

The Congress of local and regional authorities



21st SESSION
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Local and regional democracy in Finland

Monitoring Committee
Rapporteur: Jean-Louis TESTUD, France (L, EPP/CD¹)

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Summary

This report follows a monitoring visit on the situation of local and regional democracy in Finland, which had already been the subject of a recommendation and an information report in 1999. The report notes that, in Finland, the legitimacy of the exercise of power is firmly rooted in the principles of subsidiarity and local democracy and that there is an exemplary culture of consultation and involvement of local authorities by central government in Finland.

The recommendation calls on the Finnish authorities to continue to take steps to limit local government deficits so as to avoid excessive indebtedness of certain municipalities and to ensure an equal standard of basic services throughout the country. It also calls on local authorities to evaluate the repercussions of the recently launched reorganisation of deconcentrated public services in all regions, which may result in transfers of powers from municipalities to central government. Finally, it encourages Finnish authorities to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in local affairs as well as the Additional Protocols to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159, ETS No. 169 and CETS No. 206).

¹ L: Chamber of Local Authorities / R: Chamber of Regions
ILDG: Independent and Liberal Democrat Group of the Congress
EPP/CD: European People's Party – Christian Democrats of the Congress
SOC: Socialist Group of the Congress
NR: Members not belonging to a political group of the Congress



DRAFT RECOMMENDATION²

[\(see Recommendation 311 \(2011\) adopted on 18 October 2011\)](#)

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

a. Article 2, paragraph 1.b, of Statutory Resolution (2011) 2 relating to the Congress, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3, of Statutory Resolution (2011) 2 relating to the Congress, stipulating that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

c. Recommendation 219 (2007) on the status of capital cities;

d. Recommendation 66 (1999) on regional democracy in Finland;

e. Congress Resolution 299 (2010), which provides that the Congress will use the Council of Europe Reference Framework for Regional Democracy [MCL-16(2009)11], in its monitoring activities, and the reply by the Committee of Ministers to Congress Recommendation 282 (2010) [CM/Cong(2011)Rec282 final], which encourages the governments of member states to take account of the above Reference Framework in connection with their policies and reforms;

f. the explanatory memorandum on local and regional democracy in Finland drawn up by Pia Bosch I Codola (Spain, R, SOC) and Jean-Louis Testud (France, L, EPP/CD), rapporteurs, following an official visit to the country from 30 November to 2 December 2010.

2. *The Congress notes that:*

a. Finland signed the European Charter of Local Self-Government on 14 June 1990 and ratified it on 3 June 1991 without making any reservations or declarations restricting its scope. The Charter entered into force in Finland on 1 October 1991;

b. Finland was among the first member states of the Council of Europe to sign the Additional Protocol to the Charter on the right to participate in the affairs of a local authority, on 16 November 2009;

² Preliminary draft recommendation approved by the Monitoring Committee on 4 July 2011 (the names of members who took part in the vote are in italics).

Members of the Committee:

L. O. *Molin* (President), M. Abuladze (alternate: *P. Zambakhidze, U. Aldegren, K. Andersen, L. Avetyan* (alternate: *E. Yeritsyan*), A. Babayev (alternate: *G. Salamova*), M. Barcina Angulo, V. Belikov (alternate: *A. Krupin*), G. Bende, G. Bergemann, M. *Bespalova*, P. Bosch I Codola, Z. Broz, A. Buchmann, X. Cadoret, M. Capdevila Allares, S. Carugo, D. Chichinadze, I. Ciontolo, B. Collin-Langen, M. Cools, J. Costa, D. Cukur, L. Dellai, M. De Lamotte, G. Doganoglu, M. Fabbri (alternate: *V. Broccoli*), M. Gaju, V. Gebel, G. Geguzinskas, S. Glavak, S. Guckian, M. Guegan, M. Gulevskiy (alternate: *V. Novikov*), H. Halldorsson, M. Heatley, J. Hepburn, B. Hirs, J. Hlinka, C. Hughes, A. Ibrahimov, L. Iliescu, J. Jalinska (alternate: *M. Juzupa*), S. James, A. Jaunsleinis (alternate: *N. Stepanovs*), M. Jegeni Yildiz, M. Juhkami, J-P Klein (alternate: *P. Weidig*), A. Kriza, I. Kulichenko (alternate: *Z. Chepey*), O. Arild Kvaløy, F. Lec, J-P Liouville, I. Loizidou, M. Magomedov, P. Mangin, T. Margaryan, G. Marsan, H. Marva, V. Mc Hugh, M. Merrild, I. Micallef, I. Michas, T. Mikus, K. Miskiniene, G. Mosler-Törnström, A. Muzio (alternate: *B. Toce*), A. Ocana Rabadan, Z. Ozegovic, V. Oluiko, R. Paita (alternate: *A. Miele*), G. Pieper, H. Pihlajasaari, G. Pinto, C. Radulescu (alternate: *L. Sfirloaga*), R. Rautava (alternate: *S. Ruponen*), H. Richtermocova, A. Rokofillou, D. Ruseva, S. Sallaku, V. Salygin, V. Sau, J. Sauwens, P. Schowtka, W. Schuster, D. Shakespeare, P. Shatri, M. Simonovic, G. Spartanski, M. TAMILOS, A. Torres Pereira, V. Udovychenko, A. Ugues, G. Ugulava (alternate: *E. Beruashvili*), A. Uss, V. Varnavskiy (alternate: *A. Borisov*), O. Van Veldhuizen, L. Vennesland, L. Verbeek, H. Weninger, K. Whitmore, J. Wiene, U. Wüthrich-Pelloli, N. Zeybekci, J. Zimola, D. Zmegac.

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

Secretariat of the Committee : S. Poirel and S. Cankoçak.

c. A delegation³ from the Congress Institutional Committee⁴ made a monitoring visit to Finland from 30 November to 2 December 2010. It visited Helsinki, Mariehamn (Åland Islands) and Kouvola.

3. The Congress wishes to thank the Permanent Delegation of Finland to the Council of Europe, the Finnish authorities at central, regional and local level, the authorities of the Province of Åland, the Association of Finnish Local and Regional Authorities and all the other parties whom the delegation met for the information supplied.

4. *The Congress notes with satisfaction that:*

a. local democracy in Finland is a real cornerstone of democratic life in the country, which is reflected in political practice and enjoys recognition from national institutions and effective protection from the competent courts;

b. there is an exemplary culture of consultation and involvement of local authorities by central government in Finland;

c. cooperation and coordination between local and regional authorities is guaranteed by a powerful and influential association, the Association of Finnish Local and Regional Authorities (AFLRA), which is very closely involved in discussions with the government about all issues concerning local and regional authorities;

d. Finland has had an ombudsman since the 18th century, whose responsibilities include checking the lawfulness of the actions of local governments and their authorities and whose interventions make municipal services more efficient;

e. all Finnish citizens are entitled to appeal against decisions by local authorities, a practice which should be established more widely throughout Europe;

f. all Finnish citizens have the statutory right to receive basic services, including education, in their mother tongues (Finnish or Swedish);

g. Finland signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority on 16 November 2009;

h. for historic reasons and because of their specific situation, the Åland Islands have a special status which complies with the principles laid down in the Council of Europe Reference Framework for Regional Democracy.

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

a. some municipalities have unbalanced budgets and are heavily indebted. Their number is likely to rise because of the increasing expenditure in the health, education and welfare sectors;

b. central government has recently launched a reorganisation of deconcentrated public services in all regions, which may result in transfers of powers from municipalities to central government;

³ By decision of the Institutional Committee of the Congress, Pia Bosch I Codola (Spain, R, SOC) and Jean-Louis Testud (France, L, EPP), were appointed rapporteurs on local and regional democracy in Finland respectively. The rapporteurs were assisted by Bernd Semmelroggen, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government. As Ms Pia Bosch I Codola's term as a member of the Congress ended in June 2011, the preliminary draft recommendation is presented by Mr Jean-Louis Testud, rapporteur for local democracy.

⁴ Following the reform of the Congress, this committee's monitoring activities were taken over by the Monitoring Committee on 1 December 2010.

c. the Ombudsman's institution, whose effectiveness has been proven, nevertheless lacks resources for stepping up its work at local level, in particular for carrying out studies and investigations on its own initiative (self-tasking).

6. *The Congress recommends that the Committee of Ministers invite the Finnish authorities:*

a. to take steps to limit local deficits so as to avoid excessive indebtedness of certain municipalities in keeping with the principle of balanced budgets laid down by law;

b. to evaluate, together with the Association of Finnish Local and Regional Authorities, the repercussions for local self-government of the rationalisation of central government's regional administrative structures;

c. to strengthen the role of the Ombudsman at local level by increasing funding so as to optimise the operation of the institution;

d. to ensure an equal standard of basic services throughout the country, if necessary by means of additional transfers from central government to municipalities with deficits;

e. to ratify, in the near future, 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), as well as Additional Protocols to the European Additional Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159, ETS No. 169 and CETS No. 206).

EXPLANATORY MEMORANDUM BY JEAN-LOUIS TESTUD, RAPPORTEUR

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

1. Under Article 2.3 of Statutory Resolution (2011) 2 of the Committee of Ministers of the Council of Europe, the Congress of Local and Regional Authorities (hereinafter "the Congress") prepares regular reports on the situation of local and/or regional democracy in all member States of the Council of Europe.

2. The situation of regional democracy in Finland has already been the focus of two monitoring visits by the Congress, in September 1998 and February 1999, resulting in a report and Recommendation 66 (1999).

3. The present report relates to a visit made to Finland from 30 November to 2 December 2010 whose chief objective was to monitor the situation of local and regional democracy on the basis of the Council of Europe's European Charter of Local Self-Government of 1985 (European Treaty Series (ETS no. 122) which Finland signed in 1990 and ratified in 1991. The autonomous status of the Åland islands was also considered in this framework.

4. The Institutional Committee⁵ appointed Pia Bosch I Codola (Spain, R, SOC) and Jean-Louis Testud (France, L, EPP/CD), co-rapporteurs, respectively for local and regional democracy in Finland. The co-rapporteurs were assisted by Bernd Semmelroggen, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government, Jean-Philippe Bozouls, Executive Secretary of the Chamber of Local Authorities, and Muriel Grimmeissen, from the Secretariat of the Congress.

5. The mandate of Pia Bosch I Codola (Spain, R, SOC) as a member of the Congress ceased in June 2011.

6. In particular, the Congress delegation met the Minister of Public Administration and Local Government, chairs of parliamentary committees, the President of the Supreme Administrative Court, the Auditor General (National Audit Institute), the Mayor of Helsinki and the regional Mayor of Helsinki-Uusimaa, the Ombudsman and the Association of Finnish local and regional authorities. In Kouvola, it met the Mayor and a representative of the Kymenlaakso region. Talks were also held on the Åland islands with the governor and members of parliament and of the government. The detailed programme is appended to the present report.

7. The co-rapporteurs wish to thank the Permanent Representation of Finland to the Council of Europe and the secretariat of the Finnish delegation to the Congress, who assisted the smooth running of the visit. They also express their gratitude to all the talking partners met during the visit for their excellent welcome, their availability and the useful information provided by them which were drawn on for the present report.

2. POLITICAL SITUATION AND DEVELOPMENTS

(since Recommendation 66 (1999) on regional democracy in Finland)

2.1. International situation and relations with neighbouring countries

8. Finland's foreign relations are governed by Chapter VIII of the Constitution of 2000.

9. Finland has been a member of the Council of Europe since 5 May 1989 and the European Union since 1995. Its neighbours are Sweden, Norway and Russia and, across the sea, Estonia.

2.2. Domestic political situation: presidential, parliamentary and local elections

10. In the local elections of 26 October 2008, the parties of the coalition in power obtained the following results: the Centre party lost 2.7 points compared with the elections of 2003, securing 20.1% of the votes cast; the National Coalition conservative party achieved its best result to date, with 23.4%

⁵ Following the reform of the Congress, this committee's monitoring activities were taken over by the Monitoring Committee on 1 December 2010.

(+1.6 points); the Social Democrat Party (SDP) came second with 21.2% of the vote. Of the 10 412 councillors elected, 63.3% (6590) are men and 36.7% (3 822) are women.⁶

11. In the elections for the European Parliament of 7 June 2009, the Centre party obtained 23.2% of the vote (compared to 23.7% in 2004), the national coalition 19% (-4.4 points) and the SDP 17.5% (-3.7 points). The success of the nationalist party "True Finns", securing seats in the European Parliament for the first time, was seen as a defeat for the three big traditional parties, each of which lost a seat. Turn-out was 40.3%, slightly below the European average (43.0%).

