

# The Congress of Local and Regional Authorities



**21<sup>st</sup> SESSION**  
**CG(21)16**  
30 September 2011

## Local and regional democracy in Latvia

Monitoring Committee

Rapporteurs: Jean-Claude FRECON (France, L, SOC<sup>1</sup>) and  
Philippe LEUBA (Switzerland, R, NR)

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### *Summary*

This report follows upon a monitoring visit conducted in 1998, after Latvia's ratification of the European Charter of Local Self-Government in 1996. It concludes that Latvia's legislation on local government is a good basis for the development of local self-government and that the position of local authorities has been strengthened by constitutional case-law. However, it stresses concern over the local authorities' inadequate level of own resources and the decline in their finances due to the economic crisis as well as the restriction on their free access to the capital market to borrow funds. It also underlines once again that the pending restrictions on the participation in public affairs of non-citizens who identify with a national minority, including the failure to allow them to vote in local elections.

The Congress recommends the Latvian authorities to increase local authorities' financial autonomy, and to grant a special legal status to Riga as capital. It calls for developing the planning regions as autonomous entities and encourages measures to grant non-citizens the right to vote in local elections. Finally the Congress invites Latvia to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority as well as Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs).

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



**DRAFT RECOMMENDATION<sup>2</sup>**

[\(See Recommendation 317 \(2011\) adopted on 20 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 CM/Res (2011) 2 relating to the Congress of Local and Regional Authorities of the Council of Europe, 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 CM/Res (2011) 2 relating to the Congress of Local and Regional Authorities of the Council of Europe, 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. Congress Recommendation 47 (1998) on local and regional democracy in Latvia;

d. the 2005 Congress information report (CG/INST(12)3) on local democracy and on the participation of non-citizens in public and political life at local level in Latvia;

e. Congress Recommendation 257 (2008) on local democracy in Latvia: the participation of non-citizens in public and political life at local level;

f. Congress Resolution 299 (2010) on the follow-up by the Congress of the Council of Europe Conference of Ministers responsible for local and Regional Government (Utrecht, Netherlands, 16-17 November 2009), which provides that the Congress will use the Council of Europe Reference Framework for Regional Democracy [MCL-16(2009)11] in its monitoring activities, as well as the reply of the Committee of Ministers to Recommendation 282 (2010) encouraging the governments of member states to take account of the Reference Framework for Regional Democracy in connection with policies and reforms;

g. the explanatory memorandum of this recommendation on local and regional democracy in Latvia.

2. The Congress notes that:

a. Latvia joined the Council of Europe on 10 February 1995. It signed and ratified the European Charter of Local Self-Government (ETS 122, hereafter “the Charter”) on 5 December 1996. The Charter came into force in Latvia on 1 April 1997.

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<sup>2</sup> 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. Tamiros*, *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*.

*b.* In accordance with Article 12, paragraph 1, of the Charter, Latvia declared that it was not bound by Article 9, paragraph 8, of the Charter;

*c.* The Congress delegation<sup>3</sup> visited Latvia from 3 to 5 November 2010. The delegation held talks with the central and municipal authorities, representatives of the Association of Local and Regional Governments of Latvia, representatives of the Constitutional Court, the Ombudsman and other discussion partners in Riga and the municipality of Sigulda;

*d.* The co-rapporteurs wish to thank the Permanent Representation of Latvia to the Council of Europe and all those whom it met on the visit for their readiness to assist the delegation and for the information they so willingly supplied.

3. The Congress notes with satisfaction that:

*a.* Latvia has modelled its system of local administration on modern European standards for local self-government. The local government legislation of 19 May 1994, which has been amended on a number of occasions and supplemented by other provisions, is a good basis for the development of local self-government;

*b.* The Constitutional Court, in its decisions, refers to the Charter as an instrument of international law from which the constitutional principles relating to local self-government can be interpreted. The Constitutional Court considers the Charter's principles to be fundamental principles of democracy that are binding on the country. The position of local authorities has been strengthened by constitutional case-law and changes to legislation;

*c.* The 2008 local government reform, under which local authorities were merged to produce stronger entities, was carried out in compliance with the principles of the Charter and produced satisfactory results;

*d.* The Association of Local and Regional Governments of Latvia is recognised at national level as being representative. It therefore plays a key role in promoting local democracy.

4. The Congress notes with concern that:

*a.* Local authorities have an inadequate level of own resources which they can influence directly, in particular, in terms of local taxes for which they can determine the base and the rate;

*b.* Overall, the crisis has led to a reduction in transfers from central to local government. Local authorities' room for financial manoeuvre has accordingly declined and central government's oversight of their finances has been strengthened;

*c.* Latvian local authorities do not have free access to the capital market to borrow funds. In a significant number of cases involving various conditions, finance ministry approval is needed for loans of more than one year;

*d.* Regional development in Latvia is imbalanced. The five planning regions do not have the characteristics of genuine autonomous regional authorities and their representative bodies are not directly elected by universal suffrage;

*e.* The high population of Riga and the level of its activities would justify the capital being granted a special status;

*f.* In spite of the efforts made by the Latvian authorities to promote social cohesion, there are still restrictions on the participation in public affairs of non-citizens who identify with a national minority, including the failure to allow them to vote in local elections.

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<sup>3</sup> Jean-Claude Frécon (France, L, SOC), Vice-President of the Congress, and Philippe Leuba (Switzerland, R, NR) were appointed co-rapporteurs to submit to the Congress a report and a recommendation on local and regional democracy in Latvia. They were assisted by Jean-Marie Woehrling, consultant and member of the Group of Independent Experts on the European Charter of Local Self-Government.

5. *The Congress recommends that the Committee of Ministers invite the Latvian authorities:*

a. to increase local authorities' financial autonomy by diversifying their own sources of revenue and increasing the proportion of their financial resources for which they can influence the assessment base and the rate;

b. to establish a programme to "restore" local authorities' capacity for action in the context of recovery from the economic crisis, while reducing central government's financial oversight;

c. to review the conditions for borrowing by local authorities and make them more flexible and borrowing more accessible and consequently to lift the reservation related to Article 9, paragraph 8, of the Charter;

d. to clarify the legal position of the five *planning regions* and give them a proper autonomous status. The process of developing a genuine regional tier of government could take inspiration from the principles of the Reference Framework for Regional Democracy, which provides for bodies elected by direct universal suffrage, more powers and responsibilities that are clearly defined in law, own resources and the introduction of a financial equalisation system;

e. to begin a legislative process with a view to drafting legislation granting a special legal status to Riga, in accordance with Congress Recommendation 219 (2007) on the status of capital cities;

f. to grant non-citizens the right to vote in local elections with a view to speeding up the process of integrating them into Latvian society that has already started;

g. to give consideration, in the near future, to signing and then ratifying the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), as well as of Protocol No. 3 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs).

6. *The Congress recommends that the Parliamentary Assembly take account of the aforementioned observations and recommendations in the context of its procedure of periodic reporting on member states not currently under a monitoring or post-monitoring procedure.*

7. *The Congress recommends that the Latvian authorities responsible for local self-government appoint a high-level ministerial representative to attend one of the Congress sessions to make a presentation on the state of progress of the local government reforms in Latvia.*

## EXPLANATORY MEMORANDUM

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

1. In accordance with Article 2 of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers, the Congress of Local and Regional Authorities of the Council of Europe (hereafter "the Congress") regularly prepares reports on the state of local and regional democracy in the member states and candidate countries.

2. Latvia joined the Council of Europe on 10 February 1995. It signed and ratified the European Charter for Local Self-Government (ETS 122, hereafter "the Charter") on 5 December 1996. The Charter came into force in Latvia on 1 April 1997. In accordance with Article 12, paragraph 1 of the Charter, Latvia has declared itself not bound by Article 9, paragraph 8 of the Charter.

3. Latvia signed the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS 106) on 28 March 1998 and ratified it on 1 December 1998. It came into force in Latvia on 2 March 1999.

4. Latvia also signed the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS 159) on 28 March 1998 and ratified it on 1 December 1998. It came into force in Latvia on 2 March 1999.

5. The Institutional Committee<sup>4</sup> has appointed Jean-Claude Frécon (France, L, SOC), Vice-President of the Congress, and Philippe Leuba (Switzerland, R, NR) co-rapporteurs, for, respectively, local democracy and regional democracy in Latvia. They were instructed to submit to the Congress a report and a recommendation on local and regional democracy in the country.

6. The Congress delegation visited Latvia from 3 to 5 November 2010 and met various individuals and bodies in Riga and Sigulda<sup>5</sup>.

7. The delegation met the State Secretary responsible for local and regional self-government, the Minister for Regional Development and Local Authorities, the Mayor of Riga, the chair of the parliamentary committee on human rights and public affairs, the State Secretary for financial affairs, the Latvian ombudsman, representatives of the Constitutional Court, other representatives of different tiers of government and experts and teachers from the University of Latvia (see the appended detailed programme).

8. This report is the second monitoring report on the state of local and regional democracy in Latvia. Twelve years after the first one, it considers the progress made by Latvia in this area in the light of the Council of Europe's principles and standards, in particular the European Charter for Local Self-Government. The report draws on information gathered during the visit, an examination of relevant legislation and other documentation supplied by the hosts and specific replies to the questionnaire sent by the delegation before its visit. Recommendation 47 (1998) of the Congress on local and regional democracy in Latvia and other relevant documents were taken into consideration in the preparation of the report.

9. The co-rapporteurs wish to thank the Permanent Representation of Latvia to the Council of Europe and all those whom it met on the visit for their readiness to assist the delegation and for the information they so willingly supplied. It also thanks the Latvian delegation to the Congress and its secretariat for contributing to the smooth running of the visit.

