 municipalities had to vote again. A third round of voting was necessary in the municipality of Čair.

12. Municipalities are autonomous in the execution of their constitutionally and legally determined spheres of competence. Supervision of the legality of their work is carried out by the state. Municipalities have the

⁵ <https://rm.coe.int/cpl34-2018-02final-en-local-elections-fyrom-monitoring-committee-rappo/168079cee6>

⁶ UN (2020) *Sustainable Development Goals: Voluntary National Review: North Macedonia*.

right to appeal to the Constitutional Court if state authorities encroach on their prerogatives. A Ministry of Local Self-Government has been in place since 1999 and there is also a Parliamentary Commission on Local Self Government.

13. Municipalities in North Macedonia have both own competences and delegated competences. They are responsible for building and maintaining local public infrastructure, water and wastewater treatment, public hygiene, public lighting, local public transport, fire protection, pre-school, primary and secondary education, local cultural institutions and care of the elderly⁷. Shared competences include education, health, road maintenance, urban planning and building permits. Municipalities in Skopje share some competences with the City of Skopje.

14. Following publication of a *Strategy for the Reform of the System of Local Self-Government* in 1999, reform of local government has been ongoing with sporadic structural, administrative and fiscal changes taking place. Since 2017, reform has intensified. A partnership between the national government, the municipalities and the Association of Units of Local Self-Government (ZELS) has collaborated on a process to reform legislation on local self-government with the aim of granting municipalities additional powers and financial resources.

15. Since adoption of the Ohrid Framework Agreement in 2001, decentralisation has been a recurrent theme in the reform process. Decentralisation is seen as important in order to empower local government units and ensure fair representation for multi-ethnic population of North Macedonia. To date seven decentralisation programmes have been published, namely:

- Operational Programme for Decentralization of Powers 2003-2004
- Programme for Implementation of the Process of Decentralization 2004-2007
- Detailed Plan for Transfer of Competencies and Resources 2005
- Programme for Implementation of the Process of Decentralization 2008-2010
- Programme for the Implementation of the Process of Decentralization 2012-2014
- 2015-2020 Programme for Sustainable Local Development and Decentralization in the Republic of North Macedonia
- Programme for sustainable local development and decentralisation 2021-2026

16. The first four programmes focussed on the legal and institutional framework for local government and the transfer of responsibilities and resources from the state to municipalities. The 2012-2014 Programme emphasised on the coordination of national and local economic and social development policies. The 2015-2020 Programme aimed at enabling coordinated interaction between national and local levels in order to implement integrated development projects. The Ministry of Local Self-Government, with UNDP support, prepared a new *Programme on Sustainable Local Development and Decentralization for 2021-2025* which will focus on sustainable development and good governance at the local level. A new ten-year *Strategy for Regional Development 2021-2031* was adopted by the Assembly of the the Republic of North Macedonia on 3 April 2021.

2.2 Status of the capital city

17. The national constitution (Article 117) designates Skopje as the capital of the country. Article 4 of the Law on Local Self-Government of 2002 stipulates that the City of Skopje is a special unit of local self-government which deals with the common needs and interests of citizens arising from the character of the City of Skopje as the capital of the state. The Law on the City of Skopje 2004 stipulates that the city and the municipalities in the City of Skopje have the status of a legal entity, as well as their own special symbols (coat of arms and flag). It also specifies rules and procedures on coordination between the City of Skopje and its 10 municipalities. Each of the ten municipalities has its own mayor and council which deal with issues specific to their territory. The City of Skopje deals with matters that concern all of them, or that cannot be divided between two or more municipalities. Skopje accounted for 28% of the total population in 2017⁸.

18. Responsibility for roads, construction and maintenance are clearly defined between the City of Skopje and its municipalities. The City of Skopje takes the lead with regard to urban spatial planning, adopting the General Urban Plan and collaborating with the municipalities which devise Detailed Urban Plans for their

⁷ 2018%20Fiscal%20Decentralisation%20Report.pdf

⁸ <https://www.sng-wofi.org/country-profiles/Fiche%20NORTH%20MACEDONIA.pdf>

own areas. However, the City of Skopje cannot overrule the municipalities with regard to their own urban plans. Joint actions and common enforcement measures are implemented by the City of Skopje and its constituent municipalities. A co-ordination body brings together the mayors to ensure cohesive plans for issues such as public transport and revenue collection and to resolve any controversies affecting the city.

19. In addition to the Law on Local Self-Government of the City of Skopje, the provisions of the Law on Local Self-Government explicitly apply to the city of Skopje. Thus, the organisation, competences and functions of local government in Skopje do not differ substantially from other municipalities in the country. As rapporteurs, on a previous monitoring visit, assessed 'Skopje is subject to special regulations but does not have a truly particular status as capital city'.⁹

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

20. The European Charter of Local Self-Government (ETS No. 122) was adopted on 14 June 1996 and ratified without reservations on 6th June 1997. The Charter entered into force on 1 October 1997. Article 118 of the Constitution of North Macedonia provides constitutional protection against legislative changes that might contradict the obligations taken under the Charter. International treaties which have been ratified are automatically incorporated into the internal legal order of North Macedonia and are directly applicable by the country's courts

2.4 Previous Congress reports and recommendations

21. A monitoring visit in March 2000 led to publication of the *Report on Local Democracy in "The Former Yugoslav Republic of Macedonia"* - CPL (7) 8. The Report made recommendations concerning local authority financing, human resources and staff training; transparency re intergovernmental transfers and measures to ensure that municipalities held a reasonable proportion of public property within their boundaries.

22. Seven years later, following a visit by Congress rapporteurs, *Recommendation 217 (2007) on Local Democracy in "the former Yugoslav Republic of Macedonia"*, noted the marked progress towards better local democracy but recommended changes with regard to the high number of special laws on local self-government; decentralisation; the financing of local government; administrative reform; recruitment and central-local relations.

23. A Congress delegation visited the country in December 2011, to monitor the situation of local and regional democracy on the basis of the Charter. Their report contained the following observations and recommendations:

- a. an array of tasks transferred in the decentralisation process, creating areas where local and central responsibilities overlap and are co-financed, bearing the risk of continuous State influence;
- b. the ambiguity in law regarding competences, already noted in the previous recommendation, has not been resolved and while the law on local self-government formally gives local authorities great powers and responsibilities, numerous special laws set out detailed rules interfering with local autonomy;
- c. municipalities still depend very strongly on government grants, have little discretion with regard to local taxes and the proportion of own-source taxes in their revenues remains comparatively low;
- d. there are great wealth and development disparities between municipalities;
- e. the property transfer of land to local authorities in order to allow them to pursue a municipal development policy has still not been undertaken;
- f. municipalities are subject to supervision by different central authorities alongside the State Inspectorate, which increases the risk of going beyond the supervision of lawfulness;
- g. there are no procedures in place for measures against mayors with serious incapacity or who are in violation of their obligations;
- h. the distinction between the competences of the City of Skopje as capital city and as local authority dealing with 10 sub-entities is not sufficiently clear, although the city is subject to special regulations (law on the City of Skopje);
- i. the instruments of direct and public participation of citizens at local level are not frequently used in practice;
- j. the participation of women in local political life remains low;
- k. consultation with the Ombudsman's office in the legislative procedure is still not regular and has been very limited since the last elections, while local authorities continue to be among the least responsive authorities to the Ombudsman's instructions and recommendations.

⁹ CPL(23)2FINAL, 2013, p 16.

24. The Congress Report on *Observation of municipal elections in “The former Yugoslav Republic of Macedonia” on 15 October 2017*, CPL34(2018)02 final noted several systematic improvements but stated that the overall ‘situation continued to be characterised by the deep politicisation of the country along ethnic and party lines’¹⁰.

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

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

Article 2

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

25. Article 2 requires that the principle of local self-government be enshrined in law, preferably in the Constitution.

26. The principle of local self-government is explicitly recognised in the Constitution of the Republic of North Macedonia. Article 8 includes ‘local self-government’ among the fundamental values of the constitutional order, thereby giving enduring recognition to the principle of local self-government. Article 114 guarantees the right of citizens to local self-government; specifies that municipalities are financed from their own sources of income determined by law as well as by funds from the Republic and designates municipalities as units of local self-government. Article 115 asserts that citizens directly and through representatives participate in decision-making on issues of local relevance and also asserts that the municipality is autonomous in the execution of its constitutionally and legally determined spheres of competence. Article 116 ensures that the territorial divisions of the Republic and the area administered by each municipality are defined by law.

27. Article 117 designates the City of Skopje as a particular unit of local self-government, the organisation of which is regulated by law. Amendment XVI stipulates the two thirds Assembly majority and absolute majority of the total number of members of non-majority communities in the Republic required for legislative amendments regarding local self-government. Amendment XVII refers to specific competences allocated to the municipalities and the city of Skopje.

28. Framework laws and specific legislation structure the relationships and actions of local self-government. These include:

- the 2002 Law on Local Self-Government
- the 2004 Organic Law on territorial organisation of local self-government
- the 2004 Special Law on the City of Skopje
- the 2004 Law on Financing the Units of Local Self-Government.

29. The legal status of the Charter and its relationship with domestic rules is quite clear. According to Article 118 of the Constitution of North Macedonia, ‘the international agreements ratified in accordance with the constitution are part of the internal legal order and cannot be changed by law’. Thus, international treaties form an integral part of the internal legal order, that is, they are a source of law, and with the act of ratification they are automatically incorporated into the internal legal order of North Macedonia and are directly applicable by the country’s courts. Courts may therefore refer to the Charter and take it into account when they have to settle disputes concerning local self-government.

30. The Constitutional Court upholds the rights of the municipalities. Municipalities have the right to appeal to the Constitutional Court if the State authorities encroach on their prerogatives. Article 110 of the Constitution specifies the right of the Constitutional Court to decide on conflicts of competency among bodies of the Republic and units of local self-government.

31. In light of the above, the rapporteurs consider that Article 2 of the Charter is correctly applied in North Macedonia.