12. The last Parliamentary elections were held on 17 April 2011.

13. Regarding the impact of national policy on local and regional authorities, the general policy statement made by the Prime Minister before Parliament in June 2010 provides a few useful pointers:⁷

"The level and structure of public spending must be adjusted in line with current circumstances. The government will pursue its productivity drive. The reform of municipal structures and services will be continued with a view to safeguarding the quality and availability of services and curbing escalating expenditure. Measures aimed at improving the productivity of public services are vital to make them more viable in relative terms. This will enable us to guarantee high-quality services in the future. Steps will be taken to improve the functioning and productivity of care services falling within the responsibility of municipalities. Staff skills and expertise are key to improving productivity. A system for limiting expenditure will be devised for local authority finance to keep costs under control in the medium term and guarantee the availability of services throughout the national territory. The information systems used in public administration will be harmonised as swiftly as possible. The management of information and communication technologies in the public sector will be centralised and reinforced. The government will take decisions concerning access to and availability of data in the possession of the public sector, while ensuring that security is not compromised".

2.3. Previous report and recommendation

14. Congress Recommendation 66 (1999) in respect of Finland expressed a favourable opinion on the situation of local self-government in that country (point 8.1):⁸

"Regarding local self-government, [the Congress] welcomes the fact that Finland:

- a. was among the first member states of the Council of Europe to ratify the European Charter of Local Self-Government and that the ratification of this treaty was not subject to any reservations and/or declarations restricting its field of application;*
- b. has been able to set up a system of local self-government which is based on highly democratic principles and has proved extremely effective in managing the interests of citizens at local level";*

15. Where regional self-government was concerned, the aforementioned recommendation stated (point 2):

"Aware that Finland has a unique system of regional government based on inter-municipal co-operation geared to the country's specific requirements, particularly in relation to its geographical, economic and demographic features".

3. HONOURING OF OBLIGATIONS AND COMMITMENTS ARISING FROM RATIFICATION OF THE CHARTER

16. Finland signed the Council of Europe's European Charter of Local Self-Government of 1985 (ETS No. 122) on 14 June 1990 and ratified it on 3 June 1991 without making any reservations or declarations. It entered into force in Finland on 1 October 1991.

⁶ Statistics Finland 07.04.2011, 2008 Municipal elections, number of councillors elected:

http://tilastokeskus.fi/til/kvaa/index_en.html

⁷ <http://www.valtioneuvosto.fi/hallitus/hallitusohjelma/pdf/en.pdf>

⁸ Recommendation examined and approved by the Chamber of Regions on 15 June 1999 and adopted by the Standing Committee of the Congress on 17 June 1999 (see doc CPR(6)2, draft Recommendation presented by Mr J. Leinen, Rapporteur).

<https://wcd.coe.int/wcd/ViewDoc.jsp?id=847673&Site=Congress&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C>

17. The Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority of 2009 (CETS No. 207) was signed by Finland on 16 November 2009. Responsibility for the ratification process lies with the Department of Municipal Affairs of the Ministry of Finance. The Congress delegation was told that the process was under way and should be completed in 2011. The government is seeking the Parliament's agreement to ratify the Additional Protocol.

3.1. Domestic law in the light of the Charter

The Constitution and the legislative framework

18. Finland's current Constitution (Law 731/1999) entered into force on 1 March 2000, repealing, through its Article 131, the Constitutional law of 17 July 1919 entitled "Finnish form of Government". Provisions concerning regional and local authorities are governed by Article 121 "Municipal and other regional self-government". It should be noted that the Constitutional law of 1919 has been enriched by a section on local self-government, which serves as the basis for current legislation. The Constitution has not been amended since 2000.

19. Accordingly, the main objectives in developing local self-government are formulated by the competent minister:

- guaranteeing basic services of an adequate standard;
- adapting the structure of services in line with present-day needs;
- ensuring demographic development in the context of an ageing population;
- developing municipal structures in line with public demand;
- maintaining the ability of municipalities to cope with their financial responsibilities.

3.2. Local autonomy: the European Charter of Local Self-Government

Institutional arrangements and devolution of powers

20. The legal basis for local and regional self-government is guaranteed by Article 121 of the Constitution "Municipal and other regional self-government".⁹ In accordance with paragraph 2 of that Article, the general principles of local self-government and the powers of local authorities are established by law. The main legal texts regulating local and regional self-government are as follows:

- Local government act (365/1995);
- Law on division of the territory into regions (1159/1997);
- Law on regional development (602/2002);
- Law on land use and building (132/1999) and its amended version (222/2003);
- Law on elections (714/1998);
- Law on the restructuring of municipalities and municipal services (169/2007);
- Law on the territorial boundaries of local authorities (1698/2009);
- Law on autonomy of the Province of Åland (1144/91);
- Law on cooperative action between municipalities in the Helsinki metropolitan area in waste management and public transport (829/2009).

21. According to the list drawn up by the Association of Finnish local and regional authorities, the main powers of local authorities are as follows:

- managing primary and secondary schools, vocational training centres and polytechnic colleges;
- adult education, artistic education, cultural and recreational services, libraries;
- child-minding services, social assistance for the elderly and disabled and other social services;
- preventive and primary health care;
- promoting quality of the living environment;

⁹ Article 121 – Municipal and other regional self-government:

"Finland is divided into municipalities, whose administration shall be based on the self-government of their residents. Provisions on the general principles governing municipal administration and the duties of the municipalities are laid down by a law. The municipalities have the right to levy municipal tax. Provisions on the general principles governing tax liability and the grounds for the tax as well as on the legal remedies available to the persons or entities liable to taxation are laid down by a law. Provisions on self-government in administrative areas larger than a municipality are laid down by a law. In their native region, the Sami have linguistic and cultural self-government, as provided by a law".

- managing land use and urban development;
- supplying water and energy, managing waste, road maintenance, environmental protection;
- promoting trade and employment.

22. These powers open up a vast sphere of activities for local authorities and place the municipalities at the heart of the activities of administrative institutions working directly for public well-being. It goes without saying that any disruption to the exercise and funding of those powers triggers a loss of public confidence in the effective functioning of democratic institutions.

23. Questions of public administration and regional development are coordinated at national level by an interministerial working group made up of six ministers.¹⁰ This group, chaired by the Minister of Public Administration and Local Government, is tasked with framing territorial administration policies and regional policies. It also handles the launching, steering, coordination and supervision of the related projects and measures. It prepares draft legislation and decisions relating to regional administration, which are then submitted to the Government for examination.

Territorial questions

24. As stated by Article 121 of the Constitution, "*Finland is divided into municipalities*", a provision enshrining the territorial demarcation which existed at the time it entered into force. The Law on local self-government (no. 365/1995) of 17 March 1995 set out provisions on voluntary inter-municipal cooperation (chapter 10); it is not possible to merge municipalities against their will.

Relations between local and national authorities

25. There is no constitutional provision governing relations between local and national authorities. Article 8 of the Law on local self-government (no. 365/1995) sets out a number of stipulations concerning state supervision of municipalities.¹¹ It has been completed by Sections 8a and 8b which provide for the Basic Public Services Programme procedure and the Advisory Board for Municipal Administration and Economy. The Basic Public Services Programme procedure is a means of coordinating Government action affecting local authorities and their finances.

26. Concerning municipalities' involvement in European affairs, a study of the impact of European integration on local democracy was carried out following Finland's accession to the European Union in 1995. That impact was considered to be fairly minor, except regarding community policy on competition.

27. Generally speaking, the municipalities do not directly influence the Government's European policy. Nevertheless the Association of Finnish Local and Regional Authorities (AFLRA) is represented in most EU sub-committees, which handle the Government's opinions of EU affairs and similar issues (see para. 122). The Ministry of Finance is currently considering how they might participate. The municipalities indirectly influence community programmes to be carried out in municipalities.

Financial resources

28. The resources of local authorities are guaranteed by Article 121, paragraph 3 of the Constitution and regulated in detail by Article 8 of the Law on local self-government.

Self-government and freedom of association

29. Freedom of association is guaranteed by ARTICLE 13 of the Constitution. As legal entities in public law, local and regional authorities have grouped together in the Association of Finnish local and regional authorities.

¹⁰ <http://www.valtioneuvosto.fi/hallitus/ministryoryhmat/en.jsp#Halke>

¹¹ Article 8 – Relations between the State and local authorities: "The Ministry of the Interior shall monitor the operations and finances of local authorities in general and ensure that municipal autonomy is taken into account in the preparation of legislation concerning local authorities. Following a procedural appeal, the provincial State office can investigate whether a local authority has acted in accordance with the current law. The legislation on local authorities, matters of municipal administration and finances that are important and far-reaching in principle, and coordination of State and municipal finances shall be dealt with in a negotiating procedure between the State and local authorities, provisions on which will be laid down by decree".

Status of the capital city

30. The city of Helsinki has no special status. Discussion is ongoing at national level regarding the future status of the city and the Metropolitan area of Helsinki. The granting of a special status to Helsinki according to Recommendation 219 (2007) on the status of capital cities does not seem to be considered.

3.3. Analysis (article by article) of the situation of local democracy on the basis of the Charter

Articles 2 and 3: Foundation and concept of local self-government

31. The principle of local self-government is recognised by Article 121 of the Constitution. The entity recognised as having rights and obligations in terms of self-government is the inhabitant and not the municipality, even though it is a legal entity in public law.

32. Concerning the compatibility of the Finnish situation with Article 3 of the Charter, the provisions of the Constitution and the Law on local self-government are clear. Article 2 of the law – Functions of local authorities – stipulates that "*Local authorities shall perform the functions that they have undertaken by virtue of their autonomy and those laid down for them in the law. Local authorities may not be allotted new functions or duties, nor shall they be deprived of functions or rights, other than by passing legislation to this effect. By agreement, local authorities may undertake public functions other than those falling within their autonomy. Local authorities shall perform the functions laid down for them by law either alone or in cooperation with other local authorities. Local authorities may also secure the services they need to perform their functions from other service providers.*"

33. The Finnish representatives met by the delegation did not call the powers devolved at local level into question. It is obvious that the management of those powers plays a decisive role in local self-government practice, as attested to by Article 3, paragraph 1 of the Charter.

34. The delegation's talking partners mentioned several problems in this respect during the visit:

- the demographic issue: the ageing of the population and its consequences, including for the staff of the administration, and the effects of North-South and centre-suburb migration in the country;
- the substantial differences in surface area and number of inhabitants of municipalities and the disparity in their financial capabilities;
- asymmetrical economic development between the country's rural and urban areas and the growing significance of the Helsinki urban district;
- the impact of the global financial crisis on local budgets;
- calls to rationalise local governance, particularly in the sectors of competence showing heavily increased public spending;
- the question of state prerogatives delegated to local authorities and the problem of the amount of detail in national directives specifying the implementation of the prerogatives delegated.

Article 4: Scope of local self-government

35. The provisions of Article 4 of the Charter are generally complied with. However, the local authorities, through their association, and also the central authorities have launched a debate on the need to redefine the allocation of powers between the different levels of local self-government on the one hand and between municipalities and the State on the other hand. One example is the transfer of powers on the basis of the 2007 Law on the restructuring of municipalities and municipal services (consumer advice pursuant to Law 72/1992, vetting of child-minding services).

36. The same applies to Article 4, paragraph 5 of the Charter. Local authorities have a very broad margin for manoeuvre in order to adapt the exercise of powers to local conditions.

37. Where the right to consultation is concerned, the municipalities have very wide-ranging means of participation at their disposal through their association. This "consultation and participation culture" is exemplary and reflects a political approach taken by both levels of government based on mutual recognition of their respective positions. The Minister of Public Administration and Local Government, Mr Tölli, stressed to the delegation that any confrontation between State and municipalities had to be avoided.

Article 5: Protection of local authority boundaries

38. This Article stipulates that local authorities must be consulted prior to any changes to their territorial boundaries. This provision is transposed in Finnish law by the Law on the territorial boundaries of local authorities.

39. At the beginning of 2011 Finland had 336 local authorities (320 in continental Finland and 16 in the Åland Islands), 19 regions and the Åland Islands. The number of municipalities has been falling steadily for some years (there were 415 at the end of 2007). They differ greatly in terms of population and surface area: some 250 municipalities have fewer than 10 000 inhabitants whereas 7 of them have over 100 000. In addition, the population is very unevenly spread across the territory, with a very dense concentration in the southern part of the country. Despite these differences, local authority law is uniform, and the Law on local self-government of 17 March 1995 makes no specific provisions for certain types of municipality.

40. The question of broader cooperation between municipalities or their merger is a central issue of debates on local self-government. But all the institutions operate on the principle that the territorial boundaries of municipalities may be modified only with the agreement of the territorial units concerned.

41. This cooperation, regulated by chapter 10 of the Law on local self-government (no. 365/1995), plays a special role. The need for cooperative action stems from the wide range of responsibilities of the municipalities, and it is expedient to manage certain tasks on a larger population base. Furthermore, the question of merging municipalities comes more often back on the agenda.