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<sup>4</sup> Following the reform of the Congress, the monitoring activities undertaken by this committee were assigned to the Monitoring Committee, established on 1 December 2010.

<sup>5</sup> On this visit, the two co-rapporteurs were assisted by Jean-Marie Woehrling, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government, Jean-Philippe Bozouls, Head of the Table Office and Statutory Committees Department of the Congress and Executive Secretary of the Chamber of Local Authorities, and Lilit Nikoghosyan, Co-secretary to the Congress Monitoring Committee.

## **2. POLITICAL CONTEXT AND DEVELOPMENTS SINCE THE LAST RECOMMENDATION**

### **2.1. International context and relations with neighbouring countries**

10. Latvia became a member of the European Union on 1 May 2004. It joined NATO in the same year.

11. The country cultivates strong relations with Lithuania and Estonia. The three Baltic states had been independent republics before they were part of the Union of Soviet Socialist Republics (USSR). They all joined the European Union as part of the 2004 expansion and have maintained a free trade agreement since 1994. The visit of the Latvian Prime Minister, Valdis Dombrovskis, to Estonia on 5 November 2010 confirmed Estonia's support for the Latvian government in its efforts to overcome the economic crisis and emphasised the benefits of co-operation between the two countries. Lithuania and Estonia are Latvia's two largest trading partners.

12. Latvia has close relations also with Russia, because it has the highly developed transit facilities and a large Russian-speaking community, and also because of its strategic geographical position. Latvia benefits economically from transit trade between the west and Russia (about 15% of Russia's oil exports pass through the country, bringing in USD 100 million in transit duties). On 27 March 2007, Latvia and the Russian Federation, represented by their Prime ministers in Moscow, signed a Treaty confirming the current border between the two states, under which Latvia agreed to waive its *de iure* rights to the territory of the Abrene district (presently Pytalovo) and passed them to Russia. This development has significantly improved the climate of Russian-Latvian relations. In January 2011 the Latvian President Valdis Zatlers made an official visit to Russia, which marked another clear indication of improved relations between the two countries.

13. Following the re-establishment of its independence, Latvia entered into an intensive co-operation with the European Union. In 2010, exports to EU countries made up 71.1% of the total volume of Latvian exports and increased by 731 million Lats or 28.3% compared to 2009.

14. Latvia is also a trading partner of and major investor in Belarus. About 79 000 Belarusians live in Latvia. The union of Belarusian public associations comprises 12 regional organisations.

### **2.2. Internal political context: elections (presidential, parliamentary, local or regional) and referendums**

15. Mr Valdis Zatlers was elected President in May 2007 for a four-year term. The parliamentary elections of 2 October 2010 were won by the centre-right electoral alliance led by the Prime Minister, Mr Valdis Dombrovskis, despite the drastic austerity measures they imposed. Mr Dombrovskis' government was formed in March 2009 after the resignation of the Prime Minister Mr Godmanis, following a political crisis directly linked to the unfavourable economic situation. The outgoing coalition was thus reformed, but with a less nationalist tinge since the TB/LNNK<sup>6</sup> party was no longer a member. In an unprecedented move for the first time since the re-establishment of Latvia's independence, the Concord Centre party, which mainly represents the Russian-speaking community, was invited to enter the government - an offer that it declined however.

16. The 2010 elections and the way in which Latvia has succeeded in riding out the very severe economic crisis that it suffered in 2008/2009 (18% contraction of the economy, incomes down by more than a quarter, over 20% unemployment, the fall of the government and so on), with no major social or political disturbances shows that democracy is firmly established in the country.

### **2.3. Previous report and recommendations**

17. The first monitoring exercise of local and regional democracy in Latvia was carried out by the Congress in 1998. Recommendation 47 (1998) on local and regional democracy in Latvia regretted the country's failure to undertake to abide by paragraphs 6.2, 7.2, 9.4 and 9.8 of the Charter, concerning respectively the conditions of service and recruitment of local government employees, financial compensation for expenses incurred in the exercise of the office of local elected

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<sup>6</sup> Abbreviation denoting the coalition between For Fatherland and Freedom (Tēvzemei un Brīvībai or TB) and the Latvian National Independence Movement (Latvijas Nacionālās Neatkarības Kustība or LNNK).

representative, the nature of financial systems on which resources available to local authorities are based, and local authorities' access to the national capital market.

18. To improve the situation of local and regional democracy, the Congress had recommended in 1998 an amendment to the Constitution (*Satversme*) to give explicit recognition to the principle of local self-government, bearing in mind Article 2 of the Charter and in accordance with its Article 3 paragraph 1. The recommendation also called for a change to the Act on local self-government (hereafter referred to as "the Local Government Act") of 9 May 1994 to delete the reference to local self-government as a "form of state administration".

19. Other measures proposed by Recommendation 47 (1998) are worth mentioning in the context of this report. These were concerned with:

- changing the legislation and practice to give local and regional authorities a greater proportion of financial resources of their own, derived from exclusive local taxes whose rate they could determine;
- basing the function of financial equalisation on a standardised system laying down objective criteria in order to remove the central administration's discretion in this field;
- taking immediate steps to reduce the unstable and precarious nature of financial sources and permitting capital raising as a way of encouraging local and regional authorities to invest;
- basing reforms of local and regional authorities on prior consultation with the local and regional authorities and their representative bodies;
- providing for regional authorities' representatives to be elected directly by the people;
- improving the integration of Latvian residents with no political or civic rights into local democracy by granting them the right to vote on issues within the competence of local authorities.

20. The Congress rapporteurs are pleased to note that, following the Congress Recommendation of 1998, Latvian authorities have ratified Article 6 paragraph 2, Article 7 paragraph 2 and Article 9 paragraph 4 of the Charter. As regards the other points contained in the Recommendation of 1998, the Congress delegation thoroughly examined any progress made since 1998 and its findings are detailed in the corresponding sections of this Explanatory Memorandum.

### **3. HONOURING OF OBLIGATIONS AND COMMITMENTS**

21. Following the re-establishment of its independence, Latvia reorganised its system of local administration, drawing on both the historic precedent of its laws of 1922 and 1926 and modern European standards for local self-government. The local government legislation of 19 May 1994, which has been amended on a number of occasions and supplemented by other provisions, is a good basis for the development of local self-government.

22. For some fifteen years, the merging of local authorities which are often very small, dominated the discussions on the evolution of the local administrative system. The reform has now been completed. On 18 December 2008, Parliament approved a new pattern of local authorities which altered the geographical breakdown in place since the 19<sup>th</sup> century.<sup>7</sup> The reform has illustrated the urgency of three issues: the electoral and political question, the need to modernise the country in response to the crisis and the financial difficulties faced by local authorities.

23. The question of local authorities' financial autonomy is more of a cause for concern. The financial arrangements governing local government activities have gradually improved and become clearer. However, the situation is still not satisfactory and improvements are also dependant on the general economic situation, which has deteriorated following the crisis.

#### **3.1. The Constitution, legislation and recent developments**

24. Recently, local authorities' position has been strengthened by constitutional case-law and changes to the legislation.

25. The European Charter of Local Self-Government came into force in Latvia on 1 April 1997 and Latvia has now ratified all Charter provisions except for Article 9 paragraph 8, on local authority

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<sup>7</sup> See paragraph 61.

borrowing. The Charter is directly applicable and has been received in the country's domestic legal system. Its provisions take precedence over domestic standards, on the basis of clauses establishing the precedence of international treaties, without formal assignment of the status of a higher-ranking source of law. This allows individuals or local authorities the possibility to invoke the Charter in their complaints before the domestic courts.

26. The Constitutional Court, in its decisions, refers to the Charter as an instrument of international law from which the constitutional principles relating to local self-government can be interpreted.

27. According to constitutional case-law, it appears that when they drew up Article 101 of the Constitution, the lawmakers' intention was to transpose the Charter into domestic law. For the Constitutional Court, violations of the Charter are deemed to be equivalent to those referred to in Article 1 of the Constitution, namely violations of the principle of a democratic state.

28. The following citation from the Constitutional Court's case-law (Case 2007-21-01 "On Compliance of the Second Part of Section 7 of the Law "On Public Transport Services" with Articles 2, 3 and the First, Third and Fourth Part of Article 4 of the European Charter of Local Self-Governments of October 15, 1985", paragraph 8) explains the situation in further detail:

*"By means of amendments to the Law "Amendments to the Satversme of the Republic of Latvia" of 15 October 1998, the right of citizens to participate in work of the State was enshrined in Article 101 of the Satversme by providing that "every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service."*

29. On 30 April 2002, the Saeima adopted the Law "Amendments to the Satversme of the Republic of Latvia" that provided for a new wording that established, in the first sentence of the second part thereof, that "local governments shall be elected by Latvian citizens". When announcing, on behalf of the responsible commission, the draft law in the third reading, the chairman of the Judicial Commission Mr. Linards Muciņš indicated the following:

*"In Article 101, we deal with local governments. Consequently, on the one hand, taking into account the laconic style of our Constitution (Satversme), we face a little problem, namely, it is not possible to establish in the Satversme a detailed regulatory framework on issues related with local governments; however, it is still possible to compensate this problem" (transcript of the Saeima meeting of 30 April 2002). It follows from the aforesaid that the first sentence of the second part of Article 101 of the Satversme deals with the issue of status of local government. Namely, according to Article 2 of the Charter, Latvia has undertaken to enshrine the principle of self-government in the Satversme. In the recommendation No. 47 (1998) "Regarding Democracy of Local and Regional Democracies in Latvia" of the European Congress of Local and Regional Self-Governments of 26 – 28 May 1998, it was asked to the "Latvian Parliament (Saeima) to introduce amendments in the Constitution (Satversme) in order to clearly comply with the principle of local self-governments. Consequently, in Article 101 of the Satversme, the Saeima has established not only the fundamental right of a person to elect local authorities but also the right to participate in the work of the State by mediation of local government elections but also, as required by the laconic style of the Satversme, provided the status of self-governments as being elected self-government institutions in general. The principle of self-government follows from the first sentence of the second part of Article 101 of the Satversme. If interpreted in conjunction with Article 1 of the Satversme, this principle covering minimum amount of claims regarding organization of local self-government in a democratic and law-governed State."*

30. Latvian local authorities may rely on the Charter's provisions to challenge national legislation that is incompatible with them. The Court has agreed to consider this sort of argument in a number of decisions. The delegation received three judgments translated into English by the Constitutional Court of Latvia in which explicit references are made to the Charter (one judgment concerned in particular Article 3 and 2 judgments concerned Article 4 of the Charter).<sup>8</sup> The delegation was also informed that a number other judgments of the Constitutional Court make references to the Charter.<sup>9</sup>

<sup>8</sup> Case No. 2009-45-01 of 22 February 2010, Case No. 2007-17-05 of 27 March 2008 and Case No. 2007-21-01 of 16 April 2008 (see link <http://www.satv.tiesa.gov.lv/?lang=2>).