¹⁰ <https://rm.coe.int/cpl34-2018-02final-en-local-elections-fyrom-monitoring-committee-rappo/168079cee6>

3.2 Article 3 – Concept of local self-government

Article 3

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

3.2.1 Article 3.1

32. The concept of local government is enshrined in the Constitution of North Macedonia. Article 8 explicitly mentions local self-government among the values of the constitutional order. Section V of the Constitution guarantees the autonomy of the municipalities in the execution of their constitutionally and legally determined spheres of competence. This autonomy enables local authorities to issue ordinances and by-laws to regulate public affairs, albeit with supervision by the Republic.

33. Various legislative provisions reinforce the constitutional recognition of local self-government. The organic law, Law no. 5/2002 on Local Self-Government (and its amendments) and a range of ordinary laws (particularly the Law on Financing of the Units of Local Self-Government and the Law on Territorial Organisation no 55/2004) designate municipalities as legal entities which have their own territory, their own regulations, their own and delegated competences, their own and other sources of financing. Thus, local authorities in North Macedonia manage a substantial share of public affairs under their own responsibility but there is sometimes a lack of clarity regarding delegated functions and the roles of local authorities and line ministries in implementing and funding those functions. Other important laws regarding local government in North Macedonia include the Law on local elections; the Law on the City of Skopje; the Law on Inter-Municipal Cooperation, the Law on the State Inspectorate for Local-Self Government, and the Law on Balanced Regional Development.

34. The process of decentralisation, which started on 1 July 2005 and intensified since 2017, has resulted in an increase in the share of public affairs managed by municipalities. This process is based on inclusion of local authorities and aims at strengthening their autonomy and capacity. Special laws determine the details of the decentralisation process so that now there are more than 80 laws which deal with local self-government.

35. It is the opinion of the rapporteurs that Article 3.1 is complied with in North Macedonia.

3.2.2 Article 3.2

36. Local authorities in North Macedonia are composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage in accordance with Article 22 of the Constitution. Local elections are held every four years. Each municipal governing body consists of the Mayor (*gradonačelnik*) and the municipal council (*sovet na opština*). The mayor has an executive role and the council acts the representative body of the citizens.

37. Article 114 of the Constitution allows that, within municipalities, forms of neighbourhood self-government may be established. Article 82 of the Law on Local Self-Government (05/02) deals with these forms of neighbourhood self-government such as urban communities and neighbourhood communities (in rural areas), specifying that the competences, activities and financing of such units are regulated by the statute of the municipality.

38. Article 20 of Law 05/2002 on Local Self-Government stipulates that 'citizens shall directly participate in the decision-making process on issues of local importance through civil initiative, citizens' gatherings and referendum, in a manner and procedure determined by law'. Law 05/2002 also gives citizens the right, individually or collectively, to submit appeals and proposals regarding the work of the organs of the municipality and the municipal administration. Local authorities must respond within 60 days of receipt of the appeal. A new law on Balanced Regional Development was passed in April 2021. It includes mandatory consultation of citizens and the business community on an annual basis when priority projects are being determined.

39. These legislative provisions embody the instruments of the Additional Protocol to the European

Charter of Local Self-Government (CETS No. 207) on the right to participate in the affairs of a local authority which was ratified in 2015.

40. It is the opinion of the rapporteurs that Article 3.2 is complied with in North Macedonia.

3.3 Article 4 – Scope of local self-government

Article 4

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

3.3.1 Article 4.1

41. The powers and responsibilities of local authorities are outlined broadly in the Constitution and specifically in legislation, particularly, Law 05/2002, the Law on Local Self-Government. Furthermore, according to the Constitution (Article 115) and Law 05/2002 (Article 23), respectively, the carrying out of specified matters can by law be entrusted to the municipality by the Republic and a public administration body may delegate the execution of specific tasks from its competence to the mayor/municipality.

42. The municipalities have competences in the area of urban and rural planning, protection of the environment, nature and space regulation, local economic development, municipal utilities, culture, sport and recreation, social welfare and child protection, education, healthcare, civil protection, firefighting. Recently delegated competences include construction land management and dealing with illegally constructed buildings. Shared competences include education, health, road maintenance, urban planning and building permits. The ongoing decentralisation process is resulting in the attribution to local authorities of further powers and responsibilities for specific purposes.

43. The rapporteurs are satisfied that Article 4.1 is complied with in North Macedonia.

3.3.2 Article 4.2

44. Article 20 of the law on Local Self-Government 05/2002 gives municipalities general competence, stating that they shall have the right to perform activities of local importance in their territory that are not excluded from their competency or are not under the competency of the organs of the state administration.

45. Fields in which local authorities can decide on issues of local relevance are specified in Article 22 of the Law on Local Self-Government 05/2002, as amended. They include public services, urban and rural planning, environmental protection, local economic development, local finances, communal activities, culture, sport, education and health care.

46. The allocation of competences is uniform for all municipalities. There is no difference in competences and functions among them, regardless of differences in size, economic endowment, population density and fiscal and administrative capacity. The only differentiation concerns the City of Skopje and the ten municipalities within it and is regulated by a special law. For example, the City of Skopje has authority over secondary schools, whereas its ten municipalities have authority over primary education (elementary schools).

47. In fulfilling local government competences, the Mayor is responsible for the organisation and operation of the administration and also proposes acts for adoption, while the Council adopts decisions to be implemented by the Mayor.

48. The rapporteurs are satisfied that Article 4.2 is complied with in North Macedonia.

3.3.3 Article 4.3

49. Article 20 of the Law on Local Self-Government 05/2002 makes reference to the principle of subsidiarity and gives municipalities 'the right to perform activities of local importance at their territory'.

50. Interlocutors confirmed that they consider that municipalities have discretion to take initiatives within the scope of their competences although they mentioned the limited scope of competence of municipalities in the areas of social protection and local economic development. The ongoing decentralisation programme is expected to lead to increased subsidiarity as it aims to ensure 'a high degree of respect for the principle of subsidiarity through more clear definition of the scope of authority of various levels of government, taking into account municipalities' comparative advantages'¹¹. The new *Programme for Sustainable Local Development and Decentralization 2021-2026* and the actions agreed in the Memorandum for Promotion of Fiscal Decentralization, Public Finance Reforms and Economic Development which was signed between the Ministry of Finance and UNDP in February 2021 seem tangible evidence of a desire to achieve greater subsidiarity.

51. The symmetrical transfer of competencies (i.e., regardless of the size and capacity of municipalities), is an issue, particularly for small rural units of local self-government who welcome the equal treatment but struggle to fulfil their obligations because of limited financial and human resources. The UN has pointed out that smaller municipalities in particular 'need assistance in designing and funding services to address the needs of specific groups, particularly women, minorities and vulnerable or marginalized groups such as persons with disabilities'¹².

52. The rapporteurs consider that Article 4.3 is complied with in North Macedonia, but decentralisation efforts should be pursued to enhance the application of the principle of subsidiarity.

3.3.4 Article 4.4

53. The Law on Local Self-Government 05/2002 specifies that the competencies given to municipalities are full and exclusive and states that municipalities shall independently regulate and perform activities of local importance and shall be responsible for their performance.

54. Article 21 of Law 05/2002 states that the competencies are 'as a rule comprehensive and exclusive and shall not be taken away or limited, except in cases determined by law'.

55. Interlocutors confirmed that they consider that municipalities have exclusive authority regarding their own competences. However, there can be some ambiguity about roles and responsibilities regarding competences resulting in overlapping of competences and occasional lack of clarity as to who is accountable for execution of specific competences. Interlocutors highlighted such issues regarding aspects of social policy and educational policy.

56. In light of the preceding considerations, the rapporteurs consider that Article 4.4 is currently only partially complied with in North Macedonia.

3.3.5 Article 4.5

57. Article 23 of the Law on Local Self-Government 05/2002 gives municipalities discretion in adapting the exercise of delegated tasks to local conditions while respecting the standards determined by law. Interlocutors stated that in practice, municipalities adapt the exercise of their competences to local conditions but do so within the scope of the Law.

58. Under Article 61 of Law 05/02, shared administration bodies for the performance of certain competencies may be established or abolished on the basis of a decision adopted with majority vote of the total number of members of each municipal council. Since 2009 the Law on Inter-municipal Cooperation (Law 79/2009) has been in force, regulating the form, functioning and financing of such collaborations. Such inter-municipal collaborations achieve efficiency and economies of scale and overcome capacity and resource deficits. Examples cited by interlocutors include collaboration regarding health, road maintenance and the sharing of experts such as planning inspectors between smaller municipalities.

¹¹ Ministry of local self-Government 2015- 2020 Program for Sustainable Local Development and Decentralization, p. 14

¹² UN (2020) Sustainable Development Goals: Voluntary National Review: North Macedonia, p. 69

59. Public enterprises are established by municipalities for the purpose of performing services in the spheres such as utilities infrastructure (water supply, sewerage waste, transportation, etc.). Municipalities can use their own property pursuant to the Law on Local Self-Government and the Public Procurement Law.

60. With these provisions, local authorities are protected as decision-makers and the rapporteurs consider that Article 4.5 is complied with in North Macedonia

3.3.6 Article 4.6

61. Article 78 of the Law on Local Self-Government 05/2002 specifies that local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly. It also refers specifically to consultation with municipalities during preparation of the spatial plan of the Republic.

62. Consultation on the amount, the method of calculating the grants from the central budget as well as the sources of financing delegated competencies is mandatory. According to the Law on Financing of ULSG (Units of Local Self-Government), the Government establishes a Commission for monitoring the development of the financing system of the municipalities. The Commission consists of representatives from relevant ministries and ZELS whose representatives usually include elected mayors.