42. In Kouvola, the delegation had the opportunity to learn about the potential benefits of a merger rather than a solution based on strengthened cooperation. The following arguments were put forward with reference to the model used in Kouvola:

- forming a single authority made it more attractive in economic terms and more competitive;
- there was a better allocation of financial and staffing resources;
- there was less competition between the municipalities and their economic development was more balanced;
- economies of scale had been made in the development of administrative structures (saving the town 5 million euros a year);
- the decision-making process was strengthened and more transparent.

Where the name of the merged municipality was concerned, a "classic" solution was adopted: the population prefers to keep the names of municipalities with which they are familiar, enabling them to identify more easily with local institutions.

43. It remains to be seen whether these arguments can be transposed to other municipalities and to what extent.

44. At the beginning of 2009, the cities of Helsinki and Vantaa carried out a study on the merger of the region's municipalities and on questions related to the need and potential for the organisation of regional administration. Their preferred solution would be to merge the municipalities of Espoo, Vantaa, Kauniainen and Helsinki from 2013 onwards. Other towns have launched similar studies, apparently at their own expense. Political views differ: the Helsinki representatives of the national coalition party favour a merger with Vantaa, while others are against it.¹² The representatives of the cities of the close suburbs are not in favour of the merger and would prefer reinforced cooperation.¹³

45. There is the obvious question of whether what has been done meets expectations. To what extent does a merger promote the exercise of municipal prerogatives, particularly in the sphere of protection of children and the elderly, psychiatric care and hospitals?

¹² Helsingin Sanomat of 13.01.2011

¹³ Helsingin Sanomat of 1.02.2011, *The Vantaa City Council voted on Monday evening to spurn its neighbour Helsinki. After eight hours of debate, the Vantaa Council voted 45 to 22 to reject a proposal for a study on the possible merger of the two cities.*

46. The Finnish Government is unwilling at present to force through laws obliging municipalities to merge. But in the case of the Helsinki Metropolitan Area, a report commissioned by the Finnish Government and presented to Parliament recently proposed either a merger of 4 municipalities or the setting up of an inter-municipal administration covering 14 municipalities, but no decision was reached. Discussion is currently revolving around the need for a new division of the Helsinki Metropolitan Area and, if so, how it should be done.

47. In addition, the State is seeking to encourage mergers of municipalities through its *Paras* project, offering to support mergers of municipalities through extra subsidies.¹⁴ Obviously, a merger in the Helsinki Metropolitan Area will have repercussions for the rest of the country, as it would affect something like a quarter of the national population. Going beyond Article 5 of the European Charter of Local Self-Government, which requires only consultation of the municipalities concerned, one might wonder whether the other local authorities might have a right of consultation via their association, even though they are not among the municipalities required to merge.

Article 6: Administrative structures

48. The municipalities are generally free to determine the internal administrative structures of local authorities. Even so, the State still exerts a degree of pressure on them to rationalise their administration in order to provide good-quality services to their citizens as cheaply as possible. This pressure is particularly strong in certain sectors where costs are sometimes very high, such as health care services.¹⁵

49. Another aspect of stepping up cooperation with state services is illustrated by the "suomi.fi" project¹⁶ which focuses on an on-line one-stop shop providing citizens with easy access to all of Finland's public services. The portal features the information citizens need to organise their everyday life and a compendium of legislative texts, as well as the corresponding electronic forms. This information is supplied by the administrative services, the local authorities and the large national non-governmental organisations. Users are given the means to contact the competent authorities, regardless of whether they reside in Finland or abroad. The portal is available in Finnish, Swedish and English. Users can create their own accounts on the site.

50. On the subject of staffing issues, Kouvola municipal council provided plentiful information on the problems to be faced by municipal administration in the coming years, including the ageing of public sector staff and, as a result, a potential shortfall of personnel, particularly in the health, education and social welfare sectors. The mayor predicted that the situation would exacerbate the difficulties already experienced by the local authorities in providing good-quality basic services, owing to a lack of experienced personnel to meet a strong increase in demand.

Articles 7 and 8: Exercise of responsibilities and administrative supervision

51. The status of local elected representatives does not appear to pose any problem in particular. In all events, none of the delegation's talking partners raised any specific issue in this respect.

52. The rapporteurs feel that the current divergences between the political parties on the question of the voting age are worth noting.¹⁷ The Left Alliance, the Green League and the Centre Party are in favour of granting the right to vote at 16 years instead of the present voting age of 18 years for municipal elections. They see it as a means of preventing the marginalisation of young adults and involving them more in the organisation of everyday life. The National Coalition Party, the True Finns, the Social Democratic Party and the Swedish People's Party are opposed to this.

¹⁴ Ministry of Finance press release of 10.09.2010 on the proposals for the 2011 budget presented to Parliament. Where taxation and local finance are concerned, it is proposed to allocate a total of EUR 114 million to funding mergers of municipalities and grants for cooperation. The level of these credits remains unchanged in relation to 2010. There will be six mergers of municipalities, reducing the total number of municipalities by six.
<http://www.valtioneuvoisto.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=305694>

¹⁵ Helsingin Sanomat of 24.01.2011, New Health Care Act is to tighten up regulations in small hospitals – All nightly operations and childbirths are to be transferred to central hospitals.

¹⁶ <http://www.suomi.fi/suomifi/english/index.html>

¹⁷ Helsingin Sanomat of 25.01.2011.

53. Concerning the administrative supervision of local authority acts, a number of aspects were raised, notably regarding the bodies tasked with such supervision, their objectives and actual cases.

54. The matters referred to the Chancellor of Justice very frequently related to social welfare, child protection or the functioning of municipal hospitals and healthcare centres. Complaints in connection with social welfare were mostly about the time taken to process applications.¹⁸

55. The delegation was informed of one particular case that came before the Chancellor concerning the Åland islands, which shows the importance of transposing Finnish norms for that region.¹⁹

56. In the area of financial supervision, the Law on local self-government instituted a system internal supervision based on audit committees. Article 73 defines the objectives of this auditing, one of them being to check that municipalities are administered in accordance with the law. It is checked that municipalities use state revenue lawfully. Where state resources earmarked for specific use are concerned, there are discretionary checks to ensure that municipalities use them for the intended purpose.

57. It should be noted that high-level supervision is exercised by the Ombudsman or the Chancellor of Justice. Article 108 of the Constitution states that "The Chancellor of Justice shall oversee the lawfulness of the official acts of the Government and the President of the Republic. The Chancellor of Justice shall also ensure that the courts of law, the other authorities and the civil servants, public employees and other persons, when the latter are performing a public task, obey the law and fulfil their obligations. In the performance of his or her duties, the Chancellor of Justice monitors the implementation of basic rights and liberties and human rights." According to the Chancellor's 2009 report, most of the cases concerning municipal administration resolved by the Chancellor related to the social, health care and education spheres.²⁰

58. Regarding supervision by administrative courts, generally speaking, the means of and procedures for supervision focus on the lawfulness of municipal administration. According to the information of the Supreme Administrative Court, 6% of the appeals lodged by citizens relate to local matters. It should be stressed that citizens are entitled to appeal local authorities decisions (*actio popularis*), which is quite unusual at international scale.

Article 9: Financial resources

59. Finnish law contains no general provisions corresponding to Article 9, paragraph 1 of the European Charter of Local Self-Government. However, the Constitution gives a substantial guarantee, since Article 121, paragraph 3 states that "*The municipalities have the right to levy municipal tax. Provisions on the general principles governing tax liability and the grounds for the tax as well as on the legal remedies available to the persons or entities liable to taxation are laid down by a law.*" These principles are set out in the Law on local self-government (Chapter 8: Municipal finance). In addition, the principle of financing has been adopted as part of municipal self-government safeguarded by the Constitution. In its report on the reform of the basic rights and liberties, the Constitutional Law Committee of the Parliament stated: "When imposing legal obligations (on local authorities) it must be ensured that they have actual capacity to fulfill their duties." (25/1994). The Committee often refers to this statement when evaluating the financial capability of local authorities to perform new functions.

60. In general terms, the budgetary rules applicable to Finnish local authorities compel them to comply with the principle of a balanced budget as far as possible, in order to avoid excessive debts. This arrangement also fulfils the aims of community law relative to the European Union's Stability and Growth Pact.

61. It should be noted that support for the principle of limiting local deficits is not unanimous. In the eyes of many specialists, merely matching spending to revenue is too limited an approach to meet the needs of municipalities, particularly those with a growing population.

¹⁸ See the 2009 report of the Finnish Chancellor of Justice, p. 107.

¹⁹ *Ibid.*, p.111.

²⁰ <http://www.chancellorofjustice.fi>

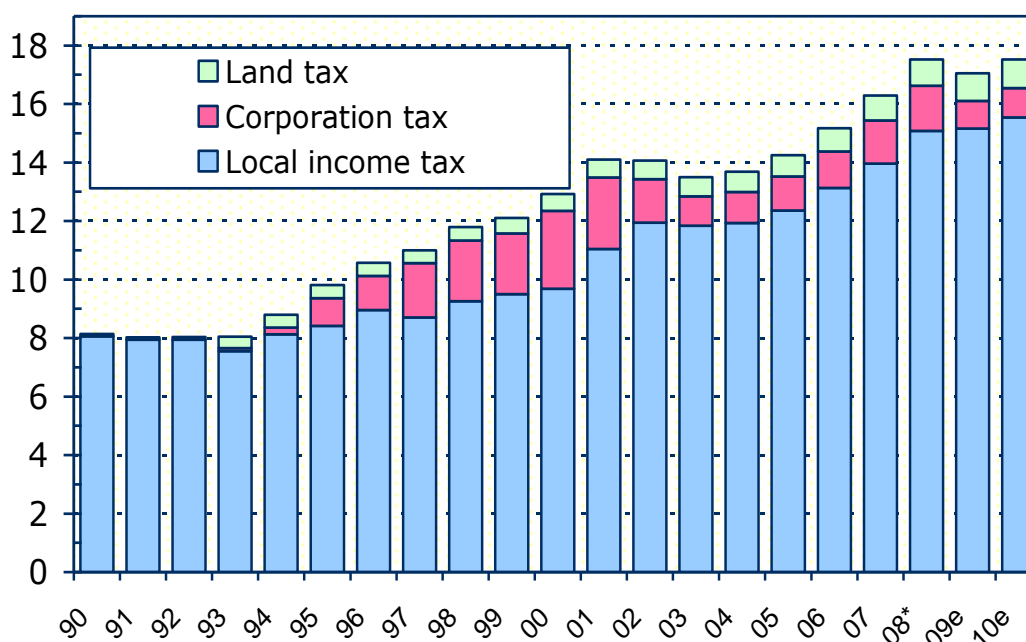
Key figures on local finance

62. The Association of local authorities supplied the following data:

<u>Total receipts of local authorities in 2009:</u>	<u>37.7 billion EUR</u>	
- Fiscal receipts	17.7 billion EUR	47%
- Global state subsidies	7.3 billion EUR	19%
- Rates, levies	10.2 billion EUR	27%
- Receipts from investments	0.8 billion EUR	2%
- Loans	1.4 billion EUR	4%
- Others	0.3 billion EUR	1%

<u>Total expenditure of local authorities in 2009:</u>	<u>38 billion EUR</u>	
- Social and health matters	14.1 billion EUR	47%
- Schooling and culture	5.2 billion EUR	17%
- Other operating expenditure	8.3 billion EUR	27%
- Investments	0.7 billion EUR	2%
- Reimbursement of loans	1.6 billion EUR	5%
- Other expenditure	0.5 billion EUR	2%

Volume of fiscal receipts and share of municipal budgets contributed by different types of local taxes (in billion EUR)