<sup>9</sup> These judgments are not available in English or French.

31. The Constitutional Court or ordinary courts are not empowered to intervene in the law-making process and cannot help to highlight any incompatibilities that may exist between draft laws and the Charter. The Constitutional Court reviews only submitted applications or complaints. The Association of Local and Regional Governments of Latvia is the main actor that monitors and controls draft law compliance with the Charter during the law-making process. In the period of announcement of a law by the President, local authorities can ask the President not to announce the law and return it to the Parliament. Local authorities of other public institutions can submit applications or complaints to the Constitutional Court.

### **3.2. Safeguards for local self-government in Latvian law**

32. The Latvian Constitution has no specific provisions giving local self-government a constitutional foundation. However, as noted earlier, the Constitutional Court has interpreted Article 101 of the Constitution, which entitles all citizens to participate in local authority activities, as representing such a safeguard. It has also ruled that local self-government has to be understood with reference to the Charter, which Latvia has ratified.

33. The Constitutional Court effectively considers that Latvia's compliance with its international undertakings is a constitutional requirement that the Court is responsible for enforcing. The European Charter of Local Self-Government is such an international undertaking. The Constitutional Court, to which local authorities can refer cases, ensures that it is complied with in domestic law.

34. Despite this constructive case-law, which recognises the Charter as a source of reference, local authority representatives expressed regret that local self-government and its necessary implications did not receive more complete coverage in the Constitution. As mentioned above, in its Recommendation 47 (1998) of 28 May 1998, the Congress called for the Constitution to make a specific reference to the principle of local self-government.

35. The rapporteurs consider however that the constitutional case-law referred to above amounts to just such recognition. A formal modification to the Constitution does not appear to be of immediate interest. If it simply referred to the principle of local self-government, it is not sure that it would add significant further safeguards for that principle. For such a reform to serve any real purpose, it would have to specify in the Constitution the implications of this principle. However, this is not required by the Charter. It is more useful therefore to encourage the Constitutional Court to secure compliance with the Charter in its judgments and decisions.

36. In any case, local authorities' status is clearly laid out in legislation. Under these circumstances, it can be concluded that the requirements of the Congress in this regard have been satisfied.

37. One provision of the Local Government Act did refer to them as "state administrative institutions". After the Congress had commented on this in Recommendation 47 (1998), the wording was altered.

38. Section 4 of the 2002 legislation on the structure of state administration classifies local authorities as "derived public entities" and specifies that they are concerned with the administration of the state as indirect state institutions. Local authority representatives have perceived these provisions as being incompatible with the particular character of local authorities as bodies that have autonomy *vis-à-vis* the state.

39. However these provisions do not appear to represent a challenge to the principle of local self-government. Chapter III of the Act, on the institutions of indirect administration, lays down general rules of public law and refers for their application to specific legislation, of which the Local Government Act is a particular example. Section 8 (4) of the Act specifies that in carrying out the state functions delegated to them, local authorities operate under government supervision according to arrangements laid down in the Local Government Act. These provisions do not appear to be incompatible with the Charter, since they only concern state responsibilities that have been delegated to local authorities (Article 8 paragraph 2 of the Charter). In the case of local authorities' specific areas of responsibility, the Local Government Act, as the specific legislation, takes precedence over the general provisions of the state administration legislation.

### **3.3. Article by article analysis of the situation of local democracy on the basis of the Charter**

40. As required by the Charter, the principle of local self-government is recognised in domestic legislation and in the Constitution, as interpreted by the Constitutional Court (see above in 3.1).

#### **Article 3: Concept of local self-government**

41. (Paragraph 1) - Given the extent of the powers and responsibilities devolved to them and their scope for action, Latvian local authorities can be considered to have the right and the ability, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

42. (Paragraph 2) - Latvian local authorities have deliberative assemblies (councils) elected by direct universal suffrage that appoint their own executives. The council's work is conducted at its meetings and by standing committees. The council elects its chair by secret ballot from among its members by a simple majority. It elects its standing committees also from among its members. Two standing committees - financial committee and social, education and culture affairs committee - are compulsory for every local government. Other standing committees may be set up in accordance with the statutes of the local government. The Local Government Act determines the tasks that only the council can fulfil or decide, but local government can extend those tasks in so far as they are not the responsibility of central or regional government.

43. The council can establish boards, commissions and working groups comprising councillors, staff and the residents of a municipality.

#### **Article 4: Scope of local self-government local authorities' powers and responsibilities**

44. Overall, Latvian local authorities have comparable powers and responsibilities to those of local authorities in other European countries.

45. In Latvian legislation local authorities have an obligation to manage the following local public services:

- Organization of public utilities (water supply, sewerage, heating, household waste collection and disposal);
- Maintenance of administrative territory of local authority;
- Provision of pre-school and secondary education;
- Organization of cultural activities; libraries, public internet access;
- Social assistance;
- Help in housing affairs.

In 1997, they lost their responsibility for organising and financing medical assistance.

46. All of these powers and responsibilities are laid down in law or regulations and the local authorities' margin for discretion is satisfactory from a legal standpoint.

47. According to the Local Government Act, the competences of local authorities cover the autonomous functions prescribed by this and other laws, delegated state administrative functions or administrative tasks and other functions that are within the competence of other local authorities (the performance of which is transferred to the relevant local government in accordance with procedures prescribed by this Law) and, finally, autonomous functions, which are performed as voluntary initiatives.

48. The law also states that, in order to perform their functions, local authorities, in accordance with procedures prescribed by law, have the duty to:

- a. prepare a development programme for the territory of the relevant local government, ensure the implementation of the territorial development plan and the administrative supervision of territorial planning;
- b. prepare and approve the local government budget;
- c. manage the local government movable and immovable property rationally and efficiently;
- d. collect taxes and fees;
- e. carry out projects included in the state investment programme, in conformity with expected obligations;

- f. utilise the local government financial resources rationally and efficiently, in conformity with the approved local government budget;
- g. provide information to the Cabinet and ministers on issues related to activities of the relevant local government; and
- h. accumulate, utilise and preserve, until transfer to the state archives, documents created in the course of local government activities.

49. In carrying out their functions, local authorities should issue binding regulations and:

- a. establish local government institutions, founding societies or foundations and capital companies, as well as investing their own resources in capital companies;
- b. acquire and alienate movable and immovable property, privatise facilities owned by local authorities, conclude transactions, as well as perform other activities of a private law nature;
- c. introduce local fees and determine their magnitude, decide on tax rates and relief from paying taxes;
- d. bring actions in court and complaints in administrative institutions; and
- e. receive information from state institutions.

50. As in other countries, Latvian law draws a distinction between local authorities' own powers and responsibilities that they exercise directly and finance from their own resources, and state responsibilities that have been delegated to them, for which the state has to make appropriate payments and in connection with which it may issue directives.

51. Local authorities are responsible for about 20% of public spending in areas that are under their direct responsibility. State powers and responsibilities delegated to local authorities account for about 10% of public expenditure.

52. Latvian local authorities do not appear to want to ask for specific additional powers, other than in the field of vocational education. Their existing powers and responsibilities enable them to frame independent local policies. Nor is there any challenge to their legal power to intervene in matters of local concern.

53. Local authorities may, but are not obliged to, provide such services as policing (if they choose to do so, the Law prescribes restrictions for municipal police), adult education, fire protection service, accommodation, social housing and retailing (there are some local authorities, which have hotels, campsites, markets, restaurants).

54. The Association of Local and Regional Governments of Latvia considers that the government uses national legislation in an attempt to impose excessive control over local authorities' own areas of responsibility. In such areas, the state cannot issue instructions to local authorities. For matters that are not subject to legislation, local authorities should be free to implement their own policies. Where responsibilities are delegated by the state, local authorities must comply with legislation and ministerial directives.

55. The Association of Local and Regional Governments have told the delegation that certain laws and standards are too stringent. One example is the legislation that requires children's nursery staff to have university level qualifications. Local government representatives maintain that state officials are unwilling to accept the local authorities' right to make their own decisions. Central government is inclined to pass judgment on the expediency of measures, which is incompatible with the local self-government principle. In a memorandum to the delegation, the association said that "in Latvia there are, unfortunately, many lawyers and politicians whose instincts lean towards centralism and who cannot envisage a local authority as an independent entity responsible for a geographical community. The enactment in 2002 of the legislation on the structure of state administration was in deliberate breach of the European Charter of Local Self-government when it defined local authorities as "public entities" subordinate to the state, that form part of a uniform pyramid of government administration. Although the Association of Local and Regional Governments asked the President in 2002 not to approve this law, which it considered to be reactionary, it was unable to defend the principle of local self-government. So far, this legislation continues to be incompatible with the Local Government Act and the European Charter of Local Self-Government".