63. ZELS (the Association of the Units of Local Self -Government of the Republic of North Macedonia) plays a significant role in the consultation process. In accordance with the Law on Local Self-government, ZELS is competent to cooperate with the central Government on issues of local relevance, has a right of legislative initiative in areas of local interest and assesses the legal and administrative framework for local taxation and grants. ZELS cooperates with the State authorities on EU integration issues through the same channels. Twice a year, the Government has meetings with ZELS to discuss their views on issues affecting municipalities. Meetings on specific topics are arranged between the Board of ZELS and the line ministers. During the Covid crisis the Association was frequently consulted regarding local government's response.

64. ZELS engages in direct on-line communication with all municipalities in relation to all proposals that concern local government (draft legislation, regulation, financial provisions and calculations, other initiatives). Interlocutors stated that the response rate from municipalities varies and there are few examples of initiative being taken by municipalities to raise issues which they wish ZELS to pursue.

65. In 2019, a Working Group, which included representatives of local self-government, was formed to identify further competences which might be transferred to local authorities. The process was not completed due to the holding of parliamentary elections in 2020. In February 2021, the Government established a new high-level Working Group for the continuation of the decentralization process.

66. The rapporteurs consider that effective mechanisms are in place for consultation with local authorities and their association. Therefore, the rapporteurs conclude that Article 4.6 is complied with in North Macedonia.

3.4 Article 5 – Protection of local authority boundaries

Article 5

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.

67. Article 116 of the Constitution of the Republic of North Macedonia decrees that the territorial division of the Republic and the area administered by each municipality should be defined by law. This constitutional provision has been amplified by various legal instruments. The 2004 Law on the Territorial Organisation of Local Self-government (55/2004) regulates the territorial organisation of local self-government in the Republic of North Macedonia. It describes territorial organisation and division and the definition of official boundaries and administrative borders and denotes rules and general issues regarding local government (municipalities, self-government areas) and their powers, obligations and duties. Law 55/2004 states that joining, division and change of boundaries may be done by changes and amendments of this law, *following prior consultation with the citizens of the territory of the municipalities that are concerned*. This provision, along with the binding force of Article 5 of the European Charter within North Macedonia's monistic legal system, would seem to underpin the principle of prior consultation. Since further legislation or amendments

are subject to the double-majority requirement, smaller communities seem to be protected against unilateral territorial changes.

68. No issues regarding application of the principle of consultation re boundary changes were raised during the monitoring process. Therefore, the rapporteurs consider that Article 5 is complied with in North Macedonia.

3.5 Article 6 – Appropriate administrative structures and resources

Article 6

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

3.5.1 Article 6.1

69. The Constitution (Article 115) grants local self-government autonomy in the execution of its constitutionally and legally determined spheres of competence so local authorities may decide on their internal organisation. However, as interlocutors stressed, the structure must be approved by the Ministry of Public Administration. Within each local authority, the organisation, scope and way of performing the tasks of the municipal administration are determined by the council, on the basis of a proposal by the mayor (in accordance with Article 57 of Law 05/02).

70. The system distinguishes between *civil servants* employed in state and local government authorities established under the Constitution and *public servants* employed in institutions performing publicly funded activities e.g., education, health etc. Decisions on hiring, rights and duties, the system of payment of salaries and compensations to the salaries, responsibility, evaluation and termination of the employment in the municipality are made in line with the provisions of the Law on Civil Servants. National laws directly impose obligations on local authorities and shape the conditions of service of local government employees. The annual employment plan for each local authority requires approval from the Ministry of Information Society and Administration (MISA) and individual approval by the Ministry of Finance is required for each new appointment. Interlocutors referred to the delays which occur as a result of these requirements.

71. According to research by the OSCE and ZELS¹³ LSGUs believe that central government ministries are not sufficiently aware of the work, functioning and needs of the LSGUs which are completely different from the central institutions. The research also referred to the complex legal requirements placed on local authorities, an issue mentioned by some interlocutors. Nevertheless, the rapporteurs are satisfied that local authorities have power to organise their internal structures and service delivery in line with generally accepted principles of governance as advocated in the Contemporary Commentary on the Charter¹⁴

72. It is the opinion of the rapporteurs that Article 6.1 is complied with in North Macedonia.

3.5.2 Article 6.2

73. The conditions of service of local government employees are clearly set out by law, with most of the laws dealing with public servants at all levels, not specifically local government employees. Such laws include the Law on Public Sector Employees (27/2014) which sets the general legal framework on the human resources management in the public sector and specifies obligations related to recruitment, promotion, professional development, evaluation and reward of the employees in the public sector. The Law on Administrative Servants (27/2014 + Amending Law 198/2018) covers all aspects of employment of the administrative servants. Articles 30-47 regulate the employment process Articles 48-53 regulate promotions and Articles 85-97 regulate the remuneration system. Thus, the discretion of local authorities is framed by national regulation. Article 59 of the Law on Local self-government ensures representation of the various communities in the hiring process. The Law on Prevention of Corruption and Conflict of Interest (Law no. 12/19) and subsequent amendments, regulate the restrictions of the appointed and elected officials in the exercise of public office. This law regulates the prevention of conflict of interests between officials' personal interests and their duties as civil servants. Decree No. 2020-3762 introduces new methods of transmitting

¹³ OCSE/ZELS (2020) *Public Administration on Local Level*,

¹⁴ CG-FORUM(2020)02-05final

declarations of interests. The list of jobs subject to this obligation has been completed for the local civil service. In its assessment (again focussed on the national level), SIGMA rated the *adequacy of legislative framework for merit-based recruitment for civil service positions* in North Macedonia at 16/18¹⁵.

74. Interlocutors referred to the difficulties experienced by small municipalities in recruiting appropriately qualified staff. EU-commissioned evaluation has suggested that capacity to engage with donors / EU may even be decreasing due to 'systemic problems in the local public administration (e.g. no clear career development perspective, lack of technical profiles, outflow of skilled staff to the private sector where wages are higher, etc)'¹⁶. The issue of nepotism in local appointments and the potential for patronage, nepotism and cronyism because of the role of the mayor in local appointments was also mentioned by some interlocutors. The EU evaluation (2020) refers to the patronage-based governance mechanisms, the political nominations and nepotism, the ethnic factor and corruption which play out at national and local levels. A State Commission for Prevention of Corruption is in place and continues to address allegations of nepotism, cronyism and political influence in the process of recruitment of public sector employees in North Macedonia. The ongoing anti-corruption measures, increasing digitalisation and greater awareness are expected to increase compliance with integrity obligations.

75. The *Public Administration Reform (PAR) Strategy 2018-2022* is currently being implemented, involving local authorities as well as central bodies. Because of the national situation at the time of preparation of the plan, the priority was de-politicisation and capacity building of central level institutions. The *PAR Strategy 2018-2022* states that over 40 municipalities have adopted integrity policies at local level. The OCSE and ZELS assessed that 'the specifics of the municipal administration are not properly represented within the PAR Strategy and the laws that regulate the public administration'¹⁷. The PAR budget was decreased as a result of reallocation of resources in response to the COVID-19 crisis.

76. The EU Instrument for Pre-Accession Assistance (IPA 2014–2020) included a regional component which supported strengthening the capacity of local government and local institutions. The EU Commission's 2020 country report points to the need to 'improve the administrative capacity at central and local level'¹⁸. Some interlocutors referred to EU accession negotiations as leading to a focus on central administrative processes. This echoes the EU's comment on the lack of tradition of involving LAs directly in processes related to the accession process and adoption of the EU *acquis*¹⁹. It is expected that as negotiations continue that attention to building administrative and absorption capacity within local authorities will increase.

77. Annual compulsory training is organised by MISA but the OSCE/ZELS research states that local officials feel it is generic and not functioning properly, but they are satisfied with the specialised training organized by ZELS. The UNDP is currently delivering a Capacity Development Program and by the end of 2021 expects to have trained all 81 LSGUs in efficient tax collection, stable financial management and internal financial control²⁰.

78. There is a clear legal framework, so the rapporteurs consider that Article 6.2 is formally complied with. However, there is need for further capacity building and attitudinal and cultural change. The rapporteurs would support the EU Commission's assessment that 'ensuring respect for the principles of transparency, merit and equitable representation remains essential'²¹.

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

Article 7

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.

15 <http://www.sigmaineb.org/publications/Monitoring-Report-2019-North-Macedonia.pdf>

16 European Commission (2020b) *Evaluation of EU Support to Local Authorities in Enlargement and Neighbourhood Regions (2010-2018)* Final Report – Vol. III – December 2020 – Particip GmbH

17 *ibid* p.7

18 European Commission (2020a) *SWD(2020) 351 final*, p. 87.

19 European Commission (2020b)

20 <https://www.mk.undp.org/content/north-macedonia/en/home/projects/Improving-municipal-governance>

21 European Commission (2020a), *SWD(2020) 351 final*, p. 37

3.6.1 Article 7.1

79. Article 35 of the Law on Local Self-Government (05/2002) stipulates that local representatives are elected for four years and cannot be recalled. The mayor is elected by direct universal suffrage for a four-year term using the majority electoral model while councillors are elected using proportional representation. During the monitoring process, there were no indications of constraints on the exercise of local representatives' functioning.

80. All citizens over 18 with the capacity to contract may stand as candidates in local elections unless sentenced or imprisoned for committing a criminal offence. The right to propose candidate lists for councillors and candidates for mayors is held by the registered political parties, individually or as part of coalitions, as well as groups of voters (100 signatures for municipalities with less than 10,000 inhabitants to 450 signatures for municipalities with more than 100,001 inhabitants).

81. Gender quotas are in place for local elections. Candidate lists for Municipal Councils and the City of Skopje must be prepared so that 'for every three places at least one will be reserved for the less represented gender'²². Similarly, there must be representation of at least 30% of each gender on election management bodies.

82. The rapporteurs are satisfied that Article 7.1 is complied with in North Macedonia.

3.6.2 Article 7.2

83. In North Macedonia, mayors are regarded as full-time professionals and the amount of their salaries is determined by the Law on Salary and other allowances of the Members of the Assembly of the Republic of North Macedonia and other elected and appointed persons in the Republic. A Congress report lists North Macedonia among countries where mayors' salaries are about six times higher than respective national minimal wages²³. The same report ranks North Macedonia among countries where capital city mayors' monthly salaries are closer to the private sector's senior managers. It also lists North Macedonia among only seven countries which provide full social welfare protection for mayors.