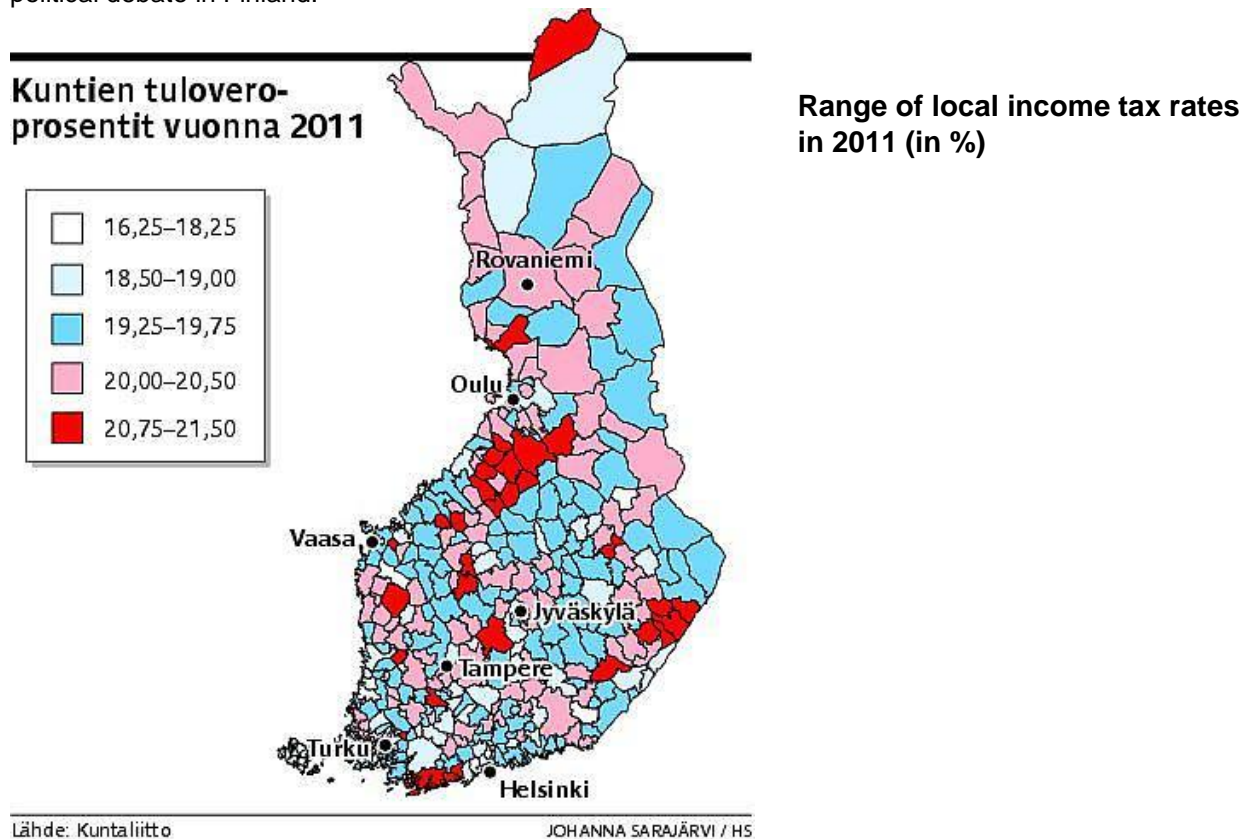
63. The structure of receipts and expenditure of Finland's local authorities raises five major questions:

- i. Are receipts sufficient to cover trends in expenditure in the key sectors of the budget? Do the trends in receipts reflect those in expenditure?
- ii. Do the municipalities have sufficient autonomy to be able to influence both the level of their receipts and the level of expenditure or is the State able to influence municipal budgets through its fiscal policy?
- iii. What margin of budgetary manoeuvre do the municipalities currently have to balance their budget?
- iv. Is there vertical or horizontal financial equalisation between the different levels of territorial administration?
- v. How important is the role of state subsidies to municipalities?

64. Regarding trends in receipts and expenditure, the overall financial situation of Finland's municipalities is characterised by a strong increase in debt.²¹ The debts of municipalities rose to EUR 10.8 billion in 2009 and EUR 12,8 billion in 2010, the latter representing 14,6% of the country's total public debt. If levels of debt continue to increase at this rate, Finland's municipalities will have accumulated debts of EUR 20 billion by 2015 (EUR 15 billion according to the Ministry of Finance estimates), which is 10% of the country's GDP. Although Article 65 of the Law on local self-government imposes budget balancing measures on municipalities,²² these provisions appear to be inoperative.

65. There is no ceiling for the level of towns' tax receipts. Helsinki City Council, for example, voted an increase in local income tax from 17.5% to 18.5% as of 1 January 2011. This increment of one percentage point in the income tax rate would increase its receipts by EUR 110 million. Apparently, the city is heavily dependent on the revenue of the Helsingin Energia municipal corporation, which is the city's energy supplier.

66. Helsinki is one example among several Finnish towns or cities obliged to increase the local tax burden.²³ But the overall trend is towards limiting fiscal pressure at local level.²⁴ The diagram below shows the range of income tax rates levied by different local authorities. The considerable differences in income tax show that fiscal competitiveness between the different local units is not a major topic of political debate in Finland.



²¹ Helsingin Sanomat of 31.03.2010, Municipal debt set to double in five years. The situation of the State has not improved and public debt is set to reach 80 billion EUR. The European Commission has launched an excessive deficit procedure (Helsingin Sanomat of 22.03.2010: State debt surges after slight decline).

²² Article 65, paragraph 3: "If the balance sheet of the current year is not estimated to show accumulated surplus, the financial plan must be in balance or show a surplus for a maximum planning period of four years. If the deficit of the balance sheet cannot be covered during the planning period, decisions shall be made in connection with the preparation of the financial plan, on specified actions (action plan) to cover the deficit during a coverage period (coverage obligation) separately agreed upon by the council".

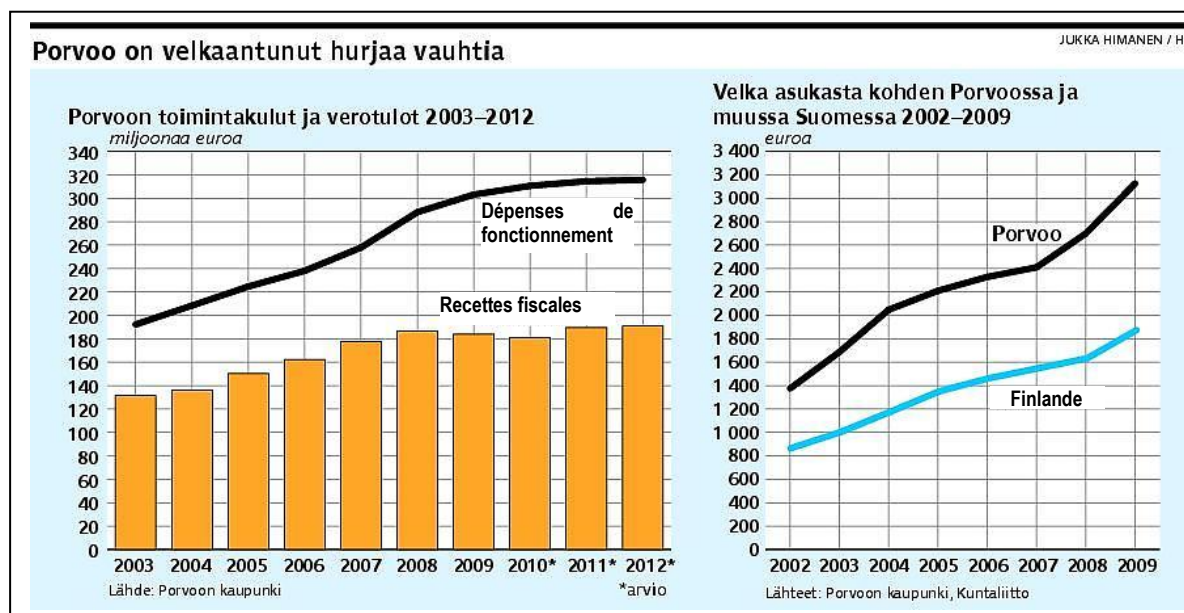
²³ Helsingin Sanomat of 29.01.2010, Mayor Pajunen: Helsinki must raise municipal tax.

Helsingin Sanomat of 4.10.2010, Helsinki borrowing more and raising municipal tax rate – Mayor wants to cut growth in spending.

²⁴ Helsingin Sanomat of 18.11.2010, Fewer local authorities raising municipal income tax rates.

This Article predicted that the upward trend in municipalities' fiscal receipts would slow in 2011. Only 49 local authorities planned to increase their tax rates, compared with over 100 in each of the previous five years and 181 in 2009.

67. Other municipalities also have serious problems in balancing their budgets.²⁵ The example of Porvoo points to the existence of a structural deficit for several years, illustrated by the diagram below. The graph on the left shows the trend in the municipality's operating expenditure as compared with its tax receipts, while the graph on the right shows the increase in debt per inhabitant in Porvoo compared with the national level. According to the Ministry of Finance, the local government final accounts for 2010 show that the annual balance was negative in 7 municipalities, and the overall negative annual balance was EUR 1.5 million.



68. It is to be noted that Article 9, paragraph 1 of the European Charter of Local Self-Government stipulates in this connection that *"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."*

69. According to the Minister of Public Administration and Local Government, the reduction in municipal taxation in 2009/2010 is less pronounced than foreseen. The tax receipts of municipalities are stable, whereas those of the State are on the increase. There are no specific limits on municipalities' borrowing capacity but their borrowing is not guaranteed by the State. To counter the ill-effects of the financial crisis for municipalities, the State has set up a working group tasked with studying the effects of the crisis and devising discretionary support measures. The increment in the discretionary central government transfer is designed for municipalities that require support in exceptional circumstances or as a temporary measure. It is not automatically granted to municipalities subject to the assessment procedure. Initially, the State has granted additional temporary aid to the tune of EUR 20 million to 23 municipalities.²⁶ At present, two municipalities are using this aid. The Government has undertaken to continue paying aid where needed. This aid is granted at the request of municipalities, following an opinion from the association of local authorities and at the proposal of the Minister of Finance.

70. Regarding budgetary autonomy, municipalities are free to decide in which spheres of competence to increase or reduce their receipts and expenditure. They are also free to decide on the scale of such

²⁵ Helsingin Sanomat of 18.5.2010, Debt-ridden Finnish municipalities can be compared with Greece – Porvoo is facing severe cost-cutting measures.

²⁶ Within the framework of structural reform, the Ministry of Finance has defined a method based on six criteria for identifying municipalities suffering a serious economic crisis, which are:

- a margin of negative annual contribution (not including discretionary state grants to the municipalities),
- a rate of income tax at least 0.5% higher than the weighted national average,
- a total of long-term borrowing per inhabitant at least 50% higher than the national average,
- an accumulated budget deficit,
- a degree of self-sufficiency of less than 50%,
- an indebtedness ratio of at least 50% of their own capital.

measures. Helsinki City Council has taken steps to cut spending on the general administration of the city (EUR 50 million for the 2010 budget) while certain sectors, such as education or public transport, escape this belt-tightening.²⁷ On the other hand, in the city of Espoo, those sectors will be subject to budget cuts.²⁸

71. With regard to receipts, municipalities are also able to increase parafiscal levies. One of the solutions currently under discussion at central government level would entail introducing a congestion charging system for using municipal roads during rush-hour times.²⁹ This issue raises a number of questions relevant to municipalities: Who would recoup the receipts collected (the State, the municipalities, groupings of municipalities)? What derogations would be granted, according to what economic, ecological or social criteria and to whom? Who would decide on the introduction of this charge and how would it be operated? And, finally, who would bear the costs of the system?

72. The municipalities can also manage their receipts by altering the rates charged by municipal corporations. Helsinki City Council decided to lower ticket prices on public transport to encourage modernisation of the management of the HKL (Helsinki City Transport) public transport company and attract more users.^{30 31} But that measure was possible only thanks to a state grant of EUR 5 million, of which EUR 2 million went to Helsinki.

73. To allow municipalities a greater margin of manoeuvre for balancing their budget, the central government proposed increasing their fiscal receipts by raising the thresholds within which they currently set the rate of land tax and changing the rules for dividing up corporation tax between the different levels of territorial administration.³²

74. Another project relates to VAT on food products.³³ Since this project will probably widen the gap in VAT between supermarkets and restaurants, it may impact on employment and business at municipal level. The central government envisaged a strong hike in VAT rates, which could have reached 25% in 2011.³⁴ The rate has eventually not been increased. Generally speaking, this kind of measure has powerful repercussions for the purchasing power of the less privileged members of society and brings with it an increase in municipal spending in the social welfare sector.

75. In addition, a government commission has focused on the problem of tax breaks.³⁵ The commission estimates that the State loses some EUR 10 billion per annum as a result of tax exemptions and reductions. Given that the municipalities receive a share of the receipts collected for three types of taxes (income tax, land tax and corporation tax), any modification of taxable bases has direct consequences for them and even though VAT is not among the taxes partially paid on to them, limiting deductions on it will probably be beneficial to them owing to the positive effects it might have in the area of direct taxation. That said, any reform in this sphere requires in-depth analysis before reaching any conclusions on the positive or negative effects for municipalities. Where land tax is concerned, for example, certain exemptions encourage the buying and selling of land, which stimulates business.

76. Whatever the case, the central government has undertaken to fully compensate any losses in receipts suffered by municipalities as a result of changes in tax rules by increasing transfers from the

²⁷ Helsingin Sanomat of 7.04.2009, Helsinki budget cuts will not affect school lesson framework or public transportation – Mayor Pajunen: halving of savings objectives translates to 0.5 per cent in municipal taxation.

²⁸ Helsingin Sanomat of 25.09.2009, City of Espoo considering major cost-cutting measures in education services next autumn – The Education Unit plans a 10% cut on lessons.

²⁹ Helsingin Sanomat of 5.06.2009, Congestion charging could bring the state more than EUR 100 million every year – Motorists to pay EUR 140 to 270 million annually, while mayors fear that funds would flow to province.