56. The local authority organisations consider that the full application of the subsidiarity principle embodied in Article 4 paragraph 3 of the Charter should mean that these authorities are granted a wider margin of discretion.

57. Instead, the economic crisis has tended to reduce local authorities' autonomy. In particular, their freedom to recruit and set pay levels for their own staff has been reduced. This, in turn, may have had an impact on the quality of local government management. However, the reductions in pay imposed on local authority staff are the inevitable consequence of a serious economic crisis and comparable measures have been applied in other sectors. Before the crisis, for example, local authorities could decide themselves on the system for motivating staff and lay down their personnel policies in the light of available resources. After 2008, the need to make savings led to central government scrutiny of local government pay. According to the Association of Local and Regional Governments this means that it is now much more difficult to recruit well qualified and motivated staff. In a resolution passed at its 20<sup>th</sup> Congress, the association stressed the need to secure the earliest possible repeal of this legislation.

58. It should be noted that in 2008-2009, a number of Latvian local authorities had proceeded with (sometimes significant) salary increases at the expense of decreasing other expenses, such as social benefits for the population. The restrictive measures, introduced by the Government, were also conditioned by the existence of such situations. Nevertheless, the rapporteurs consider that, even in a period of crisis, it is difficult to justify such measures. They hope that the centralised measures to control pay will be suspended after the crisis.

#### **Article 5: Protection of local authority boundaries: Local government reorganisation**

59. A relatively long drawn-out process of geographical reorganisation (laid down in legislation dated 1998 and amended in 2005) which lasted from 1998 to 2009, has led to a recasting of local authority boundaries and a reduction in their number.

60. Under the new administrative arrangements approved in December 2008 (valid as of 1 July 2009), Latvia has, in practice, changed its administrative divisions from two-level municipalities (towns, cities, towns' countryside territories and parishes composed the first level, while districts were the second level municipalities) to one-level municipalities. Districts were liquidated, and towns (*pilsētas*), towns' countryside territories (*pilsētu lauku teritorijas*) and parishes (*pagasti*) were merged into 109 municipalities (*novadi*) and there are 9 republican cities (*republikas pilsētas*) with their own city council and administration. At the end of 2010, the municipality of Rōya was divided into two municipalities – Rōya and Mersrags, bringing the total number of Latvian municipalities to 110.

61. Consequently, the number of local authorities fell from 525 to 118, comprising 9 cities and 110 municipalities (*novadi*)<sup>10</sup>. Under the new arrangements, the country's seven largest cities (Rīga, Daugavpils, Liepāja, Jelgava, Jūrmala, Ventspils and Rēzekne) retain their republican city status, granting them a certain administrative and financial independence, and two more, Valmiera and Jēkabpils, each with about 27 000 inhabitants, have acquired it, as part of the reform.

62. The rural municipalities and small towns were grouped according to several criteria. Each *novads* must comprise a distinct geographical area with more than 4 000 inhabitants and an urban centre with more than 2 000 inhabitants located no more than 50 km from any point in the *novads*, which becomes the administrative centre. There are certain exceptions. Certain rural *novads* are based on a single *pagasts*, one example being Alsunga (1 700 inhabitants) in the west of the country, a small fairly isolated municipality with few resources. On the other hand, a number of giant rural *novads* have been established, such as Daugavpils (which nevertheless excludes the city of Daugavpils with its 106 000 inhabitants). This comprises 19 former municipalities, has 29 000 inhabitants and measures some 50 km across. Such mergers particularly concern municipalities in difficulty.

63. Through amalgamation and establishment of larger administrative territories, municipalities achieve the following benefits:

- a. a bigger financial fund for the municipality;
- b. the political influence of the municipality increases;
- c. a municipality with highly-professional personnel will be able to fully discharge its tasks and functions;

<sup>10</sup> Until 1 July 2009 there were 26 district governments and 525 local governments including: 50 district towns and 7 republican cities, 41 amalgamated municipalities with territorial units, 424 rural municipalities.

d. availability of infrastructure at a regional level will provide the population with wide opportunities to benefit from all services to be provided by a municipality.

64. The delegation noted that the reform has met with a certain amount of resistance and opposition. Central government was accused of insufficient consultation and discussion with its interlocutors. The reform has also thrown up difficulties arising from the electoral and political impact of the merger of rural and urban authorities.

#### **Article 5: Regional development**

65. Following legislation on regional development, five planning regions (*Latvijas plānošanas reģioni*) were created in accordance with the Regulation on Territories of the Planning Regions (Decision No. 391 of the Latvian Cabinet of Ministers dated May 2009): the Kurzeme, Latgale, Riga, Vidzeme and Zemgale regions.

66. The boundaries of the regions align with those of the municipalities following the municipality reform of 1 July 2009. It must be noted that the planning regions in Latvia are not administrative territorial divisions, since they are not mentioned in the law that prescribes the administrative territorial divisions.

67. The reorganisation of local and regional government is consistent with the Regional Development Act of 23 April 2002, which is designed to "foster the development of the entire country by reducing inequalities between regions and protect and enhance the natural and cultural characteristics and development potential of each region".

68. The delegation considers that the reform has been conducted in accordance with the Charter's principles and has achieved satisfactory results, even though certain local authorities and members of the opposition remain dissatisfied with the final geographical structure decided on.

69. Nevertheless, there are still substantial regional imbalances in Latvia. The main beneficiaries are the urban areas - the country's seven largest municipalities account for 50% of the population but 74% of GDP – and above all the capital, with its 700 000 inhabitants, which rises to a million for the total metropolitan area, or 45% of Latvia's population.

#### **Article 6: Administrative structures**

70. Latvian local authorities have fairly broad powers with regard to the recruitment and pay of their staff and how they organise their services. Domestic regulation in Latvia assigns to local authorities the power to determine their own internal administrative structures. In the Law "on the Constitution of State Administration", local government is defined as a "derived public entity" with autonomous competence assigned by law. There are no regulations about a derived public entity structure in the "State Administration System Law".

71. The Local Government Act, in its Article 14 paragraph 1, prescribes: "To carry out their functions, local governments shall have the right, in accordance with procedures prescribed by law, to establish local government institutions, to found societies (associations) or foundations, companies, as well as invest their resources in companies."

72. Local authorities have rights to determine the institutional form for the implementation of their tasks and the relationship between local institutions. The statutes of each local government, formulated according the Local Government Act, prescribe their own institutional structure and administrative procedures. For a major part of these functions, local authorities' choice of institutional body is very wide; for some others, the regulations are rather strict.

73. The implementation of local government functions and council decisions is ensured by the local administration, institutions and companies. Local government bodies have the right to delegate functions to other local authorities and to form intermunicipal entities (establishments, agencies, companies, associations, funds). The Local Government Act determines the general principles of political and administrative structure for the local and regional governments.

74. The autonomy of a particular institution is determined in the statutes of local government entities and by the statute of the particular institution in question.

75. The law makes it obligatory for the municipal councils of authorities above a certain size to appoint an executive director to work alongside the elected mayor, who also chairs the municipal council. The rapporteurs do not consider this to be incompatible with Article 6 paragraph 1 of the Charter.

#### **Article 7: Status of elected members**

76. The delegation has taken note that, in general, the status of elected members seems to satisfy the requirements of the Charter.

77. There are special education requirements in the Law for some local government staff positions, for instance, for court members, teachers, construction supervisors, etc.

78. Administrative staff members of local government authorities are not civil servants. All staff have the status of employees except for the municipal council chair and members. Salaries (wages) of the chair, the council members and the staff are determined by the council.

79. With regard to gender equality in local government, the delegation was told that currently 20% of mayors and 35% of municipal councillors are women. In 2008, according to data provided by the Council of European Municipalities and Regions, women constituted 42% in municipal councils and 36% in municipal executives.<sup>11</sup> The numbers after the last municipal elections are a source of concern for the rapporteurs.

80. Holding of multiple offices by elected representatives is not possible. Locally elected representatives cannot be elected to the national Parliament while holding their seats on local councils.

#### **Article 8: Administrative supervision**

81. At the time of the monitoring visit, the Ministry of Regional Development and Local Government exercised control over the legitimacy of local government operations and their compatibility with established legal norms. After the Parliamentary elections of October 2010 this Ministry was abolished. Currently the Ministry of Environmental Protection and Regional Development is competent for national policy in the area of local self-government.

82. Local authority representatives told the delegation that the state scrutinised the "usefulness", or expediency, of decisions taken by local authorities in areas where they had exclusive powers and responsibilities. The rapporteurs consider that if this practice was confirmed it would be incompatible with Article 8 paragraph 2 of the Charter.

83. However, the Local Government Act makes no reference to the monitoring of expediency. Under Section 49, the minister can only order the suspension of a regulation or administrative decision if it is illegal. If local authorities disagree with such assessments, they can challenge them in the Constitutional Court and apply for the relevant suspension decision to be set aside.

84. Some of those spoken to also claimed that the proportionality principle was not respected in the exercise of administrative supervision, as required by Article 8 paragraph 3 of the Charter. This complaint applied particularly to responsibilities delegated by the state, in respect of which they retained powers to issue instructions and directives. The delegation did not have the opportunity to investigate these allegations but the rapporteurs are of the opinion that they should be taken up during the next visit. In the meantime, a hearing on this specific subject can be organised during the Monitoring Committee's next meeting.

#### **Article 9: Financial resources - scale and composition of resources**

85. Local authorities' financial resources account for about 23% of total public income, which is fairly low by European standards. This is the area where Latvian local authorities' demands are most pressing and one that poses particular problems with regard to the satisfactory application of the principles laid down in Article 9 of the Charter.