84. Councillors receive an allowance but not a salary. They have a right to claim travel and accommodation costs, daily allowance when they travel and telephone costs. Payment of expenses is made according to the regulations which refer to civil servants. North Macedonia does not provide financial compensation for loss of earnings.

85. Interlocutors considered that the current determined fees within the Law to be appropriate but highlighted growing demand for the professionalisation of the role of the president of the municipal council.

86. The rapporteurs consider that Article 7.2 is complied with in North Macedonia.

3.6.3 Article 7.3

87. Various legal instruments which clarify functions and activities deemed incompatible with the holding of local elective office are in place in North Macedonia. The Law on Prevention of Corruption and Conflicts of Interest 12/19 (LPCCOI) deals with prevention of corruption in politics and in the performance of public authorisations as well as the prevention of conflicts of interest. Article 44 states that an elected or appointed person during the term of office is obliged to respect the rules for incompatibility of his/her function with other functions and activities determined by the Constitution and laws.

88. Articles 44 and 53 of the Law on Local Self-Government 05/02 deal with conflict of interests of council members and mayors. Articles 46 and 54 allow for early termination of a council member's or mayor's mandate in case of incompatibility with his/her function as a council member in accordance with the Law on Local Elections.

89. The rapporteurs are satisfied that Article 7.3 is complied with in North Macedonia but welcome the emerging framework for countering corruption and fostering a culture of good governance among politicians as well as public officials.

²² Electoral Code, Article 64 [5]

²³ Congress (2019) *Financial compensation of local and regional elected representatives* CG36(2019)10final, p. 29.

3.7 Article 8 – Administrative supervision of local authorities' activities

Article 8

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

3.7.1 Article 8.1

90. In line with the requirements of the Charter, in North Macedonia the rules governing central control over local authorities and the powers of the central authorities concerned are determined by the Constitution and by the law. Article 115 of the Constitution states that supervision of the legality of municipalities' work is carried out by the Republic.

91. The Law on Local Self-Government 05/02 specifies the types and ways of performing supervision (Article 69); the supervising organs (Article 70) and supervision over the Legality of the Municipal Regulations (Article 71). Article 70 clarifies that supervision of the delegated competencies shall be performed by the organ of the state administration whose competencies are delegated to the municipality. Municipal organs are obliged to cooperate with the supervisory authorities.

92. The State Inspectorate for Local Self-Government is a statutory body within the Ministry for LSG and is responsible for supervision of the conformity of LSG activities and decisions with the Constitution and with relevant laws, international agreements and other regulations. The rapporteurs were informed that an evaluation of the implementation of the Law on the State Inspectorate for Local Self-Government is currently being carried out by independent experts.

93. Supervision of the execution of delegated competencies is carried out by the relevant competent state body. The Ministry of Finance supervises the financial operation of municipalities. Each year The Ministry issues a Budget Circular to each municipality, which lists the guidelines on how to prepare budgets. The Ministry of Finance publishes quarterly data on its website on the revenues and expenditures of the municipalities. The Ministry carries out inspections by performing *ex-post* checking of the regularity of transactions and other activities in the field of financial management and control performed in the municipalities. The Law on Financing of LSGUs includes an obligation that if a municipality not able to service its obligations and its account is blocked, then the Mayor should propose that the municipal Council declare financial instability and adopt a programme to overcome such financial instability. Although some municipalities' accounts have been blocked, they have not declared financial instability in accordance with the existing legal solution. According to the data from the Treasury as of 31.01.2021, a total of 11 municipalities were blocked²⁴. The Government of the Republic of North Macedonia has proposed amendments to the law which would allow the Minister to influence the declaration of financial instability.

94. The State Audit Office performs regular financial and compliance audits, as well as performance audits of the municipalities in accordance with the law. This involves examination of documents, reports and financial transactions; examination of the financial transactions defined as public revenues and public expenditures in terms of legal and proper use of the funds; assessment regarding the use of funds in terms of the achieved economy, efficiency and effectiveness. In its audit reports, the State Audit Office has made recommendations concerning improvement of the system of internal controls in the area of revenue and expenditure planning; preparation of programmes; the manner of administration regarding taxes and utility fees; staffing; updating of tax records and data on property tax payers; public procurement procedures; municipal financial statements and legal and targeted use of funds. Response to the recommendations has been slow. Also, the State Audit Office carries out its competencies as determined by the law and SAI standards, and continuously performs, inter alia, assessment of the degree of compliance with laws and bylaws and the need for amendments thereof. In its audit reports, the SAO highlights systemic weaknesses that require action by competent authorities of the executive / legislature.

95. Should a municipality fail to fulfil its responsibilities, the obligation to act is taken over by a relevant state body. Article 21 paragraph 3 of the LSG Law authorises the withdrawal of transferred powers in single cases, if established in specific laws.

²⁴ Communication from State Audit Office to Monitoring Group

96. The mayor of the local government must submit municipal regulations to the Ministry of Local Self-government within 10 days of their publication. If the Ministry considers a municipal regulation to be non-compliant with the law, the ministry suspends the implementation of the regulation. The ministry must then challenge the regulation before the Constitutional Court within a certain deadline.

97. There is a stated legal basis for the methods of supervision and the activities subject to supervision are clearly specified. Therefore, the rapporteurs confirm that Article 8.1 is complied with.

3.7.2 Article 8.2

98. With regard to 'own competences', supervision is limited to assuring the legality and verification of local authorities' financial operations in the performance of their functions. Such supervision is carried out by the Ministry of Local Self-Government and by the State Audit Office. The State Audit Office examines documents and reports, accounting and financial procedures, electronic data and information systems to ensure compliance with accepted accounting standards and principles. Interlocutors stated that in terms of supervision, the central government fully respects the independence of the municipalities and final measures are taken only in exceptional cases.

99. Supervision of the execution of delegated competencies and their compliance with regulations and standards prescribed by a competent state body (Ministry) is carried out by the relevant ministry within its competence. During the remote meetings, no concerns as regards the application of Article 8.2 were raised by interlocutors.

100. In conclusion, it seems to the rapporteurs that the requirements of Article 8.2 are complied with in North Macedonia.

3.7.3 Article 8.3

101. Article 69 of Law on Local Self-Government (05/02) states that supervision of own competencies shall include supervision of the legality and control and audit of the financial operations while supervision over the performance of the municipal organs of delegated functions shall include supervision of the legality and supervision of the efficiency of such functions.

102. If unconstitutionality or violation of procedures with regard to own competences is detected, an initiative is initiated in the Constitutional Court and the competence is suspended from execution until the decision of the Constitutional Court.

103. With regard to delegated competencies, if an irregularity is found during supervision process, the municipality is given an opportunity to regularise the issue. Failure to do so results in assumption of competence for the task by the relevant Ministry, for not more than one year from the day of the takeover of responsibility. Efficiency-control is also carried out by ministries with regard to delegated competences.

104. The rapporteurs are satisfied that administrative supervision of local authorities is exercised in compliance with Article 8.3 and that the principle of proportionality is applied.

3.8 Article 9 – Financial resources

Article 9

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

7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

3.8.1 Article 9.1

105. Local government finances in North Macedonia come from a combination of own resources and funding from central government as outlined in Article 114 of the Constitution. Local government tax powers are regulated in the 2004 Law on Local Government Finance, the Law on the Property Tax, the Law on Communal Taxes, and other sectoral laws that influence the local public finance system.

106. Article 11 of the Law on Local Self-Government (05/02) states that own sources of revenues of the municipality shall be: local taxes, charges and fees determined by law. Municipal own revenues come from: local taxes (property tax, inheritance and gift tax, real estate sales tax); local fees determined by law (utility fees, administrative fees and other fees determined by law); local fees (fee for landscaping of construction land, fees for utility activities, fees for spatial and urban plans); revenues on the basis of ownership and other revenues determined by law. The level of property taxes and fees is determined by a lower and upper limit allowed by laws and the Municipal Councils are responsible for determining the exact percentage of these charges. The current bands for these taxes are: property tax (0.10% to 0.20%), inheritance and gift tax (2% -5%), real estate sales tax (2% to 4%).²⁵ There is little evidence of municipalities taking a political risk and setting the maximum rate for these taxes in order to generate a higher amount of own revenues. Consequently, the World Bank asserts that 'municipalities still do not have sufficient revenue autonomy, yet they fail to fully use the revenue autonomy they have²⁶'. Municipalities receive 3% of the personal income tax (PIT) collected from the salaries of those with permanent residence in the municipality and 100% of the personal income tax from craftspeople registered in the municipality.

107. In recent years, several measures have been adopted to increase the own revenues of municipalities. These include distribution of revenues from the sale of construction land in the ratio of 20: 80% in favour of the municipalities; distribution of revenues from concessions from mineral resources in the ratio of 22: 78% for the municipalities; additional revenue from environmental tax related to fossil fuels; revenues from water concession for use of water resources for electricity production, as well as funds from the lease of agricultural land owned by the Republic of North Macedonia to the municipalities in a ratio of 50%: 50%. However, the high dependence on transfers from central government persists.

Figure 1. LSG own and total revenues 2005-2019

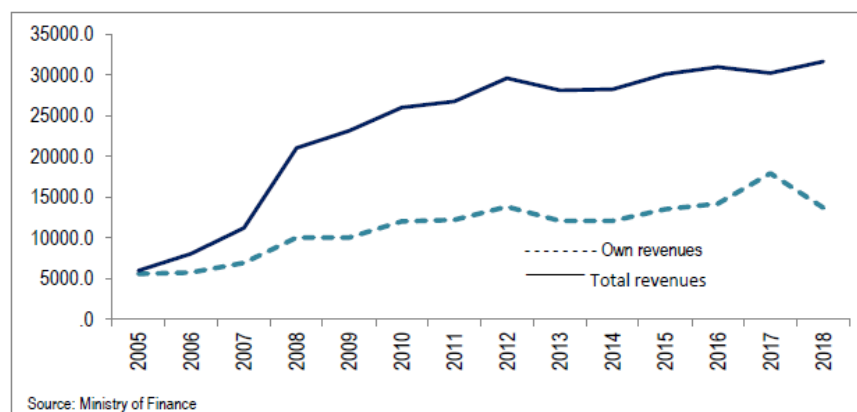


Figure 1 illustrates the relationship between municipalities' own resources and their total revenues since the decentralisation process started in 2005.