³⁰ Helsingin Sanomat of 3.04.2009, Helsinki City Transport to cut ticket prices in May.

³¹ <http://www.hsl.fi/EN/ticketsandfares/prices/Pages/default.aspx>

³² Helsingin Sanomat of 19.03.2009, Tax changes to bring local authorities hundreds of millions in revenue – Finance Minister to propose increase in upper limit of property tax and new division of corporate tax.

³³ Helsingin Sanomat of 18.08.2009, Minister of Finance suggests compromise over cutting VAT on food.

³⁴ Helsingin Sanomat of 25.08.2009, Main government parties planning sharp rise in VAT.

³⁵ Helsingin Sanomat of 8.09.2009, Taxation task force wants to cut back on tax deductions – Higher property tax proposed, tax breaks on dividends to be cut.

central State to local authorities. While this state aid is calculated on the basis of the different spending items, the municipalities have complete latitude to use it as they see fit.³⁶

77. Regarding the financial equalisation advocated by Article 9, paragraph 5 of the Charter, Finnish law provides for a system of horizontal financial equalisation between local units. The aim of the system is to guarantee all municipalities a volume of receipts equal to 91.86% of the mean of tax receipts per inhabitant. Municipalities with tax receipts below that threshold receive the difference in the form of a supplement to their global operating subsidy, and municipalities with income tax-derived receipts above the threshold pay 37% of the surplus to the equalisation fund. The financial equalisation is operated through central government transfers to local government, so there are no direct transfers from one municipality to another. When the media report, for example, that in Helsinki and Espoo 3% of the receipts concerned, amounting to 300 million EUR, are redistributed³⁷, they describe the fiscal dimension of the equalisation volume, rather than the transfer mechanism.

78. The equalisation of receipts is calculated for each of the municipalities, taking account of the volume of tax receipts that they could collect were they to apply the mean rate of taxation for the country.³⁸ Equalisation takes account of demographic trends linked to ageing of the population. The system is increasingly a bone of contention for those municipalities which are obliged to contribute to the equalisation fund.

79. Concerning state grants to municipalities, Article 9, paragraph 7 of the European Charter of Local Self-Government states that "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."

80. In 2009, the total amount of global subsidies paid to municipalities and groupings of municipalities reached EUR 9.4 billion while the financial equalisation funds amounted to some EUR 800 million. The delegation's talking partners did not voice any criticism of the system of state subsidy distribution. According to the draft law on the budget for 2011, the central government is looking to increase transfers to municipalities for the funding of basic public services by 1.6%.³⁹

State grants as an incentive for merging municipalities: the example of Kouvola

81. The merger of municipalities in Kouvola was undertaken essentially under the pressure of economic difficulties affecting the region. The decline of the wood and paper industry has caused heavy job losses: of the 20,000 jobs provided by that sector in the region in 1970, there remained only 1,500 in 2010. Today, the lack of job prospects is driving many young people to leave the region and gravitate towards Helsinki. The merger of municipalities was seen as a decisive move to combat that trend, as only a strong local authority would have a chance of regaining enough capacity for action to influence the economic fabric modernisation process.

82. The merger in Kouvola involved six municipalities and entailed the abolition of three inter-municipal syndicates. It was launched in 2007 and has been effective since 1 January 2009. The new merged entity has different economic and political structures.

83. The State is subsidising the merger on the basis of assessment governed by legislation. The municipalities concerned contracted a merger agreement which included not closing any schools for a period of three years. Of EUR 13 million merger subsidies spread over three years, EUR 2 million were allocated as contribution by local authorities to EU projects.

³⁶ Ministry of Finance, Budget Outlook 2011, p.25, http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/01_budgets/20101119Budget/Bk_2010_en_kku_novem_ber.pdf

³⁷ Helsingin Sanomat of 17.11.2010, Cities in Helsinki region subsidise other parts of Finland.

³⁸ For further details, see Local public sector in transition: A Nordic perspective, Government Institute for Economic Research, Publication 56, October 2010, page 165.

³⁹ Proposal on taxation and financing for local authorities made on 10.09.2010 by the Ministry of Finance to Parliament for the 2011 budget: In total, transfers from the central State to local authorities will increase by 286 million EUR in relation to the previous year. It is proposed that a total of 8,039 billion EUR is transferred from the central State to local authorities for funding basic public services. <http://www.valtioneuvosto.fi/ajankohtaista/tiedotteet/tiedote/en.jsp?oid=305694> Ministry of Finance

Article 10: Right of association of local authorities and inter-regional relations

84. The freedom of association of local authorities is guaranteed by Article 13 of the Constitution. Where inter-regional relations are concerned, Article 10, paragraph 3 of the Charter stipulates that "*Local authorities shall be entitled, under such conditions as may be provided for by the law, to cooperate with their counterparts in other States*" As the ability of local authorities to set up bodies of an inter-regional nature is mentioned neither by the Constitution nor by the Law on local self-government, reference must be made to more specialised texts, such as the Agreement of 26 May 1977 between Denmark, Finland, Norway and Sweden on transfrontier cooperation at local level.⁴⁰

85. This agreement stipulates that the local authorities of these countries are entitled to develop inter-regional contacts, on condition that this does not encroach on the powers of the central state authorities, and to propose initiatives regarding transfrontier cooperation matters, unless the latter fall directly within the competence of the State. The extended powers afforded to local and regional authorities to set up and promote transfrontier cooperation constitute real subsidiary competence. Another remarkable feature of the agreement is that it gives no precise definition of the term "neighbourhood". Consequently, transfrontier cooperation is open to all local authorities regardless of whether their territory is adjacent to the national border or whether they intend to cooperate directly with neighbouring countries.

86. The third major aspect of the agreement is the scope of powers exercised within the framework of this cooperation: "... the local authority shall decide for itself the extent of its obligations vis-à-vis the local community of another Nordic country". Therefore, sub-state authorities are in principle entitled to enter into binding obligations, as long as the international obligations of the State remain unaffected.

87. Finland has common borders with Sweden, Norway and Russia. Wide-ranging transfrontier cooperation between Helsinki and Tallinn has developed across the Baltic Sea. In particular, the two partners are seeking to develop the movement of passengers and goods and join up the railway lines linking Helsinki, Saint-Petersburg and Tallinn through the "Rail Baltica" project, which will forge a link between this part of Europe and central Europe.

88. Inter-municipal or inter-regional relations, in some cases based on long-term cooperation, play an important role in this respect. In Kouvola, transfrontier cooperation with Russia (Saint-Petersburg *oblast*) dates from 1994. Rail links were distinctly improved at the end of 2010 with the opening of a high-speed line between Helsinki and Saint-Petersburg, running via Kouvola (250 km). Cooperation with Russia also involves projects aimed at environmental protection, notably for the purification of water in large urban districts, and at developing an integrated policy to protect the Baltic Sea. Other interesting aspects of inter-regional cooperation include cooperation under old treaties between Finnish and Swedish municipalities⁴¹ and the drive to step up economic relations between Finnish and Russian regions.⁴² Indeed, the question of economic relations with Russia is a matter of national importance in Finland, particularly regarding mutual direct investment and the volume of trade.⁴³

Article 11: Legal protection of local self-government

89. Article 106 of the Constitution (Primacy of the Constitution) states that "If, in a matter being tried by a court of law, the application of a law would be in evident conflict with the Constitution, the court of law shall give primacy to the provision in the Constitution." As municipal and regional self-government are guaranteed by Article 121 of the Constitution, the municipalities and regions are therefore entitled to apply to the competent judicial bodies in cases where they consider that the State has infringed this principle. The question arises whether the Association of local authorities is entitled to lodge such an application but has not been brought up in the debate in Finland. Local authorities are mainly regulated by legislation, whose conformity with the Constitution is monitored by Parliament (the

⁴⁰ S. Romanov, Interregional Cooperation in Northern Europe, *International Affairs*, No. 3, Vol.44, 1998, pp. 62-70.

⁴¹ Helsingin Sanomat of 22.09.2009, *Border drawn by 200-year-old Treaty of Fredrikshamn is non-existent in practice – Finnish Tornio and Swedish Haparanda are almost one and the same city.*

⁴² Helsingin Sanomat of 1.11.2010, Russian Karelia is looking for better transport services to Finland.

⁴³ Helsingin Sanomat of 26.01.2010, Cooperation with Russia is not enough to save Finnish economy – Statistics exaggerate the volume of Finland's exports to Russia, while Finnish investments in Russia are insignificant.

Constitutional Law Committee). The Chancellor of Justice monitors the legality of Government action, for example that of Government decrees. The Association of Finnish Local and Regional Authorities is heard by the Constitutional Law Committee and has also contacted the Chancellor of Justice in cases where it has found decrees under preparation to be unconstitutional.

Article 12: Undertakings made by the State and any reservations

90. As mentioned before, Finland has made no reservation or declaration in respect of the European Charter of Local Self-Government (ETS No.122).

3.4. Regional democracy

91. For regional democracy, there are two reference texts: the European Charter of Local Self-Government, a binding standard whose application may be extended to the regional level pursuant to Article 13, and the Reference Framework for Regional Democracy⁴⁴ which the Congress and the Parliamentary Assembly of the Council of Europe must take into account in their monitoring work (Congress Resolution 299 (2010) and the reply made by the Committee of Ministers to the Congress Recommendation 282 (2010) (CM/Cong(2011)Rec282 final).

Regional architecture

92. In Finland, public authority powers are exercised at regional level in four different forms: administrative decentralisation of the State at regional level, regionalisation of local self-government via the setting up of inter-municipal units, experimentation with a more elaborate form of regionalisation in the strict sense in the case of Kainuu and regional self-government in the case of the Åland islands.

93. Like all the Nordic countries, Finland has a network of decentralised administrations and a regionalised geographical fabric. The interoperability and two-way relations between decentralised administrations and local and regional authorities are key to the exercise of the powers of different levels of government. Obviously, any reform of the state administrative network will have an impact at local level. The far-reaching reform of regional state administrations undertaken by Finland since the 1990s affects not only the State but local and regional authorities too. It has resulted in the abolition of the provinces as of 1 January 2010, these already having been cut in number by the reform of regions launched in 2007. Accordingly, the present report takes account of state reforms, in progress or planned, which may have major ramifications for the architecture and foundations of local and regional self-government. However, during its visit, the delegation was not informed of any legal, political or administrative procedures by its talking partners that would suggest that these reforms have strong repercussions for the correct functioning of local democracy in the country.⁴⁵

94. In Finland, the strengthening of local self-government at the level of the regions has happened in two ways in the past: by developing inter-municipal consortia and by regionalisation in the strict sense of the term. As the Minister of Public Administration and Local Government put it during the visit of the Congress delegation: "inter-municipal consortia and regionalisation are two different aspects".

95. The benchmark is set by the Charter of local self-government, either directly where inter-municipal consortia are concerned, or indirectly for truly regional units, since Article 13 of the Charter extends the instrument's scope to all categories of local authorities existing on the territory of the Contracting Party. In any case, the Reference Framework for Regional Democracy does not constitute a binding standard and cannot serve as a basis for recommendations in the present report.

96. Concerning the fourth mode of regional administration, i.e. the self-governing status of the Åland islands, the special characteristics of that status require separate analysis.

⁴⁴ Adopted at the Conference of European Ministers responsible for local and regional government in Utrecht on 16 November 2009.

⁴⁵ For further details, see the OECD report: Public Governance Review of Finland, Paris, 2010, pp. 75 sqq.

Inter-municipal consortia as an instrument of cooperation at regional level

97. Inter-municipal cooperation is the standard mode of local self-government organisation for managing prerogatives which, for a variety of reasons, are beyond the capabilities of a single municipality. It is provided for in Article 10, paragraph 1 of the Charter, which states that "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." Inter-municipal consortia as regulated by the Finnish Law on local self-government comply with this principle. Article 76 of that law, entitled "Forms of cooperation", stipulates that "By virtue of an agreement, local authorities may perform their functions jointly. Local authorities may agree to have a function performed by one local authority on behalf of one or more other local authorities, or that a function will be performed by a joint municipal board. Local authorities may also agree that a function placed by law within the remit of a local authority or one of its authorities, in which power can be delegated to an officeholder, shall be delegated with public liability to an officeholder in another local authority."

98. So in principle, the law makes it possible to organise the management of all powers within the framework of inter-municipal cooperation, making it a very important instrument. The comparative advantages of inter-municipal consortia over other forms of cooperation such as mergers of municipalities, the scope of cooperation, means of democratic supervision, and other practical aspects are now a central theme of discussion.