<sup>11</sup> [http://www.ccre.org/pisa\\_women\\_in\\_local\\_politics\\_figures.pdf](http://www.ccre.org/pisa_women_in_local_politics_figures.pdf)

86. The local authorities consider firstly that the financial resources available to them do not measure up to their responsibilities. Their income is made up as follows:

- 57.74 % from taxes;
- 7.30 % from self-generated revenue;
- 32.70 % from transfers;
- 2.26 % from non tax revenues and other sources.

87. The part of local government income composed of taxes comprises the following:

- share of personal income tax;
- share of natural resources tax;
- share of tax on gambling;
- real estate tax.

Local authorities cannot set their own tax rates. Personal income tax, natural resources tax and gambling tax exemptions are set by central government. Local authorities can however set facilitation for real estate tax. Only the cities of Riga and Ventspils collect directly the income tax; in all other cases, this is done by the central government. Expenditure and revenues of Riga's municipal budget were in constant augmentation from 2006 to 2008. A significant decrease was marked in the 2009 budget (from 607 million Lats in 2008, they dropped to 447 million Lats in 2009). So the total dropdown of the consolidated budget revenue was 159.4 million Lats, i.e. 25.3 percent lower than in the previous year.

88. Eighty-seven percent of local authorities' tax revenues come from income tax and 12% from property tax.

89. The share of personal income tax that is paid to local government budget is about eighty percent (in 2009 it was 83%, in 2010 – 80%, in 2011 – 82%). This means that each authority receives about 80% of the tax collected in its area, so that that they benefit or suffer from the relative wealth or poverty of their inhabitants. Authorities therefore have little direct influence on this source of income, whose rate and assessment basis are determined by the state. It is not therefore a real own source of tax revenue for local authorities, which they themselves can adjust, but a sort of general grant from central government, which sets the rate of income tax. Individual income tax is a shared tax. Its amount depends only on the incomes of registered residents. The state cannot modify the flow of this financial source to the municipality, except by changing rate of local government share in the annual budget law.

90. 12% of local government tax revenues are formed from real estate tax. Local authorities collect it by themselves. They can not set the rate of this tax, but they have rights to define facilitation on tax payments. There is discussion to grant to local governments the right to set the real estate tax rate within the corridor set in the law. Overall, the proportion of local authority financial resources over which they have no influence is too high.

#### **a. State-local authority financial relations**

91. Local authorities must meet the cost of local public services, education, culture and security from their own resources.

92. Local authorities spend their own financial resources in order to fulfil the following competences:

- to organize the provision public of utilities;
- to look after the public services and facilities, and the sanitary cleanliness of their administrative territory;
- to develop education and cultural activities and facilitate the preservation of traditional cultural values and the development of creative folk activity;
- to ensure access to health care, as well as to promote a healthy lifestyle of residents;
- to organize guardianship, trusteeship and adoption matters, as well as issues associated with foster families, etc.

93. According to 2010 data provided by the Ministry of Finance, essential financing by the government is provided for:

- teachers' remuneration (primary and secondary schools, vocational and special education institutions, sport schools, special preschooling, music and art schools etc.);
- road funds;

- climate-related financial instrument projects;
- financing of EU projects.

94. According to the Law “On budget and financial management”, new responsibilities could be transferred from state to local government only if financing is provided.

95. The delegation was also informed about the process of “stabilisation” of local government finances which are performed in cases when local government units have come into extreme financial difficulties, as defined by the Law “On the Stabilisation of Local Government Finances and the Monitoring of the Financial Activities of Local Governments”.

96. Such stabilisation is performed if at least one of the following situations are determined:

- the debt obligations of a local government unit for which the time limit for reimbursement has set in during the current financial year, together with the debt obligations of the previous years for which the time limit for reimbursement has set in, exceed 20 per cent of the total amount of the local government budget for the current financial year;
- the local government is unable or, due to circumstances as can be proved, will be unable to settle its debt obligations; or
- the debts of the local government exceed the asset values in its ownership according to the market value of these assets.

97. Local government tasks, which are partially financed from state government, are related to the Latvian Social safety net, which is a strategy adopted by the Government in 2009 and which foresees assistance for the least protected social groups in the years 2010 and 2011. The social security net strategy provides for direct assistance measures in housing, healthcare, education and transportation.

98. It should be noted that the Association of Local and Regional Governments of Latvia claims that, in violation of the proportionality principle, the government exercises unnecessary oversight of local authorities' social assistance activities and sets pointless standards that reduce their effectiveness.

99. It is the understanding of the rapporteurs that such interventions by central authorities have been conditioned by the difficulties imposed by the financial crisis and the need for facing its consequences. Bearing these realities in mind and making due allowance, the rapporteurs consider it worth stating that central authorities should refrain from actions which would hamper local authorities to exercise policy discretion while realising their competences, especially as the harsh influence of the financial crisis will start attenuating over time.

#### **b. The impact of the economic crisis**

100. The economic crisis has created serious problems for local authorities. The financial resources of many of them have fallen dramatically, sometimes by more than a third. Authorities have had to introduce draconian economy measures. In particular, local authority staff salaries have been significantly reduced and there have been redundancies. Numerous projects have had to be halted.

101. To enable local authorities to continue to provide certain essential services for which they are responsible, such as social and housing assistance, education and school transport, the state has provided additional funding. However, overall, the crisis has led to a reduction in transfers from central to local government.

102. According to data provided by the Ministry of Finance to the delegation, central government transfers to local authorities (composed of current expenditure transfers and capital expenditure transfers) constituted 454 million Lats in 2007, increased to 614 million Lats in 2008 and started to decrease as of 2008, constituting 508 million Lats in 2009 and 408 million Lats in 2010, which is even lower than the amount recorded in 2007.

#### **c. Financial equalisation system**

103. There is a statutory financial equalisation system, which reduces the wealth differential between local authorities from  $\frac{1}{5}$  to  $\frac{1}{2}$ . The more prosperous authorities are geographically grouped, mainly around the capital.

104. The model of financial equalisation in Latvia was explained to the delegation as follows: Local authorities, whose tax revenue exceeds their estimated financial necessity, transfer a part of their revenue to the local government equalisation fund. The revenue and estimated financial necessity forecast is defined in the budget preparation process. That preparation includes annual negotiations between the Latvian Association of Local and Regional Governments and the Cabinet of Ministers. Opinions of both organisations about prognosis of revenues and estimated financial necessity are part of annual disagreements and agreements protocol, which has to be submitted to parliament together with the draft budget. If planned local government tax revenue exceeds the estimated financial necessity by more than 110%, then 45% of this exceeding amount has to be transferred to the local government equalisation fund. If the planned 'republican city' and regions' revenue is less than 95% of the estimated financial necessity, local government authorities receive a grant from the equalisation fund, in an amount which, if added to the forecast tax revenue will equal to the established 95 threshold. Those 'republican cities' and regions whose planned revenue is between 95% and 110% of calculated financial necessity do not transfer payments into the equalisation fund and don't receive any grants from it.

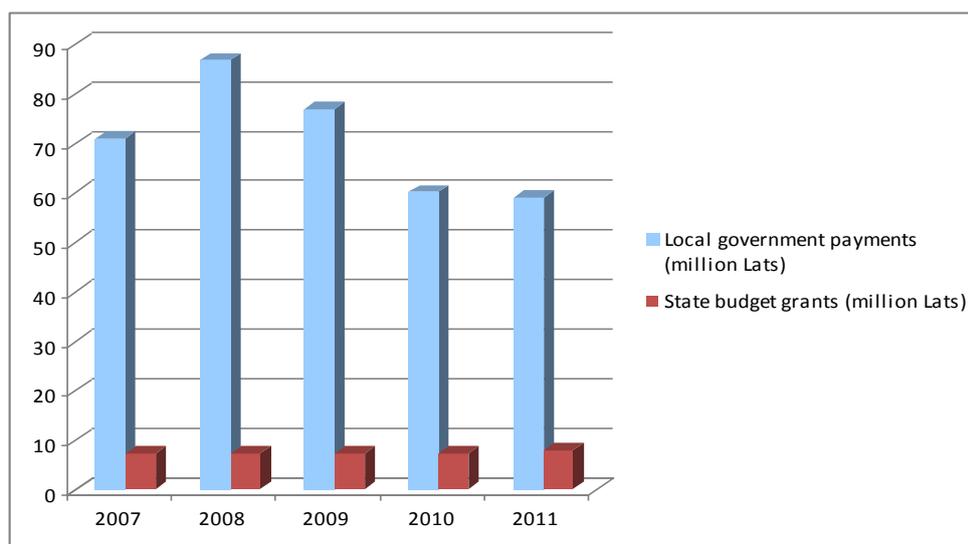
105. Financial equalisation is based on theoretical financial need that is itself based on five criteria:

- local government groupings (groups of republican cities and groups of municipalities);
- number of inhabitants;
- number of children aged 0 to 6;
- number of young persons aged 7 to 18;
- number of retired inhabitants.

106. In 2010, after the local government reform, the equalisation fund received income from 21 municipalities and the state, which was used to top up the financial resources of 87 municipalities. Ten municipalities were neither contributors nor beneficiaries. In 2010, total local government expenditure was 1 billion Lats. In 2010 the Equalisation Fund comprised 67.234 million Lats, 7.153 million of which came from state budget grants and 60.081 million from contributions received from different local authorities. The statistics provided below help to understand how the local government equalization fund has evolved between 2007 - 2011. It also shows clearly the negative impact the financial crisis has had on it from 2009 onwards.