108. Importantly, there are significant differences in the income-generating capacity of municipalities, particularly between small rural municipalities and more densely populated urban municipalities and between industrialised and non-industrialised municipalities. While, on average, own revenues account for 36.6 percent of the total revenues available to LGs, World Bank figures for 2015 show that in

²⁵ Ministry of Finance (2021) Communication to Monitoring team.

²⁶ World Bank (2019) *Republic of North Macedonia Public Finance Review*, p. 47

36 municipalities own revenues are less than 20 percent²⁷. The report also shows that the municipality with the most funding has six times the revenue of that with the least funding. Assessment of own revenues is further complicated by the fact that PIT share is treated as local tax revenue source when it is actually a transfer.

109. Central government ensures a 'guaranteed minimum-income' of 3 million Denars for each municipality from the general grant (part of the VAT allocation). The remainder of the general grant pool is divided between the capital city of Skopje and its composite jurisdictions (12%) and all other municipalities (88%). Funding is distributed according to a formula, which allocates 65% on the basis of population; 27% on the basis of territory and 8% on the basis of the number of settlements. The disparity in income-generation potential was highlighted by interlocutors from the LSG sector and remains an issue. Depopulation and outward migration are also factors which affect local government income-generation.

110. In recent years over-optimistic revenue planning by some municipalities had led to debt. A Law on Financial Support to Municipalities for repayment of 51% of the registered debts of the municipalities was adopted in October 2018. This alleviated the situation for indebted municipalities but did not reward municipalities who had avoided debt. Amendments to the Law on Financing of Local Self-Government Units in 2018 and 2019 link the planning for own revenues within the core budget of the municipality with revenue collection performance. The amendments currently limit the growth rate of planned revenues to 30% of the average revenues in the last three years. In response to requests for greater flexibility from the municipalities, the original limit of 10% was increased to the current 30%. Special arrangements were made for 2021 in view of the impact of Covid 19 on municipal finances during 2020.

111. Recent assessments of the financial performance of local government are more positive than previous reports. A Report for 2019 (presented in April 2021, during a session organised by Commission for monitoring the development of the financing system of the local self-government units) showed that 'the basic budget of the municipalities, looking at their revenue side, has a realisation of 77.5%, while in 2018 this realisation was 60.1%. Looking at the expenditure side, the basic budget has a realisation of 75%, compared to 57.5% in 2018'²⁸. The European Commission assessed that 'in 2019, municipalities had improved their financial management and collection of local taxes'²⁹. Thus, progress is being made but there is still room for improvement.

112. Municipalities in North Macedonia have some but inadequate own resources and they do have freedom to decide how to spend those resources. The rapporteurs consider that Article 9.1 is partially complied with.

3.8.2 Article 9.2

113. Block grants for the transferred competencies in education, culture, social protection and fire-fighting are paid by central government. The funds from these grants are distributed according to criteria set out in decrees adopted by the Government of the Republic of North Macedonia. According to the established criteria, each ministry distributes the funds for each municipality, and the municipality further distributes the funds to the local institutions according to the criteria determined by the Municipal Council. All municipalities (except for Plasnica) have been financing the transferred competencies since 2012 with block grants³⁰. Conditionality attached to some block grants has been problematic since only municipalities with physical facilities at the time of delegation of the particular competence are eligible. This results in inequality of access to services, particularly in rural and smaller municipalities. A formula based on a spending standard per capita, adjusted for geographical variances in the costs of providing the service, is now being used for block grants for elementary and secondary education. Such formulae would seem to have potential for other competences. Between January and November 2020, a total of 17,444 million MKD was transferred from the Budget of the Republic of North Macedonia to the municipalities as block grants for financing the transferred competencies, as well as earmarked grants for financing the material costs in the local public institutions³¹. Transfers for the delegated competences account for about 65% of municipal income in 2020.

114. The adequacy of those block grants is an issue on which there are noticeable differences of opinion. Most municipalities feel they do not have sufficient financial means for successful implementation of their legal competences and provision of quality services to citizens. Interlocutors from the local government

27 World Bank (2019) *Republic of North Macedonia Public Finance Review*, p 54

28 ZELS news desk item, 05-05-2021 accessed at <https://zels.org.mk/newsd/31>

29 European Commission SWD(2020) 351 final, p. 11

30 Government of the Republic of North Macedonia (2020) *2021-2023 Revised Fiscal Strategy of the Republic of North Macedonia*

31 *ibid*

sector did not consider local authorities' financial resources as fully adequate and commensurate with the tasks and functions assigned to them by law. Education is particularly problematic. Between 67% and 96% of the block grant is required for salaries, leaving a shortfall for other aspects, including transport and school buildings. An annual ordinance determines the block grant for education but 'the amount of money that municipalities receive through the grant is insufficient and often requires substantial contributions from their general budgets'³². The grant for fire protection only covers the salaries of the employees in fire protection units (*ibid.*). The World Bank asserts that 'North Macedonia's municipalities do not have enough revenue to finance all their basic functions, which leads to their accumulating arrears, which constitutes a fiscal risk'³³. Heretofore, at central government level there has been a belief that the grants are commensurate with the delegated competences with national government asserting that 'the liabilities undertaken in accordance with the transferred competencies of the municipalities needed for current operations, implementation of capital projects and repayment of principal for previously taken loans were regularly settled'³⁴. However, during the monitoring process, the problem for the LSGUs in rural areas to generate sufficient financial resources for fulfil their competencies and the particular problems with regard to funding secondary education were acknowledged by central government actors.

115. While difficulties remain, the situation has improved since the previous monitoring visit in 2012. There are further plans to reform the system including 'redefining the manner and determining criteria for allocation of block and earmarked grants. At the same time, the amount of grants will be in accordance with the needs of the municipalities'³⁵. The new decentralisation plan and the UNDP collaboration and IPA interventions are tangible steps towards achieving a better balance between resources and responsibilities and building appropriate administrative capacity. Better methodologies for calculating the actual costs of delegated competences would alleviate the situation.

116. The rapporteurs consider that Article 9.2 is partially complied with in North Macedonia, but they believe that, if implemented, the proposed reforms will lead to full compliance.

3.8.3 Article 9.3

117. In North Macedonia, the level of property taxes and fees is determined by a lower and upper limit allowed by (national) laws. Municipal Councils are responsible for determining the exact percentage of these charges. The current bands for these taxes are: property tax (0.10% to 0.20%), inheritance and gift tax (2% to 5%), real estate sales tax (2% to 4%).³⁶

118. The variable tax bands give municipalities the opportunity to make political and financial choices. Assessments by the World Bank and the national interlocutors indicate that municipalities opt for the lowest rates, thereby foregoing the chance to increase own resources, a choice usually based on political concerns.

119. The rapporteurs consider that Article 9.3 is formally complied with in North Macedonia but the available resources are not sufficient to ensure full fiscal autonomy for local authorities so a high dependence on grants from central government persists.

3.8.4 Article 9.4

120. The financial systems through which resources are available to local authorities in North Macedonia are diversified, combining own sources of income; grants from the Budget of the Republic of North Macedonia for the transferred competencies; revenues determined in separate laws; tax revenues that are collected at the central level, transfers from the national budget and other institutions; revenues from donations and loans and other revenues.

121. The aggregate data since decentralisation began in 2005 shows that the revenues of the municipalities have increased more than six times (from 5.9 billion MKD in 2005 to more than 37 billion MKD in 2019 and the tax revenues, which the municipality are authorized to collect have doubled³⁷. The increase from 3% to 4.5% in the percentage of VAT allocated to the general grant to LSG has had a positive impact. However, buoyancy of the system is still problematic. A NALAS report states that 'general government revenues in

32 NALAS (2018) *Fiscal Decentralization Indicators for South-East Europe*, p. 132

33 World Bank (2019) *Republic of North Macedonia Public Finance Review*, p. 47

34 Government of the Republic of North Macedonia (2020) *2021-2023 Revised Fiscal Strategy of the Republic of North Macedonia* p. 25

35 *Ibid.*, p. 27.

36 Ministry of Finance (2021) Communication to Monitoring team.

37 Government of the Republic of North Macedonia (2020) *2021-2023 Revised Fiscal Strategy of the Republic of North Macedonia*

North Macedonia are much steadier compared to the local governments' revenues'³⁸.

122. Even prior to the Covid 19 crisis, local government revenue fluctuated. In 2013, local government revenues declined by -3%, slightly recovered in 2015 and 2016. In 2017, local revenues fell again by 3%. Figures from the national government show that in 2020 both tax revenues and property tax income fell by more than 9%. Income taxes increased by 31.9%, revenues from taxes on specific services decreased by 12.2%, while fees for usage or licenses for performing an activity decreased by 37.2%³⁹. In order to overcome the consequences of the pandemic, an increase in transfers from the central budget and of about 21% was sanctioned. In order to mitigate the consequences of reduced revenues from the Value Added Tax in 2020, the VAT grant transferred to the municipalities in 2021 is to be determined on the average of the VAT collected in the last three fiscal years. In 2020, VAT grants accounted for 2% of revenues of the City of Skopje, 7% in urban municipalities and 12% in rural municipalities⁴⁰.