99. The Association of Finnish local and regional authorities emphasises the following aspects:

- Effectiveness: What level of administration is capable of guaranteeing the most effective services?
- Transparency of the administrative fabric: For specialised health care alone, there are twenty or so different types of inter-municipal structures.
- The complexity of managing inter-municipal consortia: There may be different types of contracts linking the partners.
- Democratic supervision: The local elected representatives sitting on inter-municipal consortia bodies define the powers of the inter-municipal syndicates, the quality of services and the means of supervising the acts of those bodies and make available the necessary financial resources.
- The financial ramifications for the base municipalities: The budgets of inter-municipal consortia are usually covered by funds drawn from the resources of municipalities.

100. According to the Minister of Public Administration and Local Government, the municipalities have a substantial margin of manoeuvre for organising their services in forms other than the public model. The setting up of joint-stock companies is generally possible, with no upstream checking by the State. But the decisions of those bodies remain subject to the usual judicial supervision. Moreover, it is in the State's interest that the municipal structures given responsibility for basic services are not too complicated.

101. For the mayor of Helsinki, the aspects determining whether or not inter-municipal consortia are successful are the possibilities of participation open to citizens and the proximity of local services, the transparency and democratic nature of decision-making structures, the limitation of hierarchical levels and the fair allocation of tax receipts between inter-municipal consortia partners.

102. The representatives of the merged municipality of Kouvola expressed a number of doubts over the effectiveness of inter-municipal consortia, which they saw as being characterised by a "jungle of agreements" between the different partners. They thought that the merger had simplified matters by making the situation more transparent and helped to reduce inequalities, as well as staff numbers, despite an increase in staffing in the health sector. They believed that the choice between inter-municipal consortia and mergers as means of organising the management of local affairs at the higher regional level was quickly made.

103. For its part, the Finnish Parliament had asked the Government (Report 31/2006 on the application of the law) to take the outcome of the reform into consideration and had elaborated and adopted its own report (37/2010) based on Law 169/2007 on the improvement of municipal services through, inter alia, the strengthening of inter-municipal consortia.

104. The Parliament of Finland drafted three opinions on inter-municipal consortia in order to analyse current problems; however, no legislation has yet been adopted thereon.

105. Regarding the financial aspect, the budget of inter-municipal structures is usually covered by funding drawn from the budgets of the member municipalities. These structures also benefit from state grants. They must budget programming over four years and their budget must be balanced.

Regionalisation

106. The Finnish Constitution opens the way for the setting up of administrative sub-divisions "larger than a municipality" whose self-government is "laid down in a law" (Article 121, paragraph 4). On this legal basis, Finland's regional architecture is characterised by self-government exercised at two geographical levels.

107. Article 1 of the Law on the division of the territory into regions (no. 1159/1997) stipulates that "For regional development and spatial planning, the country is divided into regions. An area to be named as a region is composed of municipalities which form together, functionally and economically as well as for the purposes of the planning of the area, an appropriate whole. The number, demarcation and names of the regions shall be decided by the Government after consulting the regional councils and the municipalities concerned. All questions shall be submitted to the ministry responsible for land use planning for comment, prior to being submitted to the Government. Unless there are special reasons to the contrary, the area in which state regional administration authorities exercise their powers shall be determined by the division of the territory into regions in a manner allowing them to exercise powers within one or more regions. The Government shall adopt, as appropriate, further provisions on procedures for harmonising the territorial boundaries in which the powers of state regional administration authorities are exercised."

108. Furthermore, Article 5 of the Law on regional development (no. 1651/2009), which assigns responsibility for regional development to municipalities and to the State, stipulates that "the Regional Council as the regional development authority is responsible for the management of functions related to regional development within the region. Regional Councils are joint municipal boards, of which the municipalities in the region must be members."

109. This means that Finnish legislation has created a regional body vested with clearly demarcated powers, notably for regional development, spatial planning and urban development. All the provisions governing the functioning, structures and finances of regions reflect local law, meaning that local self-government is also manifested at regional level.

Internal organisation and status

110. Concerning inter-municipal consortia, Articles 78 and following of the Law on local self-government contain the base elements framing the functioning of joint municipal boards; Article 6 of the European Charter of Local Self-Government is therefore complied with.

111. In 2005 the government launched a scheme to reform local services. This reform will be fully effective by the end of 2012. The details were settled in Law no. 169/2007 of 9 February 2007 on the restructuring of municipalities and municipal services. The first Article of this law sets out its aims, which are essentially to reorganise the services provided by municipalities according to criteria of profitability, efficiency and quality and to ensure funding for them while keeping spending under control. As this reform is in progress, its effects cannot yet be evaluated.

Financing: resources, borrowing and financial equalisation

112. With regard to inter-municipal consortia, Article 83 of the Law on local self-government, on the financing of joint municipal boards, stipulates that "member authorities shall be liable to finance joint municipal board expenses that are not otherwise covered as agreed in the charter [instituting the joint municipal board] regarding the sharing of liability between member authorities."

113. Chapter 8 (Local finance) of the Law on local self-government is applicable *mutatis mutandis* except for the obligation to cover deficits (Article 65, paragraph 3: "If the balance sheet of the current year is not estimated to show accumulated surplus, the financial plan must be in balance or show a surplus for a maximum planning period of four years." It is noteworthy that, according to these provisions, inter-municipal structures are not bound to cover the budget deficits that might arise at the end of that four-year period.

114. Regarding regions' finances, Article 4, paragraph 2 of Law 602/2002 on regional development stipulates that "regional councils are joint municipal boards of which the municipalities in the region must be members". Accordingly, the rules applicable to them in the area of finance are the same as those for inter-municipal structures.

3.5. The situation of regional democracy

Powers of regions

115. The Association of local authorities has raised the question of redefining the division of powers between levels of territorial administration owing to the increase in costs falling upon local authorities, particularly in the health and social services sectors. But it does not appear that central authorities intend to significantly change the allocation of powers. For the Minister of Public Administration and Local Government the important point is the financial capacity of the municipalities to exercise their powers. Accordingly, a reform would be along the lines of the 2007 Law on the restructuring of municipalities and municipal services. According to its first Article, the aims of the law are essentially to improve the productivity and efficiency of local services and curb the escalation of local spending while guaranteeing those services and their quality throughout the country.

116. The representatives of the Helsinki-Uusimaa region would like to go further. In a situation where planning and management are strictly separated, they are calling for a unified approach. Such a concentration of powers would have ramifications for other regions and the State, and that is why the national authorities are opposed to it.

117. Where the scope of regions' powers is concerned, it is noteworthy that the autonomy of the Åland islands is a source of inspiration to other Finnish regions which would like broader powers themselves: the North-East is seeking tax exemptions, while the Kainuu region is calling for more powers in the health sector.

Relations with other levels of territorial administration

118. The Law on local self-government (Article 8, paragraph 3) provides that "The legislation on local authorities, matters of municipal administration and finances that are important and far-reaching in principle, and coordination of state and municipal finances shall be dealt with in a negotiating procedure between the State and local authorities, provisions on which will be laid down by decree."

119. Other specialised laws impose consultation between central and local authorities, such as Article 3 of Law no. 132/1999 on land use and construction (amended by law no. 222/2003), intended to guarantee coordination of regional spatial development plans with the goals pursued by national policy in this area. Another example is Article 26, paragraph 1 of Law no. 1651/1999 on regional development, concerning the joint drawing up of annual plans for implementing regional strategic programmes.

120. These principles are valid for all relations between the different levels of territorial administration and open up broad scope for Finnish municipalities for cooperation with the State, both legally and in practice.

Involvement in state decision-making

121. The European Charter of Local Self-Government does not recognise a right for local authorities to be involved in state decision-making. On the other hand, the Reference Framework for Regional Democracy proclaims this right for regional authorities (Article 1.d). As previously mentioned (see paragraph 118), Article 8 of the Law on local self-government obliges the State to "negotiate" with municipalities with regard to financial coordination. In addition to that legal obligation, it is usual practice, in Finland, for local and regional authorities to be consulted within the framework of the central authority decision-making process via their association.

122. The negotiation procedure is organised by the Advisory council for the economy and administration of municipalities, a coordination body coming under the Ministry of Finance. It is a parity-based body consisting of an equal number of representatives of three ministries and the Association of local and regional authorities. It considers all draft legislation prepared by the government – including drafts deriving from European legislation – and other particularly important

dossiers. It also examines the sections of the budget covering local public finance, evaluates the outlook for local public finance and supervises the functioning of the system of transfers from central government to local authorities.

123. Concerning the participation of municipalities in European affairs, the procedure is as follows: when the European Commission informs the Finnish Government of draft European legislation, the competent ministry prepares a position statement, which is submitted for examination by a community policy coordination and mediation unit, made up of representatives of Finland's ministries and administration. There are several units specialising by sector, which may hold enlarged or select sittings, depending on the case. When enlarged sittings are held, the Association of local and regional authorities is entitled to send a representative if the application of the community legislation concerned falls within the competence of local authorities. The extent to which municipalities may participate in European affairs is linked, therefore, to the allocation of infra-state powers. When the members of a coordination unit are unable to agree on a common position, the question is forwarded for arbitration to the inter-ministerial committee for community affairs, which meets once a week.

Supervision of regional authorities by central authorities

124. Arrangements for supervision of regional authorities by the central state administration are the same as for local authorities (see paragraphs 51 to 58 above).

Protection of regional self-government

125. As previously mentioned (see paragraph 89) regional self-government is also guaranteed by Article 121 of the Constitution: "*Provisions on self-government in administrative areas larger than a municipality are laid down by a law*". The principle of this self-government, and *a fortiori* the possibility of establishing regional units, is therefore guaranteed by the Constitution. The fact that Finland has used this possibility only in exceptional cases of limited scope (for example with Law no. 343/2003 on the conducting of an administrative experiment in the Kainuu region) does not change this situation in any way. There is no constitutional obligation to distinctly broaden the scope of regionalisation or fundamentally change the architecture of existing regional authorities.

Right of association

126. There is no difference between the provisions applying to regions in this respect and those applying to municipalities.

External relations

127. The same may be said for external relations. There is a long tradition of transfrontier and inter-regional cooperation. Special law provisions define specialised powers, such as Article 7, paragraph 1, indent 7 of Law no. 602/2002 on regional development, which stipulates that regional councils manage international matters and contacts related to their functions. In the Kymenlaakso Region (Kouvola), this provision has been applied since 1994 to relations with Saint-Petersburg *oblast*.

Internal organisation of regional authorities

128. Like municipalities, regions have very broad freedom for organising their internal administrative system, in accordance with the provisions of the Law on local self-government (Article 16).

Regional organs

129. The central organ of the region is the regional council; in fact this is an inter-municipal council, or "joint municipal board" (see Article 4, paragraph 2 of Law no. 602/2002 on regional development), which wields decision-making power in the region. Specialised laws set out the powers delegated to regional councils in detail. As far as regional development is concerned, Article 7 of Law no. 602/2002 lists a total of 8 different powers, including responsibility for the overall development of the region. Article 7, paragraph 2 of this law further broadens the powers of regional councils by making them competent to "*act as the state aid authority referred to in the Law on discretionary government transfers when granting the support referred to in Chapter 4*".

130. In the case of the Helsinki-Uusimaa Region, the regional council comprises 78 members (68 up to 2010) who represent the region's municipalities. The regional council sits twice a year. The number of seats allocated to municipalities depends on their size: those with more than 80,000 inhabitants receive 20 seats, while the others receive 10 or two seats, again depending on their size. The minimum allocation is one seat for municipalities with fewer than 1,000 inhabitants. The councillors and their substitutes are elected for two years.

131. Up to 2010, the region's executive committee consisted of 20 members, including 5 for Helsinki, 3 for Espoo and 3 for Vantaa, making 11 members for those three towns. Since 2011, the committee has had 22 members, meaning that the three towns have lost their majority.

Financial resources of regional authorities

132. The regions do not have the power to collect taxes. They are funded by their member municipalities, and their budget is usually a modest one. The Helsinki-Uusimaa Region has a budget of EUR 9 million for example. Helsinki, which represents 38% of the region's population, funds 31% of the budget.

Financial equalisation and transfers

133. Financial equalisation does not work in the same way in joint authorities as in local authorities, because the former do not receive tax or other revenue that could be equalised; instead, they raise their revenue mainly from their member local authorities.

3.6. Experiments with regionalisation: the case of the Kainuu Region

134. Under Law no. 343/2003 of 9 May 2003, Finland has implemented a regionalisation process on an experimental basis in the Region (former province) of Kainuu. The experiment was launched on 1 January 2005 (Article 46 of the law) and will end on 31 December 2012. The overall objectives are to enable the regional authorities concerned to gain greater experience in the area of municipal service organisation, citizen participation and coordination of services between the regional self-governing entity and the central authorities.

Regional architecture

135. The powers transferred to the Region include planning, general economic policy, regional development, health, social services and education. The Region also exercises powers in the area of fiscal and IT administration. Some 60% of the municipalities' functions have been transferred to the Region (Article 21 of the law).