#### Local government equalisation fund revenues 2007-2011

	2007	2008	2009	2010	2011
Local government payments (million Lats)	70.8	86.7	76.91	60.08	58.91
State budget grants (million Lats)	7.15	7.15	7.15	7.15	7.86
<b>Total (million Lats)</b>	<b>77.95</b>	<b>93.8</b>	<b>84.06</b>	<b>67.23</b>	<b>66.77</b>
Local government payments (%)	90.8	92.4	91.5	89.4	88.2
State budget grants (%)	9.2	7.6	8.5	10.6	11.8
<b>Total (%)</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>



107. Before 1998, the equalisation system was criticised as being insufficiently regulated by law. The Congress had also drawn attention to this aspect in its Recommendation 47 (1998). The legislative basis for the system has since been strengthened. The rapporteurs note that the method for calculating contributions to and payments from the equalisation fund is laid down clearly in specific legislation on local authority financial equalisation. It is also objective and rational in nature and its overall structure no longer appears to be open to criticism.

108. In addition to the equalisation system, it is possible to equalise the situation in local government units with low estimated revenue per 1 inhabitant by providing special earmarked grants.

109. Discussions are currently under way on the reform of the financial equalisation system, involving the Latvian Association of Large Cities which consists of 9 republican cities, the relatively well-off municipalities and those that hope to benefit from equalisation. A three-year deadline has been set to find a compromise position. The main subject of discussion is changing the various criteria for defining the differences in the needs of “richer” and “poorer” municipalities, since the current definitions do not seem satisfactory to many local authorities classified in either of the two groups. The delegation was informed by the Ministry of Finance that it is planned to prepare a new law on local government financial equalisation before 2012.

#### **d. Article 9 paragraph 8: Access to the capital market**

110. One of the most consistent criticisms levelled at the Latvian system of local finances is that local authorities do not have free access to the capital market to take out loans. Nor has Latvia ratified Article 9 paragraph 8 of the Charter, which embodies the right of borrowing.

111. In a significant number of cases, such as where the authority's debt exceeds 20% of its budget or it is seeking to borrow from abroad, Ministry of Finance approval is needed for loans of more than one year.

112. These restrictive regulations may be the consequence of the small size of many authorities and the precarious financial situation that some of them face.

113. Local government authorities, in order to implement European Union or investment projects<sup>12</sup>, may however draw borrowings from central government in a medium-term that does not exceed three years. The local government city council shall indicate in the decision the subdivision of the borrowed amount drawing by years in compliance with the approved project implementation schedule. Local

<sup>12</sup> Local government bodies can apply to EU projects through line ministries (not directly to the EU). To be entrusted with the implementation of EU projects, local government units should provide in part their own financing. There is a possibility for local government authorities to take loans for EU projects implementation from the State Treasury or from banks (with the approval of the Ministry of Finance) if the conditions are better than those of the State Treasury. The part of EU co-financing is repaid to local governments after receiving consistent documentation.

authorities may make short-term or long-term borrowings and issue guarantees, concluding a loan agreement with the State Treasury or another lender. Local authorities can borrow outside State Treasury only with the permission of the Minister of Finance.

114. According to Statistics provided by the Ministry of Finance to the delegation, allowable increase of borrowing and guarantees in 2010-2011 can be detailed as follows.

- increase in local government loans in amount of 66 million Lats;
- for EU projects 50 million Lats;
- for financial stabilization 1 million Lats;
- for completion of projects and boarding-school 10 million Lats;
- for purchase of heating 5 million Lats
- increase of guarantees 40 million Lats.

Following its monitoring visit, the delegation has been informed by the Latvian Ministry of Finance that in 2011 the total borrowing limit for local authorities has been increased by 30 million lats compared to 2010 and the range of borrowing objectives has been extended, defining more clearly the priority areas. In accordance with the Law on State Budget of 2011 the allowed total increase amount for local governments' borrowings in 2011 is 96 million lats:

- 50 million lats for implementation of European Union and other foreign financial assistance co-financed projects, including for core capital increase in capital companies with the aim to ensure local government co-financing for implementation of European Union and other foreign financial assistance co-financed projects, as well as for implementation of projects co-financed from the climate change mechanism.
- 40 million lats for infrastructure projects in which actual investment of the local government is at least 75 % of the total costs and necessary loan comprises not more than 25%, as well as for investment projects for taking over professional technical schools, local governments boarding-schools and social programs;
- 3 million lats for investments to prevent extraordinary (emergency) situations to ensure heating season and procurement of fuel;
- 2 million lats for necessary transport purchase to provide local governments' autonomous functions and for exercise of preemption rights;
- 1 million lats for local governments initiating the financial stabilisation process according to the Law on Local Government Financial Stabilisation and Local Government Financial Monitoring.

115. The rapporteurs welcome these changes and believe that when the effects of the crisis have died down, it would be desirable for the Latvian government to further relax the conditions governing local authorities' right to take out loans. The rapporteurs believe the Latvian authorities should consider lifting the reservation on Article 9 paragraph 8 of the Charter and revise the conditions for borrowing by local authorities, making them more flexible and accessible.

#### **e. State supervision of budgets and accounts**

116. Financial supervision of local authorities' expenditure is carried out by State Audit Office of the Republic of Latvia, which is an independent collegial supreme audit institution, providing independent assurance on the effective and useful utilisation of central and local government resources.

117. The Constitution establishes the State Audit Office as an independent collegial institution and describes the process of appointing Auditors General - the procedure is essentially the same as when appointing judges, with the exception that the Auditor General has a fixed term of office. The State Audit Office controls how the state financial resources are used.

118. There are also several other forms of financial supervision such as a private audit of the annual report in each enterprise or institution of local government, as well as of the local government as a whole. Results of this audit are also available to the Ministry of Finance and the State Audit Office. Local government councils each year make a decision about the results of those private audits.

119. Ministry of Finance in the meantime is responsible to:

- monitor local government financial action consistency with laws and regulations;
- monitor consistency of local authorities' planned expenditure with actual execution;
- monitor the correspondence of local government long-term liabilities and borrowing practices with laws and regulations.

120. The rapporteurs consider that the forms of oversight of the adoption and implementation of local authority budgets exercised by the state are compatible with the Charter.

#### **Article 10: Right to associate**

121. The local authorities consider that their right to associate and collaborate operates satisfactorily. Latvian local authorities, according to the rapporteurs, seem to have a moderately developed practice of intermunicipal cooperation. Many cases are known where local government agencies provide services outside the municipal area, based on formal agreements. Most often such cooperation takes place in the sphere of education (schools of cities and towns provide education for surrounding municipalities), for social assistance, culture, waste collection and disposal services. The provision of public transport is one contentious area. In 2007 the Riga district government lodged a constitutional complaint concerning an article on the Public Transport Law, which stipulated that a "republican city" can provide public transport up to 15 km outside of its territory. This question of provision of public transport to neighbouring municipalities by the Capital city of Riga was raised also during the meeting between the Congress delegation and the Mayor of Riga.

122. Following the reform of local government, most authorities are more concerned with the internal reorganisation necessarily entailed by the merging of authorities than with inter-municipal co-operation.

123. The Association of Local and Regional Governments of Latvia has real influence and is recognised at national level as being representative. It plays a valuable role in promoting local democracy. The Congress delegation wishes to stress the significant part the association plays in Latvian local political life and its active commitment to local and even national public and political affairs.

#### **Article 11: Legal protection of local self-government**

124. Latvian local authorities have a right of appeal against decisions or actions of the central authorities that they consider to be in breach of their rights.

125. Authorities appear to have effective judicial remedies. Section 14 of the Local Government Act stipulates that, in carrying out their functions, local authorities shall have the right, in accordance with procedures prescribed by law, to bring actions in court and complaints in administrative institutions. Section 47 says that "Administrative acts issued by city or county councils may be appealed in the administrative court. Administrative acts issued by the local government administration may be disputed within the framework of the local government. In the cases specified by law, administrative acts shall be disputed in that direct administrative institution to which the local government is subordinate in implementing the delegated State administrative function or administrative task." Section 49 of the same Law stipulates that if a city or county council fails to take a decision to revoke the order of the Minister for Regional Development and Local Government Matters, regarding the suspension of the operation of the city or county council binding regulations or other regulatory enactment or specific sections thereof, it shall submit an application to the Constitutional Court regarding the revocation of the order of the Minister for Regional Development and Local Government Matters.

#### **Article 12: Undertakings – any "reservations" entered by the state**

126. Latvia's reservation under Article 12 concerns Article 9 paragraph 8 of the Charter, on local authorities' right to take out loans.

### **IV. STATUS OF THE CAPITAL CITY**

127. The rapporteurs are concerned that the capital, Riga, has no special status in legislation. When they met the Congress delegation, the representatives of the city agreed that a special status could contribute to solving certain current problems it faces. In 2008 the Government launched preparations for drafting a law but, the rapporteurs were informed after their visit that, in 2011, on the ground that the Riga city council did not provide sufficient proposals for its content, it was decided to discontinue the work on drafting the law.

128. The capital accounts for one third of the country's population and 50% of its wealth. The population does not appear to have risen in recent years. The delegation was informed of problems in the financial relations between Riga and its surrounding authorities. For example, the Riga public transport system serves the surrounding area but is mainly funded by the city.

129. The city is also experiencing an exodus of certain groups of the population to its periphery. This is a frequent occurrence in large cities and means that part of the population who work in the city and are well paid live in neighbouring authorities, which therefore benefit from the income tax they pay. To rectify this situation it would be necessary to establish a larger metropolitan area.

130. Riga's budget in 2010 was 400 million Lats (€ 564 million). The year 2010 was also a difficult one in which the city of Riga was forced to reduce its staffing. In response, the city has tried to increase social assistance and not to cut staffing, particularly in the municipal police force. The Riga municipality's expenditure and income rose steadily between 2006 and 2008. The 2009 budget showed a significant drop in income (from 607 million Lats in 2008 to 447 million Lats in 2009). In other words there was a total drop in income of 159.4 million Lats, or 25.3%, from one year to the next.