123. There are significant differences in the performance of municipalities regarding the collection of taxes owed. Some municipalities have not updated their tax registers or property registration systems while others are pro-active regarding such matters. Management and auditing skills and capacity vary between municipalities as does the level of fiscal discipline. Recent changes have been designed so as to incentivise increased collection rates. For example, revenues from the lease of agricultural land owned by the Republic of North Macedonia to the municipalities is conditional on over 80% of the real estate tax revenues having been collected by the municipalities.

124. Despite the significant changes due to the decentralisation process, municipalities in North Macedonia still depend on central government for approximately 2/3 of their income. The diversity of sources of income has increased, e.g., revenues from the lease of state-owned agricultural land; revenues from the sale of construction land and revenues from concessions from mineral resources. However, the variability of the new sources and the limited possibility of establishing and increasing local taxes make it difficult to consider local resources as having a sufficiently expanding nature to enable them to keep up with the actual changes in the costs for carrying out local government responsibilities. Failure to indicate the sources of finance for new delegated tasks is not compatible with the principle of buoyancy.

125. For those reasons, the rapporteurs conclude that Article 9.4 is partially complied with in North Macedonia.

3.8.5 Article 9.5

126. Currently, the only mechanism used for equalisation is the fixed part of the VAT grant which guarantees each municipality three million Denars annually. This allocation represents a stable minimum income for each municipality and enables the execution of the most basic competencies. The VAT transfer performs some degree of equalisation, reducing the urban-rural *per capita* revenue disparity somewhat. However, many municipalities do not have adequate resource streams to meet their needs. An equalisation system to reconcile the spending needs and fiscal capacity of municipalities is required.

127. On 26 April 2021, a Memorandum for promotion of fiscal decentralisation, public finance reforms and economic development was signed between the Ministry of Finance and UNDP. Planned activities include establishment of an Equalisation Fund which should improve the situation of municipalities with low revenues and limited income-generating potential.

128. The rapporteurs consider that Article 9, paragraph 5 of the Charter is only partially respected in North Macedonia but recognise that the situation is likely to change in the near future.

3.8.6 Article 9.6

129. Consultation on the amount, the method of calculating the grants from the central budget as well as the sources of financing of the competencies is mandatory (Article 82, Law on LSG 05/2002). In accordance with the Law on Financing of LSGUs, a Commission for monitoring the development of the municipal financing system is in place. Its membership includes mayors and it makes recommendations on the methodology and criteria for VAT distribution and on overcoming the shortcomings in the distribution of grants. A Working group, which includes several mayors, has also been established to continue the process

38 NALAS (2018) *Fiscal Decentralization Indicators for South-East Europe*

39 Govethe Republic of North Macedonia of the Republic of North Macedonia (2020) *2021-2023 Revised Fiscal Strategy of the Republic of North Macedonia*

40 ZELS new s desk item, 05-05-2021 accessed at <https://zels.org.mk/new sd/31>

of fiscal decentralization. Similarly, the Council for Balanced Regional Development includes many mayors

130. In recent years, an excellent working relationship has developed between ZELS and the various government bodies with consultation on a wide range of financial issues. ZELS has successfully lobbied for amendments to legislation affecting local government finance. Resultant changes include the increase in the percentage of VAT allocated to LSG and revenue from fees for legalising illegal structures on state agricultural land.

131. The rapporteurs consider that Article 9.6 is complied with in North Macedonia.

3.8.7 Article 9.7

132. Local authorities in North Macedonia receive general and block grants as well as capital grants from central government. Only 12-13% of local government income comes in the form of shared taxes and unconditional, general grants⁴¹. Two thirds of local government income come in the form of earmarked/block grants, a proportion which limits local authority freedom to exercise policy discretion. The high ratio of conditional to unconditional grants limits the financial autonomy of local authorities in North Macedonia. Interlocutors repeatedly drew attention to the high level of earmarked grants and the resultant constraints on expenditure preferences.

133. The rapporteurs conclude that Article 9.7 is not complied with in North Macedonia.

3.8.8 Article 9.8

134. Municipalities may borrow, with Ministry of Finance consent, from domestic and foreign creditors and from the Treasury. Local government borrowing is regulated by the Law on Financing of the Units of Local Self Government and the Law on Public Debt. Clear parameters are in place regarding borrowing. Borrowing by municipalities is expected to be within the financial means at their disposal. A municipality may borrow a short-term loan that it will repay within 12 months. In case of short-term borrowing, the total debt of the municipality made on the basis of short-term borrowing and short-term borrowing from the Central Budget of the Republic of North Macedonia during the fiscal year may not exceed 30% of the realised total revenues of the current-operating budget of the municipality in the previous fiscal year (three years for 2021). Long term borrowing may be used for financing of capital projects and investments, refinancing of debts incurred on the basis of borrowing; liabilities on the basis of activated state guarantees; liabilities on the basis of borrowings and protection and elimination of consequences caused by natural disasters and environmental disasters. The municipal council may only approve the long-term borrowing after a public hearing in the municipality. In the case of long-term borrowing, the total annual debt repayment (principal, interest and other expenses) made on the basis of long-term borrowing and long-term borrowing from the Central Budget of the Republic of North Macedonia may not exceed 30% of the total revenues of the current operating budget of the municipality in the previous fiscal year. The long-term debt plus the guarantees issued should not exceed 100 percent of current operational revenues from the previous fiscal year. Recently, the Ministry of Finance pointed out that there is a trend of increasing outstanding liabilities⁴².

135. Access to the capital market has become easier for local authorities in recent years because of more liberal and more transparent borrowing requirements. This development has increased the interest of municipalities in financing investment projects through borrowing. Central government has provided credit lines from international financial institutions (World Bank, EIB, KfW and EBRD) which have provided for substantial investments, for example in local infrastructure, water supply, public hygiene and energy efficiency. A Development Fund, which provides capital development grants, is administered by the Bureau of Regional Development

136. The World Bank⁴³ refers to the multiple sources of funding from central government agencies providing capital grants. It cites an EU report which states that municipalities can apply for capital transfers through

18 different programmes. Capital investment by municipalities represented 18 percent of total local expenditures in 2016.

41 NALA 2018

42 ZELS new s desk item, 05-05-2021 accessed at https://zels.org.mk/new_sd/31

43 World Bank (2019) *Republic of North Macedonia Public Finance Review*

137. The rapporteurs conclude that Article 9.8 is fully complied with in North Macedonia.

3.9 Article 10 – Local authorities' right to associate

Article 10

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 maybe provided for by the law, to co-operate with their counterparts in other States.

3.9.1 Article 10.1

138. Article 14 of Law on Local Self-Government (05/2002) allows for various voluntary forms of cooperation between municipalities. Such instruments are regulated in detail in the Law on Inter-Municipal Cooperation (2009) which sanctions the forming of joint working or administrative bodies; mutual public services; and agreements on joining of funds and implementation of certain tasks by one municipality on behalf of another or a group of municipalities. The *Law on Inter-Municipal Cooperation* does not impose mandatory cooperation but regulates the procedures for voluntary collaborations. Thus, the functional autonomy of local authorities is reinforced. The Law on Waste Management provides for mandatory Inter-Municipal Cooperation in the area of solid waste management. The law on Balanced Regional Development 24/2021 encourages inter-municipal cooperation within the planning region.

139. Inter-municipal co-operation mechanisms have been established in the following areas of local jurisdiction: urban planning, internal financial control, inspection, environment, local economic development, utilities and local taxes. Cooperation in several competencies is common in small urban and rural municipalities, while cooperation between large urban municipalities usually occurs for a single competence. As part of the drive towards balanced regional development, municipalities have been implementing common projects of regional importance financed by the State Budget. The new Law on Balanced Regional Development 24/2021 institutionalises expansion of such collaboration. It envisages the municipalities in the region jointly making development decisions through the regional planning Councils.

140. The rapporteurs are satisfied that Article 10.1 is complied with in North Macedonia.

3.9.2 Article 10.2

141. Article 15 of Law 05/2002 states that, for purposes of protection and enhancement of the common interest, municipalities may form associations. Article 81 deals with the Association of Municipalities of the Republic of North Macedonia and the Association's right:

- to cooperate with the Government regarding the issues of importance for the municipalities in the Republic of North Macedonia;
- initiate adopting of the laws that refer to the improvement of the local self-government;
- participate with its proposals in the procedure for projection of the draft Budget of the Republic of North Macedonia in the part that refers to allocation of funds to the municipalities for the performance of competencies determined by law;
- co-operate with similar organizations from other countries and represent the Republic of North Macedonia in international organizations of local authorities.

142. A Memorandum was signed in 2003 by ZELS (the Association of Units of Local Self-Government of the Republic of North Macedonia) and the central Government (Ministry for Local Self-Government) whereby ZELS must be consulted on any regulation having a local impact.

143. ZELS is well respected and is proactive at national level in contributing to the development and improvement of policies and legislation and at the local level in supporting local governments to improve their systems and capacities. ZELS carries out training activities for elected representatives as well as for civil servants and administrative staff. Training topics range from land management and ICT to provision of data to the public. Interlocutors from central and local level highlighted the important role ZELS plays in leading and representing local government, defending the rights, powers and interests of local authorities and improving their capacity and effectiveness.

144. ZELS is internationally recognised and is active in organisations such as: CLRAE (Congress of the Local and Regional Authorities of the Council of Europe); CEMR (the Congress of the European

Municipalities and regions); NALAS (the Network of Associations of Local Authorities of South East Europe); ALDA (the Association of Local Democracy Agencies); the Covenant of Mayors and the Joint Consultative Committee between the Republic of North Macedonia and the Committee of Regions of the European Union. ZELS (with the City of Skopje) has an EU office in Brussels.

145. The rapporteurs are satisfied that Article 10.2 is fully complied with in North Macedonia.

3.9.3 Article 10.3

146. Article 2 of the Law on Local Self-Government (05/2002) recognises international cooperation of municipalities as 'every activity of municipalities from the Republic of North Macedonia undertaken in accordance with law for the purpose of establishing cooperation between them and local communities or governments of one or more other countries, as well as the membership of their associations in international organizations of local communities or local governments'. Article 14 states that the municipalities may cooperate with units of local self-government of other states, as well as international organizations of local communities, and may be members of international organizations of local governments. Municipalities are required to inform the Ministry for Local Self-Government of their international activities.