Internal organisation and statute

136. The Region has a regional (provincial) council consisting of 59 members directly elected by its inhabitants (Article 24 of the law) for a 4-year term.

Funding: resources, borrowing and financial equalisation

137. The Region's funding is provided by the member municipalities, which pay on around 60% of their total receipts. In addition, a Kainuu development fund, dependent on the budget of the Ministry of Employment and the Economy has been set up. The earmarking of resources from that fund is the prerogative of the regional council.

138. The relevant ministries are closely observing the experiment carried out in Kainuu. According to a recent monitoring report, it has helped to facilitate decision-making in the municipal councils, cut the costs of services, make savings and consider new ways of providing services.^{46,47}

⁴⁶ Antti Moisio, Heikki A. Loikkanen, Lasse Oulasvirta: "Public Services at the Local Level – The Finnish Way", in *Local public sector in transition: A Nordic perspective*, Government Institute for Economic Research, chapter 4, p. 172.

⁴⁷ *OECD Public Governance Review for Finland*, OECD, 2010, pp. 148-172.

139. The experiment is still ongoing.^{48 49} An evaluation was carried out by the University of Tampere.⁵⁰ The results have been viewed in a positive vein. The government had several options for following up the project: either to capitalise on the experiment by setting up a real regional unit, or to end the venture in 2012 by grouping the participating local authorities in a merged municipality, or to pursue the scheme on the basis of new strategies in the light of the results obtained.

140. Where the first option is concerned, there are currently no political plans to consolidate the effects of regionalisation and take the Kainuu Region down the route of full-blown regionalisation. The follow-up group for the regional self-government trial in the Kainuu region proposed to strengthen the model and make it possible to adopt it in alternative ways. Eventually, it was decided to extend the trial for another four years until 2017. In this context it would be possible to introduce amendments in the Local Government Act and in the legislation governing the organisation of health care and social welfare at the same time.

3.7. The special case of the Province of Åland

141. The autonomy of the Åland Islands is recognised by Articles 75 and 120 of the Constitution, with reference to the Law on the Autonomy of the Åland Islands, which, in its 1993 version, governs that region's legal status. This law, like the previous ones, transposes a decision of the Council of the League of Nations of June 1921 on the autonomy of Åland. Among the most interesting provisions of this law are Article 18, on the legislative powers of the Province of Åland, Chapter 5, defining the authority of the central State, and Article 51, concerning special subsidies from the central State.⁵¹

142. According to the competent minister, the Province of Åland plays a very special role in the constitutional context of Finland, for both legal and demographic reasons (the region has only 28,000 inhabitants, divided between 16 municipalities). No alteration of its status, which would prove difficult in any case given the international implications, is envisaged by the political authorities in Helsinki.

143. Several issues are currently fuelling the debate on the autonomy of the Åland islands, such as the standard of living, higher than the rest of the country,⁵² the amount of state subsidies per inhabitant,⁵³ the region's involvement in European affairs,⁵⁴ its demilitarised zone status,⁵⁵ or increased immigration.⁵⁶

144. The Congress delegation focused on the issues relating to autonomous economic development, the financial relations between the central State and the Province of Åland and the issues linked to Åland's participation in foreign relations, particularly in the European sphere. In this respect it would appear that the Åland Islands are blazing the trail for Finnish municipalities.

145. The governor of the Province of Åland told the Congress delegation that the administrative reform which had abolished Finland's provinces as of 1 January 2010 (see paragraph 92) had had no ramifications for the islands, which enjoyed broad legislative autonomy, particularly in terms of local

⁴⁸ See Ministry of Finance, 1.01.2011, Kainuu self-government process, situation in 2011.

⁴⁹ Antti Moisio, Heikki A. Loikkanen, Lasse Oulasvirta, op. cit., see note no. 40.

⁵⁰ Antti Jäntti, Jenni Airaksinen and Arto Haveri (2010): *Siniset ajatukset. Vapaasta pudotuksesta hallittuun sopeuttamiseen* (Reveries - from free-falling to controlled adaptation.) The impact of the Kainuu Region self-government experiment. Ministry of Finance publications 20/2010. 226 pages. ISBN 978-952-251-067-9 ISSA 1459-3394. (available in Finnish and Swedish only).

⁵¹ "Article 51 – Special subsidy

The autonomous region of Åland shall be subsidised from State funds in order to

1) prevent or remove substantial economic problems that affect Åland in particular;

2) cover the costs of a natural disaster, nuclear accident, oil spill or other comparable incident, unless the costs are justifiably to be borne by the autonomous region of Åland.

The Government of Åland shall initiate the proceedings for a subsidy at the latest during the year following the emergence of the costs. A decision on the matter shall, if possible, be taken within six months of the initiation of the proceedings".

⁵² Helsingin Sanomat of 19.02.2010, Åland Islands enjoy highest standard of living in Finland.

⁵³ Helsingin Sanomat of 19.04.2010, Åland residents get most state money per capita.

Helsingin Sanomat of 16.09.2010, Åland in dispute with mainland over wind power subsidies.

⁵⁴ Helsingin Sanomat of 24.04.2009, Åland Islands to be involved in handling of EU matters.

⁵⁵ Helsingin Sanomat of 8.12.2009, Those wrathful Ålanders on their demilitarised islands.

⁵⁶ Helsingin Sanomat of 23.04.2010, Sharp increase in non-Nordic immigration to Åland.

self-government. Relations between the municipalities and the Province of Åland are governed by a clear functional distinction between the two levels. The municipalities do not exercise all the powers attributed to them by the law: given their relatively small size, it has been necessary to adapt the allocation of powers. It should also be noted that the political spectrum, particularly with regard to the parties represented in Parliament, differs somewhat from the rest of Finland.⁵⁷

146. As far as relations with the European Union are concerned, Protocol no. 2 to Finland's Act of accession to the European Union sets out the special characteristics and rights of the Province of Åland. Tax exemptions, notably in the area of VAT, are particularly important, giving the Åland Islands a status similar to that of the Channel Islands. The Province of Åland also enjoys the right to transpose community norms into its own law if the matters concerned fall within its powers under the Law on autonomy.

147. Financial relations with the central State are governed by special provisions enabling the Province to keep the municipal tax receipts it collects. The 2010 budget of the Province and the municipalities totalled around EUR 300 million.

148. The areas of disagreement between the central State and the Province include the regional monopoly on gambling, disputed by the Finnish Government. There are also political divergences between the government of Åland, which believes that the Finnish State must remain the guarantor of autonomy for the islands, and the separatist party, which is calling for an independent State.

Regional architecture

149. The legislative power granted to the Parliament of the Province of Åland by Article 17 of the Law on autonomy is governed by Article 18 of that law, which lists the areas in which the Parliament of Åland may legislate.

Inter-municipal consortia

150. Under Article 18, paragraph 4 of the Law on autonomy, the Parliament is competent *inter alia* for municipal administration, which covers all questions regarding inter-municipal consortia.

Internal organisation and statute

151. The Parliament also has the power, again under Article 18 of the Law on autonomy, to decide on its organisation and that of the regional government.

Funding: resources, borrowing and financial equalisation

152. The Province of Åland has powers in the area of taxation (Article 17, paragraph 5 of the Law on autonomy) which, among other things, entitle it to levy an additional income tax. Financial relations with the central State are governed by chapter VII of the Law on autonomy of 1993 (see above), which also provides for exceptional subsidies from the Finnish State in the event of special economic difficulties or disasters (Article 51).

153. The main source of funding is the sums paid by the State to the Province for the purposes of equalisation under Article 45 and following of the Law on autonomy. The equalisation grant is calculated retrospectively for the previous year, with an advance paid for the current year. It usually amounts to 0.45 % of the central State's budget receipts not including borrowing.

154. Economically speaking, the Province of Åland has come through the crisis relatively unscathed and is in a favourable position. Under domestic law, the government of the Province is normally under obligation to balance the budget. However, owing to the lack of an appropriate regulatory framework, it has no control over the budgets of the municipalities. Depending on needs, it may grant them discretionary financial aid (which may represent up to 50% of their budget) in order to support their demographic policy or child welfare work.

⁵⁷ For further details, see <http://www.lagtinget.ax/text.con?iPage=18&m=225>

Relations with other levels of territorial administration

155. Given the special status of the Province of Åland, there are specific rules governing its relations with the Finnish State. Beyond the obligation imposed on the central authorities to consult the government of the Province on all matters that concern only the Province of Åland or are of particular importance to it (Article 33 of the law), two institutions have special responsibility for relations and cooperation between the entities concerned: the Governor (Article 4) and the "Åland Delegation" (Article 5).

156. The Governor fulfils a dual function, representing the Republic of Finland in the Province of Åland and communicating Åland's interests to the national government. He or she may address the regional Parliament but is not entitled to vote.

157. The Åland Delegation comprises five members: the Governor, Chair of the Delegation, two members appointed by the Government of Finland and two members appointed by the Parliament of Åland. It is competent chiefly for the budget and for matters relating to self-government (Articles 56 and 62).

Involvement in the decision-making of the Finnish State, external relations

158. The Province of Åland has substantial powers regarding participation in international and European affairs, governed by chapters 9 and 9a of the Law on autonomy respectively. It must be consulted during the negotiation of international treaties on matters falling within its competence at domestic level. With regard to relations with the European Union, it has special rights under Protocol no. 2 to Finland's Act of accession to the European Union (see paragraph 1444). It is represented by one member in the national parliament and one member on the Committee of the Regions of the European Union. It also has an administrative representative in Brussels. On the whole, the principle of subsidiarity between the Finnish State and the Province of Åland is complied with.

Supervision of regional authorities by central authorities

159. Although the Province of Åland freely exercises broad legislative and administrative powers, its acts are subject to verification of their lawfulness (Articles 19 and 60 of the Law on autonomy). These provisions are applied with the utmost caution by the authorities concerned so that they respect the scope of Åland's autonomy as far as possible while guaranteeing the fundamental interests of the Finnish State.

4. HUMAN RIGHTS AT LOCAL AND REGIONAL LEVEL

160. Regarding the implementation of human rights at local and regional levels, the Congress delegation was informed of certain good practices in Finland which it believes worthy of mention.

4.1. General precepts

161. Protecting human rights at local or regional level is generally the task of the "Chancellor of Justice", who monitors the constitutionality of legislative and administrative acts, including in the sphere of human rights. In addition, the Parliamentary Ombudsman is also tasked with monitoring respect for human rights.

162. The terms of reference of the Chancellor of Justice regarding the supervision of human rights are set out in his 2009 report,⁵⁸ in particular in chapter II "Overview". Chapter IV "Supervision of fundamental and human rights" sets out the findings of that supervision, particularly concerning respect for human rights by "other authorities".⁵⁹ The Chancellor of Justice exercises supervision on the basis of individual complaints and on-the-spot inspections or conducts investigations at his own initiative, carried out by his departments.

⁵⁸ http://www.coe.int/t/dghl/cooperation/cepei/profiles/Report_finnish_chancellor_justice_en.pdf

⁵⁹ See pages 44-46.

163. In his 2009 report,⁶⁰ it appears that the Chancellor of Justice proceeds on the principle that even if a complaint does not expressly refer to provisions specifically relating to fundamental rights or human rights conventions, these must nevertheless be considered when examining a case. Most of the decisions taken on individual complaints are founded on special domestic legislation applicable in the human rights sphere without it being necessary to rely on the norms enshrining fundamental rights.

164. The Finnish State has transposed most human rights guarantees in special legislative texts, and it is unsurprising, therefore, that citizens' complaints in the human rights field do not expressly cite the Constitution (Article 22) or the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, but rather these specific domestic provisions, particularly those linked to social, education and health policy.

4.2. Particular cases and good practices at local level

165. The cases monitored by the Chancellor of Justice relating to the functioning of local authority administrations are mentioned in chapter VII of the report and include the following issues:

- subsistence support (handling times for applications and the right to receive this support);
- child protection;
- treatment and examinations undertaken in municipal hospitals and health centres.

166. The delegation observes that, generally speaking, the report of the Chancellor of Justice does not record any violations of human rights or fundamental rights.

167. Where human rights protection mechanisms at local level are concerned, several approaches appear to be used, including:

- identifying theoretical problems in the human rights sphere for specific population groups;
- devising schemes within the local administrations concerned to remedy situations not complying with respect for human rights;
- developing criteria for evaluating the effectiveness of measures aimed at protecting human rights.

168. The legal basis for action by the Chancellor of Justice to develop schemes in the area of education is the law on basic education (Law no. 628/1998, Article 4, paragraph 1): "The local authority shall have an obligation to organise basic education for children of compulsory school age residing in its area and pre-primary education during the year preceding compulsory schooling."

169. The aim of preparatory teaching dispensed by the different teaching establishments is to prepare immigrants - particularly children - for integration in the Finnish education system and thereby the society of the host country. The education provided is geared to sustaining the cultural identity of immigrants and ensuring bilingualism: in addition to Finnish or Swedish, they will also have sound knowledge of their mother tongue.