## **5. REGIONAL DEMOCRACY: THE REFERENCE FRAMEWORK FOR REGIONAL DEMOCRACY**

### **5.1. Regional architecture: Internal organisation and financing**

131. Latvia's geographical size means that a regional tier between local authorities and the state is not essential.

132. Before the July 2009 reform (see paragraphs 61 and 62 above), there were districts (*rajons*) above the municipal tier and also planning regions. The districts were more of an upper local authority tier than a regional level. 7 "republican cities" (Rīga, Daugavpils, Jelgava, Jūrmala, Liepāja, Rēzekne, Ventspils) acted as both municipalities and districts. Local government reform resulted in larger municipalities and the district tier was abolished. In 2002, five planning regions were established. These regions had no legal personality but did have "councils" made up of local authority representatives. They particularly served as a basis for the management of European structural funds and corresponded to the European NUTS3 category for statistical purposes. They were also responsible for regional development planning.

133. When the districts were abolished under the local government reform, their responsibilities were divided between the local level and the regional planning structure. The latter does not appear to have its own resources.

134. Following the reform, the regional planning authorities are each run by a council made up of representatives of the executives, or mayors, of the local authorities concerned, and they also have their own staff, answerable to the council.

135. These regional bodies have the following responsibilities:

- public transport above the local level;
- regional spatial planning and development;
- joint activities of the local authorities concerned, as agreed by the council;
- the administration of European Union financial instruments.

136. These are fairly weak institutions that do not have the character of genuine autonomous regional authorities directly elected by universal suffrage. Several representatives of local interests would like to see this regional tier transformed into full regional authorities with greater powers and responsibilities. It would indeed be desirable to clarify the legal situation of the regional tier and give these bodies a proper autonomous status. Under the reform of local and regional government it was intended to enact legislation to reform the regional structure.

137. Such legislation was never drawn up and the new government that came into power after the October 2010 elections has said it intends to abolish this tier of authority, mainly for reasons of economy (A vote in Parliament on a law on regional government is planned for December 2011).

Given the country's financial problems and size, this may be considered a defensible position, so long as other ways are established of meeting the need for co-operation above the local level.

138. According to information received by the delegation during its visit, regional development in Latvia is very imbalanced and the question is how to reduce this imbalance. Under the current regional structure there is no system of financial equalisation, which only operates between local authorities.

139. One sensitive issue is how to improve relations between the urban centres and their surrounding rural areas. This concerns such topics as the inter-urban road networks and bus routes.

140. In conclusion, the delegation considers that if Latvia does wish to develop a genuine regional structure, it should base this on the Reference Framework for Regional Democracy.<sup>13</sup>

## **5.2. Impact of the Reference Framework for Regional Democracy**

141. Given the fairly undeveloped nature of Latvia's "regional" tier, it is difficult to apply the Reference Framework for Regional Democracy to it. Under its current structure, it operates more as an instrument for cooperation between local governments themselves and, also between central government and the local authorities of the area concerned.

142. For it to develop in accordance with the Reference Framework it would need:

- directly elected bodies;
- more powers and responsibilities that are clearly defined in law;
- its own financial resources; and
- a financial equalisation system.

## **6. HUMAN RIGHTS AT LOCAL AND REGIONAL LEVEL**

### **6.1. Ombudsman's Institution**

143. The first Ombudsman in Latvia was elected by the Parliament on 1 March 2007 and shortly afterwards the Ombudsman Office became operational. The second Ombudsman took office on 17 March 2011.

144. The Ombudsman is independent in its actions and is governed only by law. No persons or state or local government institutions have the right to influence the performance of the Ombudsman's functions and tasks. The Ombudsman Office is located in the capital Riga and it does not have any regional branches or representations. It has the right to provide the *Saeima*, the Cabinet of Ministers, local governments or other institutions with recommendations in respect of the issuance of or amendments to the legislation. It has competence to consult all public bodies at central and local level and its jurisdiction is not confined to a specialised subject or area.

145. The Ombudsman's Office staff is structured in following expertise fields:

- Civil and Political Rights;
- Social and Economic Rights;
- Criminal Law;
- Prevention of discrimination;
- Children's Rights;
- Good Governance.

146. Issues dealing with local government are usually connected to the fields of social and economic rights and good governance practices.

147. According to data provided to the Congress delegation by the Ombudsman Office, the share of issues dealing with local government treated by their office is relatively small, constituting 10-15% of total cases. The total number of complaints and applications from 2007 to 2009 has been 13 600.

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<sup>13</sup> The Reference Framework for Regional Democracy is appended to the Utrecht Declaration adopted by the 16<sup>th</sup> Council of Europe Conference of Ministers responsible for Local and Regional Government on 16-17 November 2009 in Utrecht. Resolution 299 (2010) of the Congress states that the Congress shall use the Reference Framework in its monitoring activities.

In 2009 a total of 3 603 complaints and applications were received, more than half of which had a positive outcome in favour of the applicant. In the field of good governance there were 316 complaints (approximately 50% of which were connected with local issues) 67 complaints concerned the right to social assistance provided by local government.

## 6.2. Minorities and non-citizens in Latvia

148. In 2005 and 2008, the Congress Rapporteur, Jean-Claude Frécon, carried out visits to Latvia that were particularly concerned with the participation of non-citizens in public and political life at local level. Following the visit of 2008, the Congress adopted Recommendation 257 (2008) on Local democracy in Latvia: the participation of non-citizens in public and political life at local level.

149. The rapporteurs also noted that in 2007, the Council of Europe Commissioner for Human Rights issued a memorandum to the Latvian government on the progress made since his 2003 report (CommDH(2007)9). Latvia has ratified the Framework Convention for the Protection of National Minorities, but not the European Charter for Regional or Minority Languages.

150. During the visit, the delegation once more raised the issue of non-citizens' participation in public life with various interlocutors and examined the action taken by the Latvian authorities in response to the Recommendation 257 (2008).

151. The Russian minority make up 27% of the population. Riga has introduced an integration and national naturalisation policy – particularly the teaching of Latvian – aimed at permanent residents who have lived in the country for many years without Latvian nationality. Since the 1994 Citizenship Law came into force, nearly 136 000 persons have obtained Latvian nationality, which has helped to bring down the proportion of non-citizens in the population from 29% in 1995 to 14.6% on 1 January 2011.

152. The Latvian authorities state that the conditions for granting nationality have been relaxed. Moreover, the interests of non-citizens may be represented in local authorities by a consultative council.

153. In the interests of their integration, Congress had recommended granting non-citizens the right to vote in local elections. For the time being the authorities consider that such a measure would be inadvisable since the “main goal of Latvia’s integration policy is to promote naturalisation and increase the number of citizens possessing full set of rights, rather than increasing the number of non-citizens possessing many rights”<sup>14</sup>. A significant number of non-citizens do not have Latvian nationality because they refuse to take the necessary steps to securing naturalisation. It came to the Rapporteurs attention recently that, in December 2008, the Ombudsman had presented a report to the Parliament drawing attention to certain limitations such as the prohibition of non-citizens to work as attorneys at law, detectives, patent specialists or as guards and some of the restrictions on property deals were not well-grounded.<sup>15</sup> The Ombudsman had also supported the cancellation of the Latvian language examination for non-citizens willing to obtain the status of permanent EU residents.

154. It should be noted that parties such as the Concord Centre Party that offer Russian speakers a voice have established a place on the Latvian political map at local level. The crisis itself has helped to shift attention from ethnic to economic issues.

155. Changes to the education system in the 1998 Law on Education means that there are still schools for minorities financed by the state, though certain subjects have to be taught in Latvian. As well as Russian, Polish, Ukrainian, Lithuanian, Estonian, Belarusian, Romani and Hebrew languages are also concerned. There are bilingual schools where Russian can be studied and it is possible to use Russian in the public services.

156. The rapporteurs refer to Committee of Ministers Resolution CM/ResCMN(2011)6 on the implementation of the Framework Convention for the Protection of National Minorities by Latvia<sup>16</sup>,

<sup>14</sup> Extracts from the Comments made by the Ministry of Foreign Affairs of Latvia to this draft report.

<sup>15</sup> See *Telegraf*, 15 August 2011.

<sup>16</sup> Adopted by the Committee of Ministers on 30 March 2011, at the 1110<sup>th</sup> meeting of the Ministers' Deputies.

[https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/ResCMN\(2011\)6&Language=lanEnglish&Ver=original&Site=CM&BackColorIntern=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383](https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=CM/ResCMN(2011)6&Language=lanEnglish&Ver=original&Site=CM&BackColorIntern=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383)

which states that *"the Latvian authorities have made commendable efforts, in recent years, to promote the integration of society. Steps have also been taken to improve the legal and institutional framework for protection against discrimination and racism and the monitoring of the actual situation in this field should receive increased attention in the future. While efforts have been made by the government to support the preservation of the national minorities' specific cultures and identities, the significant reduction, in recent years, of state financial support for the organisations of national minorities is a source of concern."*

157. However, *"persons belonging to national minorities in Latvia do not fully benefit from important provisions of the Framework Convention relating to the use of their minority languages in dealings with the administrative authorities and to the use of minority languages alongside Latvian in local topographical indications. Efforts are needed in the legislative sphere and at the practical level to enable persons belonging to national minorities to use their languages in dealings with the administrative authorities and in topographical indications, according to the needs, in line with the conditions set out in Articles 10 paragraph 2 and 11 paragraph 3 of the Framework Convention. More generally, while protecting and strengthening Latvian as the state language is a legitimate aim, all due attention should be paid to the effective enjoyment of the right of persons belonging to national minorities to use freely their minority languages."*

158. The rapporteurs have taken note of the high number of minority NGO projects financially supported by the State between 2005–2008 and the effect of the financial crisis in reducing state support to minority NGOs. They also learned that a Minorities Consulting Council and a Committee of Minority NGOs on Monitoring the Implementation of the Framework Convention for the protection of national Minorities have been established and that a number of municipalities have set up consulting institutions with the involvement of persons belonging to minorities and non-citizens. However, the rapporteurs continue to be concerned about the restrictions on the participation in public affairs of non-nationals' who identify with a national minority, including the failure to allow them to vote in local elections.