147. Local government representatives from North Macedonia are involved in various cross-border projects under the EU's Instruments of Pre-accession Assistance. These include Interreg projects with Greece and Bulgaria and CBC programmes with Kosovo*⁴⁴ and Serbia and, most recently, activity under the IPA-III Cross Border Cooperation Programme between Republic of North Macedonia and Republic of Albania 2021-2027. Other examples of transnational collaboration include Interreg Volunteer Youth projects and cultural collaborations.

148. Local government personnel from North Macedonia engage in a range of other transnational activities such as a study visit to Poland in November 2019. Organised by the Centre for Eastern Studies, the visit addressed the issues of cross-border co-operation and the functioning of local government. Local government representatives from North Macedonia also participated in the Council of Europe's Leadership for Cross-Border Cooperation, a training programme for local authorities in Greece and North Macedonia.

149. The rapporteurs are satisfied that Article 10.3 is complied with in North Macedonia.

3.10 Article 11 – Legal protection of local self-government

Article 11

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.

150. The Law on Local Self-Government (05/02) distinguishes between the protection of the constitutional position of municipalities (Article 87) and the judicial protection of municipalities before competent courts (Article 88).

151. The Council and the Mayor may submit an initiative to the Constitutional Court of the Republic of North Macedonia to assess the constitutionality of laws and the constitutionality and legality of general acts of ministries and other state administration bodies that violate the constitutional position and the rights of the municipality determined by the Constitution and the laws.

152. Under Article 110 of the Constitution, the Constitutional Court has jurisdiction to decide on conflicts of competency between bodies of the Republic and units of local self-government and can decide whether there is an attempt by the central government to subsume the jurisdiction of a municipality. Such procedure may be initiated either on the proposal of the municipality or the bodies of the Republic.

153. Municipalities are guaranteed judicial protection in relation to acts and activities of the state administration bodies and the government of the Republic of North Macedonia, which hinder execution of the competencies of the municipalities which have been determined by law. The types of issues that can be submitted are regulated by the laws related to the proceedings before the courts (e.g., the Law on Civil Procedure, the Law on Criminal Procedure and the Law on Administrative Disputes).

⁴⁴ *All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo

154. The Constitutional Court provided the rapporteurs with the analysis of statistical data (2011-2020) that shows that as submitters of initiative, municipal bodies appear to constitute, on average, 2.7% of the total. Of the total number of acts disputed in front of the Constitutional Court, acts of local self-government accounted for, on average, 14.4%.

155. The range of issues submitted for consideration by the Court is broad as the following examples illustrate. In 2017, nineteen decisions for calling a referendum at the local level were challenged before the Constitutional Court. The Court ruled that citizens in the local self-government units can decide through a referendum only on issues that are within the competence of the municipality, which do not include the issue of exploitation of mineral resources and opening of ore or the issue of integration of refugees. Planning-related issues are frequently submitted. Other issues include disputes about liability for cost of snow removal on local roads and streets, the market value of real estate and the renaming of streets and bridges.

156. The rapporteurs are satisfied that Article 11 is complied with in North Macedonia.

4. OTHER MATTERS RELATED TO THE FUNCTIONING OF LOCAL AND REGIONAL SELF-GOVERNMENT

157. In analysing the extent to which the Charter's obligations and commitments regarding local democracy are being met in North Macedonia, many issues were discussed during the monitoring process. From the discussions and from reviewing Congress reports and recent national and international documents it is clear that a number of problematic issues persist which are not directly connected to the Charter but require the attention of all who are concerned with ensuring that North Macedonia has an appropriate and effective system of local self-government.

158. In 2020 and 2021 government action in North Macedonia, as elsewhere, has been shaped by the Covid-19 crisis with particular impact at local level. The socio-economic impact of the COVID 19 outbreak and the administrative, financial and social challenges arising from managing the crisis have been enormous. Thousands of citizens lost or are at risk of losing their jobs. Temporary government support measures (unemployment benefits, deferrals/waivers to tax and social security contributions, etc.) were implemented by central government and have had an important fiscal impact but will likely constrain future as well as current economic and industrial development. The President of the Republic declared a state of emergency from March until June 2020. Restrictive measures (e.g., curfews, limitation of non-essential movement or gatherings, freezing of air traffic and closing of borders, suspension of procedural deadlines in judicial procedures and the move to online education) were put in place to protect the citizens and contain the pandemic⁴⁵. Parliamentary elections due to be held in April 2020 were postponed until July. During 2021, timing of the census and of the local elections has also been affected. At municipal level resilience and innovation has been shown by municipalities in the face of the crisis. Various actions were taken by municipalities. Local crisis headquarters were established in municipalities such as Debar. Taxes such as land use fees were reduced; salaries for municipal employees were kept to a minimum; food packages were prepared for the poor and utility bills were subsidised. Local self-government was at the forefront of the COVID-19 response and tailored their interventions to the needs of the most vulnerable groups. To learn from the handling of the crisis, the Ministry of Local Self-Government in cooperation with UNDP carried out a number of analyses which were used in preparation of the Programme on Sustainable Local Development and Decentralization. The Ministry of Local Self-Government, with the support of UNDP, is also implementing a project 'After Covid 19-municipalities: generators of development'.

159. Sensitivity continues regarding inter-ethnic issues and also as regards language usage. In 2001, further to the Ohrid Framework Agreement, Constitutional amendments were adopted stating that any language spoken by more than 20% of the population at local level shall be used as an official language in the Municipality, along with Macedonian. With respect to languages spoken by less than 20% of the population of a Municipality, the local authorities shall decide on their use in public bodies. The use of languages in the organs of the State is regulated by the Law on Languages adopted in 2008. In 2019 a new Law on Languages, extending the use of the Albanian language in public bodies, was adopted amid controversy.

160. The ethnic composition of North Macedonia's population (estimated on the 2002 census) is:

⁴⁵ <https://www.consilium.europa.eu/media/43076/26-vc-euco-statement-en.pdf>

Macedonian 64.2%, Albanian 25.2%, Turkish 3.9%, Romani 2.7%, Serb 1.8%, other 2.2%⁴⁶. The double majority system upholds the rights of minorities. Laws on local finances, local elections, boundaries of municipalities, and the city of Skopje must be adopted by a majority vote of the Representatives attending, within which there must be a majority of the votes of the Representatives attending who belong to the communities not in the majority in the population of North Macedonia. New antidiscrimination legislation was adopted in 2019. The adopted law prohibits any discrimination based on race, origin, nationality or ethnicity, sexual orientation, gender identity, religion, political beliefs, or any other grounds. Inter-ethnic tensions exist, and continuous effort is required to safeguard the rights of non-majority communities and ensure that their underrepresentation is addressed. Progress has been made with developments such as establishment of the Ministry of Political System and Inter-Community Relations and the *One Society for All Strategy*. However, as the European Commission assessed: 'the institutions in charge of minority-related policies remain understaffed, insufficiently funded and politically and ethnically divided'⁴⁷. Because of the constitutional and legal protection of special rights for minority groups making up at least 20 percent of the national or local population, census data has huge implications. The planned census has been controversially postponed from April 2021 to September because of Covid 19.

161. The dominance of Skopje in, which about 25% of the population lives, impacts on developments in other municipalities. Rural municipalities constitute half of all municipalities but only a fifth of the national population. Skopje receives more than two thirds of capital transfers and close to one-fifth of the Road Fund grant pool.⁴⁸ More than half of investments continue to be generated in the most developed region of Skopje.⁴⁹ Skopje's dual role as capital city and as a local authority dealing with 10 sub-entities yet independent municipalities makes for complexity and competences are not always clearly defined. The expectations of citizens sometimes cannot be met because of lack of harmonisation of decisions made by individual municipalities and those made by the City of Skopje.

162. Out-migration is a serious issue, depopulating municipalities and decreasing local tax income. Interlocutors stated that up to 70% of some municipalities' population find work in EU countries. Rural municipalities are affected by out-migration both to cities and to work outside of North Macedonia. Rural development policies aimed at incentivising people, especially young people, to return to rural areas formed part of the *National Strategy for Agriculture and Rural Development 2014-2020* but their impact has yet to be evaluated.

163. Progress has been made on some democracy-related issues. More and more information is being made available to the public. Citizen involvement continues to increase slowly with more opportunities for the public to engage and some municipalities introducing new methods of consultation, for example, during the budgetary process but instruments such as referenda are seldom used. There is greater awareness of the need for good working relationships with civil society organisations and a climate of increased media freedom. Training is helping municipal councils to become more effective, properly fulfilling their roles of legislation, oversight and representation. The training is also leading to greater empowerment of the Council vis à vis the Mayor.

164. The Republic of North Macedonia's Programme for Government 2020 pledged to fight corruption and there is some evidence of progress. The different laws, by-laws, regulations and policies dealing with integrity/anti-corruption could be consolidated to create a clear framework which would raise awareness, support a climate of institutional and professional integrity and sanction the lack of integrity. The rapporteurs recommend a pro-active approach to countering corruption, fostering a culture of good governance and integrity and reinforcing this approach through training and monitoring.

⁴⁶ <http://www.sng-wofi.org/country-profiles/Fiche%20NORTH%20MACEDONIA.pdf>

⁴⁷ European Commission (2020a), p. 35

⁴⁸ World Bank (2019) *Republic of North Macedonia Public Finance Review*

⁴⁹ EU Commission (2020b)

5. CONCLUSIONS AND RECOMMENDATIONS

165. Implementation of the Charter was last monitored during December 2011 with the evaluation report CPL (23)2FINAL *Local democracy in “the former Yugoslav Republic of Macedonia”*, published in 2013. Since then, there has been significant political and social upheaval, particularly between 2012 and 2017. Socio-political development in North Macedonia over the past decade has not been linear due to intermittent political upheaval, social unrest and economic hardship. Covid 19 intensified the challenges. It is to the credit of local and central government that the system has developed, and some significant reform has been implemented during the decade since the previous monitoring process. The new government elected in 2020, has placed a strong emphasis on further decentralisation in its developmental and fiscal strategies. Amid momentous changes, particularly, since 2011, local self-government has endeavoured to meet the needs of citizens, fulfil their administrative and political obligations and respond to the ongoing decentralisation process which ebbed and flowed with the changing national situation.