170. The law entitles immigrant children living in the municipality to receive education in the same way as the native population. They will undergo preparatory teaching in order to acquire adequate skills in Finnish or Swedish and other subjects necessary to ensure success at school through insertion in pre-primary or basic education groups.

171. In this context, Helsinki City Council (department of education) has developed good practices for promoting human rights for the benefit of various minority groups in schools. The "MANUVA" project is aimed at "providing global support for the learning and well-being of all pupils and students in Helsinki's schools" and the measures it introduces include:

- highly qualified teachers;
- supplementary learning;
- part-time special education;
- special education (integrated, special classes, special schools);
- specialised staff: school psychologists, social workers, school nurses, school assistants;
- positive discrimination: more financial backing for schools in areas of low economic performance.

⁶⁰ See page 44.

172. Comparable measures are also implemented for special needs pupils in special schools and in hospitals used as resource centres.

173. Special emphasis is placed on multicultural education in Helsinki. Successful insertion of foreign nationals in Finnish social, economic and political life is largely down to the fact that systematic inclusion measures are implemented at a very early stage. Classes focus on the teaching of the Finnish language (lessons given in English) and also of other languages (43 in total) to maintain and develop language skills and encourage pupils to use their mother tongue as an instrument of cultural identity. This arrangement is underpinned by the following components:

- financial backing for basic education;
- evaluation by the school of the need to learn Finnish as a second language and the organisation of classes;
- voluntary education in the mother tongue;
- separate religious education classes.

174. Another scheme judged to be very important by the Congress delegation and worth underlining is the educational support provided for Roma pupils which was started up in 2008 and will continue at least until the end of 2011. The Finnish national education council has supported this scheme in compulsory education, aimed at cutting levels of drop-out and repeat years. Special efforts are made to cover the costs of schooling in the Romani language (listed as an endangered language by UNESCO).

175. As the scheme has not yet been completed, there has been no evaluation, but it is clear that the Finnish approach geared to integration measures from childhood is of fundamental importance as it can help to prevent human rights violations at a later stage in the development of children and young people in general.

176. At regional level, the delegation learnt of one case dealt with by the Ombudsman relating to the "Law on fees paid by customers receiving social and health care services" in respect of the associated free State of Åland. He noted in this connection the difficulty of transposing Finnish laws into a law of the associated free State of Åland, the complexity of the legislative issue and the swiftness with which the municipality had drawn conclusions from its mistake, once recognised, in response to a citizen's complaint (OKV/100/1/2007). This case demonstrates the worth of the institution of the Ombudsman, who approaches the complaints referred to him in a concrete and constructive manner. His role is not to punish but to give guidance and advice, the aim being to transpose legislation in the most appropriate manner possible. Even so, if the Ombudsman is required to deal with a situation where he finds that there is an infringement, he may serve notice of it with a view to an indictment. Accordingly, he acts like a filter for applications. The value of this institution as organised in Finland merits being promoted in Europe, as recommended by the Congress.

177. Where the administration of supervision of respect for human rights is concerned, it should be noted that there are no local ombudsmen, as these territorial units are too small to occupy an official. However, "supervisory committees" have been set up at local level to guarantee the quality of services provided by the local entities responsible.

5. CONCLUSIONS

178. In Finland, local democracy is a real cornerstone of democratic life in that country. It is clear from the organisation of the local level of authority, whose importance is recognised by the Constitution, and its relations with the other levels of territorial administration that the legitimacy of the exercise of power is firmly rooted in the principles of subsidiarity and local democracy.

179. The fact that 150 of the 200 deputies in Parliament serve a local mandate at the same time and half of that number (75) are also members of local executive bodies means that local democracy is all the more strongly implanted in the Republic's institutions. Some of the delegation's talking partners took a rather positive view of multiple office-holding, explaining that "if deputies hold multiple offices to that extent, it is certainly a confirmation at national level of the political legitimacy they have acquired locally."

180. The rapporteurs were able to see at first hand the deep-rooted constitutional tradition on which local self-government reposes in Finland. It enjoys real recognition from national institutions, reflected in political practice, and effective protection from the competent courts. Moreover, cooperation and coordination between territorial authorities are very real and guaranteed by a powerful and influential federating association.

181. No representative of the institutions visited by the delegation reported any problems that might raise concerns over the application of the European Charter of Local Self-Government of 1985 or any serious shortcomings or malfunctions of organs of local democracy.

182. One of the major difficulties stems from the ageing of the population, which is forcing all levels of territorial administration to constantly review the division of powers and procedures for exercising them in order to maintain their effectiveness and guarantee social and economic services of a satisfactory standard. In concrete terms, demographic and socio-economic trends are translated by heavy increases in spending on health, social welfare and education, which threatens the budgetary viability of local authorities, obliging them to reorganise their services, either by entering into reinforced cooperation through inter-municipal consortia or even mergers, or by outsourcing.⁶¹ These difficulties are further exacerbated by the current financial and economic crisis, aggravating budgetary imbalances in a number of municipalities, forcing them to make their operations yet more profitable.

183. As regards spatial planning, growing asymmetry may be observed between rural and urban areas, which is due to sweeping changes in the country's socio-economic structures. Consequently, there is probably no longer any single model of local self-government. Indeed, some of the delegation's talking partners voiced the need for legislative initiatives that would allow greater diversification of local self-government structures according to their needs. In this connection, the status of the capital city is yet to be determined. Helsinki City Council tends to favour development on an inter-regional and international scale and is seeking to get the entire urban district behind this idea, while staking its claim to take the guiding role. The other municipalities in the urban district would be willing to become associated with an internationalisation process only on the basis of balanced cooperation.

184. Similar trends are visible in other European countries. In view of the importance and central role of local self-government in Finnish political life, the delegation believes that it would be interesting to observe how the Finnish authorities respond to these difficulties in order to preserve the high level of local autonomy in the country and to see what instruments and solutions they implement to that end and the time it takes them to do so. Finland may indeed serve as a benchmark in this respect owing to the exemplary legal, economic and political conditions setting the scene for the debate on the future development of local self-government, particularly regarding the direction, pace and scale of the reforms envisaged.

185. However, Finland remains undecided at present as to which path should be taken for regional democracy. The political parties said little on the matter on the eve of the parliamentary elections in April 2011. The country seems to be opting for more inter-municipal consortia or mergers of municipalities rather than developing regional structures as such. The experiment carried out in Kainuu, which ends in 2012, therefore remains marginal. While the pros and cons of this model are closely scrutinised, it does not seem destined to become the norm.

186. The autonomous status of the Åland islands is regarded as a case apart, which cannot be transposed elsewhere in the country. It is fully institutionalised and largely accepted, even though certain aspects, particularly in the financial and economic sphere, are bones of contention between the regional authorities and the central State.

187. Given that local democracy is deeply rooted in Finland, the delegation appreciates and respects the misgivings of the central authorities over setting up overly large and overly powerful regional units, misgivings prompted by a concern to respect the principle of subsidiarity and, therefore, of local democracy. It should nevertheless be pointed out that calls for greater regionalisation and a broader scope of prerogatives for regional authorities are increasingly heard: the North-east of the country has called for tax exemptions, while the Kainuu region expressed a wish for broader powers in the health

⁶¹ Helsingin Sanomat of 18.01.2011, Local authorities falter in outsourcing services.

sector. For the State, the solution may be differentiated regionalisation for each sphere of competence depending on socio-economic, demographic and climatic conditions.

188. The regionalisation of state services and the decentralisation of administrations in the six regions set up on 1 January 2010 show that the State is seeking to strike a balance between efficiency of public services and the imperative of democracy, which presupposes closeness to citizens, ease of access and no discrimination. These criteria will be decisive for the success of regional democracy. Up to now, the reforms and streamlining of state administration have not had any direct consequences for municipalities. The State has contented itself with dismantling the provinces, which were decentralised state authorities. Several of the delegation's talking partners called for greater coherency of state administration at regional level.

APPENDIX

**Programme of the monitoring visit of the Congress of Local and Regional Authorities
delegation on local and regional democracy in Finland**

Helsinki, Mariehamn (Åland Islands), Kouvola (30 November – 2 December 2010)

Ms Pia BOSCH I CODOLA	Rapporteur on regional democracy, member of the Congress Monitoring Committee, Spain
Mr Jean-Louis TESTUD	Rapporteur on local democracy, member of the Congress Current Affairs Committee, France
Mr Bernd SEMMELROGGEN	Member of the Group of Independent Experts on the European Charter of Local Self-Government of the Congress, Germany

Monday 29 November 2010, Helsinki

- Working dinner with the Finnish delegation to the Congress:

Mr Risto RAUTAVA, Head of delegation
Mr Arto BRYGGARE, Congress member, First Vice-Chairman of the Helsinki City Board
Ms Irmeli HENTTONEN, Congress member, member of the City Council of Lappeenranta, member of the Board of the Regional Council of South Carelia
Ms Helena PIHLAJASAARI, Congress member, Vice-Chair of the Municipal Council of Laukaa, Chairperson of the Board of the Central Finland Regional Council
Mr Heikki TELAKIVI, Secretary of delegation
Mr Kari PRÄTTÄLÄ, Head of Legal Counsel of the Association of Finnish Local and Regional Authorities (AFLRA)

Tuesday 30 November 2010, Helsinki

- Meeting at the headquarters of the Association of Finnish Local and Regional Authorities (AFLRA) with:

Mr Kari-Pekka MÄKI-LOHILUOMA, Director General
Mr Kari NENONEN, Deputy Managing Director
Mr Martti KALLIO, Director, Municipal Finances
Ms Kaija MAJOINEN, Director, Development and Research
Mr Keijo SAHRMAN, Director, Regional and Industrial Development
Mr Heikki TELAKIVI, Director, International Affairs
Mr Kari PRÄTTÄLÄ, Chief Legal Counsel

- Meeting at the Ministry of Finances with:

Mr Tapani TÖLLI, Minister of Public Administration and Local Government
Mr Juha LUUKKO, State Secretary
Ms Auli VALLI-LINTU, Director of Municipal Development Unit
Mr Rainer ALANEN, Director of Municipal Economy Unit
Ms Hannele SAVIOJA, Ministerial Adviser, Department for Municipal Affairs
Ms Teemu ERIKSSON, Head of Development, Public Management Department

- Working lunch at the city hall of Helsinki with:

Mr Jussi PAJUNEN, Mayor of Helsinki
 Mr Risto RAUTAVA, President of the Helsinki City Board and Head of the Finnish delegation to the Congress
 Mr Arto BRYGGARE, Congress member and First Vice-Chairman of the Helsinki City Board

- Meeting at the Parliament of Finland with:

Mr Antti RANTAKANGAS, Chair of the Administration Committee
 Mr Ossi LANTTO, Advisor to the Administration Committee
 Mr Hannes MANNINEN, Chair of the Finance Committee
 Mr Matti AHDE, Chair of the Audit Committee
 Mr Timo TUOVINEN, Advisor to the Constitutional Law Committee
 Mr Petri JÄÄSKELÄINEN, the Parliamentary Ombudsman
 Mr Tuomas PÖYSTI, Auditor General, National Audit Office

Wednesday 1st December 2010, Mariehamn (Åland Islands)

- Meeting with: Mr Peter LINDBÄCK, Governor of Åland

- Meeting at the Åland Parliament with:

Mr Roger NORDLUND, Speaker
 Mr Gunnar JANSSON, Deputy Speaker of the Åland Parliament and President of the Municipal Council of Mariehamn
 Ms Susanne ERIKSSON, Director

- Meeting with: Mr Roger ERIKSSON, Minister of Administration EU-Affairs
 Mr Andreas DAHLÉN, European Union Law and External Affairs Unit

Thursday 2 December 2010, Helsinki, Kouvola

- Meeting at The Office of the Chancellor of Justice with:

Mr Mikko PUUMALAINEN, Deputy Chancellor of Justice

- Meeting at the Supreme Administrative Court with:

Mr Pekka HALLBERG, President
 Ms Anne E. NIEMI, Juge
 Ms Päivi PIETARINEN, Secretary General

- Meeting at the Helsinki-Uusimaa Regional Council's office with:

Mr Ossi SAVOLAINEN, Regional Mayor
 Mr Jari SAINIO, Vice-President of the Board
 Mr Tatu RAUHAMÄKI, Relations with the municipalities of the Region and members of Parliament
 Mr Arto BRYGGARE, Congress member and First Vice-President of the Helsinki City Board, Project manager of « EER-2012, European Entrepreneurial Region »

- Meeting at the city hall of Kouvola, Kymenlaakso Region, with:

Mr Lauri LAMMINMÄKI, Mayor of Kouvola
 Mr Juha HAAPANIEMI, Director of Regional Development of Kymenlaakso