166. The rapporteurs commend the achievements and note both the changes which have been made to local self-government and the persistence of some issues identified in previous reports. They also note the current positive climate towards meaningful reform as evidenced by the numerous strategies e.g., for fiscal planning, decentralisation and regional development, and the creation of think tanks, working groups and consultative forums to contribute to the reform process. They appreciate the insights from interlocutors at national and local level which contributed to the following observations and recommendations.

167. Ambiguity in law and in practice regarding competences persists. The Law on Local Self-Government formally assigns significant powers to local authorities but various special laws constrain their autonomy and limit the services they can deliver to citizens. There is also lack of clarity about the role of line ministries and the span of responsibility for financing the competences. Not enough evidence of assessment of the spending needs associated with competences is currently available⁵⁰ More focussed evaluation of interventions would provide data on which to prioritise future spending oversight.

168. Local authorities remain highly dependent on funding from central government. This restricts municipalities' ability to engage in medium/long-term planning or in innovation. Furthermore, the insufficiency of funds for financing the competencies transferred to municipalities affects the services they deliver to citizens. It is expected that the Working Group on Fiscal Decentralisation will issue proposals to deal with the mismatch between local government revenue flows and their responsibilities.

169. Horizontal fiscal disparities are a cause for concern. Aspects of the current transfer system are working well with block grants etc., aligning local spending with areas of national priority. However, not enough cognisance seems to be taken of the differing financial baseline in municipalities - urban v rural, small city v large city etc. Consideration needs to be given to reconciling the spending needs and fiscal capacity of municipalities and counteracting differences in economic/industrial potential, population density, property values etc.⁵¹

170. Insufficient control of local government debt and significant levels of budgetary arrears are still problematic, a situation exacerbated by Covid-19. There are shortcomings in both the effectiveness and efficiency of service delivery, often linked to endowment and capacity issues. Fiscal and budgetary discipline at the local level varies significantly and there is frequently a lack of effective commitment control systems.

171. Structures for dialogue and consultation between levels of government are in place, and although effective, have, to date, had limited impact on modes of policy formulation, interpretation, implementation and evaluation. Institutional co-operation between territorial authorities and the central authorities is variable but improving. Lack of co-ordination between line ministries in central government has knock-on effects at local government level, particularly with regard to delegated competences.

172. The rhetoric of integrity and anti-corruption is common in North Macedonia but there are gaps in accountability and transparency. Patronage, politicisation of appointments and nepotism still occur at both central and local levels. Although some codes of ethics are in place, they need to be complemented by effective control mechanisms for public procurement, awarding of concessions, public-private partnerships and execution of public contracts. There is a toleration of illegality (examples cited by interlocutors include

⁵⁰ Government led evaluations of the Law on the City of Skopje and the 10-year Strategy for Regional Development 2009-2019 were carried out but are not yet available.

⁵¹ The *Programme for Sustainable Local Development and Decentralization 2021-2031* and the new *Law on Balanced Regional Development*, if fully implemented, should improve this situation

construction issues and passports) and a reluctance to deal with illegally constructed buildings.

173. Interlocutors cited examples of voluntary and mandatory inter-municipal co-operation. Such cooperation leads to more effective services and savings in financial and human resources. There is also evidence of trans-frontier co-operation which is proving beneficial to municipalities. Involvement in donor-led and EU and UN projects and programmes is impacting positively on infrastructure and local administrative, evaluative and participative capacity.

174. Much has been achieved in North Macedonia but much remains to be done in order to comply with the spirit as well as the letter of the Charter. Having engaged with a wide range of interlocutors and drawing on a wide range of documentary evidence, the rapporteurs make the following recommendations.

175. Clarification is needed on the obligations that municipalities and central bodies have regarding delegated competences. If new competences are delegated as per the *Programme for Sustainable Development and Balanced Regional Development 2021-2031*, clarity on financial and delivery obligations will be essential for success. Clarification is also needed on the functioning and relationship between the city of Skopje and its constituent municipalities.

176. Inter-governmental relationships and intra-governmental relationships although good, could be improved in order to increase communication, collaboration and effectiveness and further empower local government. At central level, co-ordination of government priorities and sectoral strategies could be enhanced. The new *Programme for Sustainable Local Development and Decentralization 2021-2026* aspires to address economic, social and environmental issues in an integrated manner. Such an approach is to be welcomed and should be applied to other spheres of governance.

177. As the European Commission has pointed out⁵², administrative capacity at all levels needs to be improved. Continuation of reforms to the justice system is strongly recommended as is increasing the human, material and technical resources available to both administrative and judicial institutions. Municipalities will need to increase their administrative, assessment and auditing capacities and build on the work already done through national, Council of Europe, UN and EU-sponsored interventions. Plans to establish an Academy of Training should be progressed as soon as possible.

178. The high dependence of local authorities on central government grants limits their financial autonomy. That autonomy, emphasised in Articles 9.3 and 9.4 of the Charter, is further constrained by limited potential for local taxes, limited diversification opportunities and lack of buoyancy. These issues need to be examined and addressed. In accordance with Article 9 paragraph 5 of the Charter, it is recommended that a broader system for equalisation of municipal revenues be introduced. Although the current VAT allocation takes into consideration size and population, it does not consider the fiscal capacity of municipalities.

179. Transparency in the calculation of block grants and the selection criteria used to allocate transfers to municipalities should be increased and the process simplified.

180. Measures could be taken to improve fiscal and budgetary discipline at the local level. It is recommended that current suggestions to reward fiscal prudence and take into account the fiscal effort that each municipality makes be implemented as should more effective monitoring of LG financial performance.

181. Reference has been made earlier to the positive climate for reform and the formulation of various strategies. The effectiveness of such strategies could be significantly enhanced by inclusion of costed action plans and committed budgets for implementation. It is also recommended that indicators be developed to increase the effectiveness of expenditure at local level and to help central government to adjust national framework conditions.

182. Inter-municipal co-operation could be further developed and incentivised. Conditions for the distribution of capital grants could be adjusted to support inter-municipal projects.

183. Much remains to be done regarding inclusion and integration and the achievement of equitable gender and ethnic representation although some progress on gender issues is evident.⁵³ Proactive policies are still necessary to encourage interaction and understanding between ethnic communities and promote social cohesion while protecting diversity.⁵⁴

⁵² European Commission (2020a), *SWD(2020) 351 final*

⁵³ UN RCO North Macedonia (2021) *2020 Report*

⁵⁴ *A Strategy for One Society and Interculturalism if implemented wholeheartedly could have significant impact*

APPENDIX – Programme of Congress remote monitoring meetings in North Macedonia

MONITORING OF THE APPLICATION OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT: NORTH MACEDONIA

**20 – 21 April 2021
(Remote meetings)**

Congress delegation:

Rapporteurs:

Mr Harald BERGMANN

Rapporteur on local democracy
Chamber of Local Authorities, ILDG⁵⁵
Member of the Monitoring Committee of the Congress
Mayor of Middelburg
Netherlands

Mr Zdenek BROZ

Rapporteur on local democracy
Chamber of Local Authorities, ECR
Member of the Monitoring Committee of the Congress Councillor, City
of Sumperk
Czech Republic

Congress secretariat:

Ms Svitlana PEREVERTEN Co-Secretary to the Monitoring Committee

Expert:

Dr. Brid QUINN

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

Interpreters:

Ms Natasa KOLEKEVSKA
Mr Vladimir OGNJANOVSKI

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

⁵⁵ 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, 20 April 2021

COUNCIL OF EUROPE PROGRAMME OFFICE IN SKOPJE

- Ms Lejla DERVISAGIC, Head of Operations

NATIONAL DELEGATION OF NORTH MACEDONIA TO THE CONGRESS

- Ms Natasha PETROVSKA, Head of Delegation, Mayor of Bitola
- Mr Visar GANIU, Deputy Head of Delegation, Mayor, Municipality of Cair
- Mr Kosta JANEVSKI, Mayor of Strumica
- Ms Irena MISHEVA, Member of the City Council of Skopje
- Mr Arben TARAVARI, Mayor of Gostivar
- Mr Konstantin GEORGIESKI, Mayor, Municipality Ohrid

ASSOCIATION OF THE UNITS OF LOCAL SELF-GOVERNMENT OF THE REPUBLIC OF NORTH MACEDONIA

- Mr Petre SHILEGOV, President

SKOPJE

- Mr Petre SHILEGOV, Mayor
- Prof. Dr. Ljubica JANCHEVA, President of the City Council of Skopje

PARLIAMENT

- Mr Talat XHAFERI, President
- Ms Anne LASKOSKA, Chair of the Committee on local self-government

STATE AUDIT OFFICE

- Mr Maksim ACEVSKI, Auditor General

OMBUDSMAN

- Ms Liljana ILIEVSKA, Deputy Ombudsman

Wednesday, 21 April 2021

MINISTRY OF LOCAL SELF-GOVERNMENT

- Mr Goran MILEVSKI, Minister

MINISTRY OF FINANCE

- Mr Dimitar KOVACEVSKI, Deputy Minister
- Ms Shiret ELEZI, Advisor to the Minister

CONSTITUTIONAL COURT

- Mr Sali MURATI, President

VINICA MUNICIPALITY

- Mr Ilica DIMITROV, Mayor
- Mr Toni VELKOV, Chair of the Municipal Council

CENTAR ŽUPA MUNICIPALITY

- Mr Arijan IBRAIM, Mayor
- Mr Fehmi SKENDER, Chair of the Municipal Council