159. In this regard, Resolution CM/ResCMN(2011)6 states that *"shortcomings relating to the effective participation of persons belonging to national minorities in the decision-making process need to be addressed. The participation through the Council for Minority Participation or equivalent structures should be strengthened and made more efficient. A governmental structure in charge of national minority issues should be maintained, with an increased decision-making role on minority-related issues. The question of the participation in public affairs of "non-citizens" identifying themselves with national minorities, including the possibility for them to vote in local elections, remains a matter of serious discussion."*

160. It should also be stressed in this context that Latvia has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority. The rapporteurs would encourage the Latvian authorities to sign and ratify it as soon as possible.

### **6.3. Citizen participation in decision-making and elections, freedom of expression and freedom of assembly and association**

161. The Constitution of the Republic of Latvia grants that: "Every citizen of Latvia has the right, as provided for by law, to participate in the work of the State and of local government, and to hold a position in the civil service." However not all recognized participatory democracy forms are mentioned in legal acts and regulated. Public hearings generally are regulated at national level, and consultative citizen councils, commissions, working groups - at local level.

162. The following forms of participatory democracy are known and used in local and regional level in Latvia:

- Public hearings;
- Citizens councils (special commissions, consultative councils, small councils);
- Working groups, focus groups;
- Public opinion polls;
- Popular initiative.

163. Citizen participation (including residents) is also enhanced by the following measures:

- Open meetings of local councils and standing committees;
- Availability of minutes of council meetings;

- Compulsory reception times of local council members;
- Examination of complaints and proposals of inhabitants;
- Preparation and publication of annual public report of local government.

164. The delegation was also informed that a number of political parties are organised and operate at local level but are not represented in the state parliament at this time.

#### 6.4. Local and regional referendums

165. On 17 June 2008 the Parliament (*Saeima*) adopted an amendment to the Local Government Act, which would grant local authorities the right to organize local referendums, following the adoption of a special law that had to be submitted until December 2009 to the *Saeima*. Such a draft law has never been submitted and it means that there are no local referendums in Latvia.

166. There exists no special institution of popular initiative at local level in Latvia but this form of participation is possible in practice. It is up to local councillors to decide whether to react and how to react to any such popular initiative. Popular initiative has been used by citizens on a number of occasions in the past. A relatively recent and well-known case is related to the administrative territorial reform. In spring 2010 a number of inhabitants of Rojas novads municipality (formed by amalgamation of 2 municipalities) organized a meeting and gathered a significant number of signatures asking to split this newly formed municipality into the two pre-reform municipalities. The municipal council decided to support this initiative and the responsible ministry prepared a draft law proposing the split of the newly formed municipality and submitted it to the Parliament.

167. Local authorities can organise boards, commissions and working groups, that consist from local councillors and local inhabitants. There exists a practice of having standing (permanent) commissions and consultative councils of local citizens in local authorities and this practice is becoming more popular. Working groups, also citizens' panels, focus groups are organised for finding solutions to particular tasks or for discussion of particular issues.

168. In the Local Government Act the procedure of holding general public hearings is described.

169. Article 61.1 of the aforementioned Law says:

*"For the purposes of consultation, on the basis of an initiative of an inhabitant of the local government, the city or county council or the chairperson thereof, and based upon a city or county council decision, there may be organised public discussions regarding local government autonomous competence issues.*

*Public discussions must be organised for:*

- 1) *amendments to the administrative territorial boundaries of the local government; and*
- 2) *the local government development programme and spatial planning.*

*Public discussions shall not be organised for the local government budget, local government paid services, rates of taxes and fees, as well as for the appointment local government officials to positions and the removal."*

170. Article 61.2 of the aforementioned Law says:

*"The length of public discussions shall not be less than three weeks. Local government residents and representatives of the mass media during the course of the public discussion shall be guaranteed access to not only the document under discussion, but also all the local government decisions associated with such document.*

*Everyone has the right to express his or her views orally and in writing in respect of the issue under public discussion. The local government has a duty to compile the views expressed and to publish in the local newspaper an informative notice (summary) regarding the results of the discussion. The local government has a duty to publish in the local newspaper the decision taken by the city or county council in which the results of the public discussion have been utilised."*

171. Public hearings can be considered the most frequently used form of participation in Latvia. For development programs and spatial planning, at least two public hearings have to be organised. It has to be mentioned though that general public hearings which are not connected with planning and building are not widely used.

172. The rapporteurs are of the impression that at local level the development of direct participatory democracy varies from one local authority to another. Some municipalities have developed practices

such as regular opinion polls, permanent commissions and working groups with citizens' involvement, while in some others such developments are yet to come.

## **7. CONCLUSIONS**

173. Overall, Latvian local democracy has firm roots that enable local authorities to play an important part in the development of Latvian society.

### **7.1. The Latvian authorities' response to the 1998 recommendations**

174. The delegation considers that there has been progress since 1998 concerning the constitutional safeguards for local democracy, thanks to advances in constitutional case-law and the extended right of local authorities to appeal to the Constitutional Court, though there have been no changes to the Constitution itself. The Local Government Act has been amended to take account of what was said in the recommendation, which asked the Latvian authorities to make the Local Government Act of 19 May 1994 conform fully with Article 2 of the European Charter of Local Self-government, and no longer describe local self-government as a "form of state administration".

175. The local government reform, in which authorities were merged to produce stronger entities, has had positive results overall, with local authorities now being listened to in a manner consistent with the Charter. The legislation governing financial equalisation has been tightened to avoid the possibility of discretionary decisions, as recommended by the Congress. However there has been hardly any improvement in local authorities' financial position. Indeed, the 2009 economic crisis has reduced authorities' room for financial manoeuvre and central government's oversight of their finances has been strengthened. There are still strict controls on borrowing. The regional structure has undoubtedly been modified with the abolition of the districts but the new regional tier is not directly elected by the citizens and has fairly limited powers. Non-citizens have not been granted the right to vote in local elections but steps have been taken to make it easier for them to obtain citizenship.

### **7.2. Proposed recommendations**

177. Following the visit, the rapporteurs conclude that a number of issues deserve further attention and concrete action by Latvian authorities, in order to improve the existing practices in the field of local self-government. In particular this would mean increasing the financial autonomy of local authorities, granting them sufficient resources and reorganising the supra-municipal tier of local government taking into account the guidelines in the Reference Framework for Regional Democracy. Other measures, which the rapporteurs find particularly important, would be restoring local authorities' scope for independent action by abandoning the restrictions which central government imposes on local authorities' borrowing powers and consequently lifting the reservation related to Article 9 paragraph 8 of the Charter, to grant non-citizens the right to vote in local elections and to elaborate legislation which would attribute a special legal status to the capital city of Rīga.

## APPENDIX

### Programme of the monitoring visit of the Congress of Local and Regional Authorities delegation to Latvia

(Riga - Sigulda, 3-5 November 2010)

#### Congress Delegation

Mr Jean-Claude FRÉCON Vice-President of the Congress, Senator of the Loire region, Municipal Councillor of Pouilly-lès-Feurs, Vice-President of the Mayors of France Association

Mr Philippe LEUBA State Councillor of the Canton de Vaud (Switzerland)

Mr Jean-Marie WOEHRLING Consultant

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**3 November 2010**

Ministry of Finance:

- Mr Mārtiņš Bičevskis, State Secretary

Chair of the Human Rights and Public Affairs Committee:

- Ms Ingrīda Circene

Ministry of Regional Development and Local Government:

- Ms Laimdota Straujuma, State Secretary  
- Ms Ina Varna, Department of Municipal Development  
- Ms Kristīne Jaunzeme, Head of the Legal Department

- Mr Andris Jausleinis, Chairman of the Latvian Association of Local and Regional Governments, Head of Latvian delegation to the Congress  
- Ms Agita Kaupuza, Specialist of Foreign Affairs Issues Latvian Association of Local and Regional Governments, Secretary of Latvian delegation to the Congress  
- Ms Mudite Priede, Secretary General of the Latvian Association of Local and Regional Governments  
- Mr Maris Pukis, Senior Advisor of the Latvian Association of Local and Reg. Governments  
- Mr Andris Ravins, member of Congress delegation, Chairman of Jelgava City Council

**4 November 2010**

- Mr Viktors Skudra, Vice-President of the Latvian Constitutional Court  
- Ms Dzintra Pededze, Legal Assistant to the Justice  
- Ms Lina Kovalevska, Assistant to the President of the Constitutional court of the Republic of Latvia

- Mr Nils Usakovs, Chairman of the Riga City Council (Mayor of Riga)  
- Mr Dainis Turlais, President of the Security Committee of the Municipal Council  
- Ms Fatma Fridenberga, Deputy Director of Administration  
- Mr Andris Konosonoks, Councillor of Finance

- Mr Roman Apsitis, Latvian Ombudsman  
- Mr Arvids Dravnieks, Head of the Department of Good Administration  
- Mr Jurijs Pogrenazks, Council on Foreign Relations

Office of Citizenship and Migration Affairs and Naturalization Board:



- Mr Janis Citkovskis, Deputy Head of the Office
- Mr Igors Gorbunovs, Head of Naturalisation Board

Meeting with University Professors; Department of Public Administration, University of Latvia:

- Dr. Maris Purgailis, Dean of the Faculty of Economics and Management
- Prof. Inesa Voroncuka, Head of the Department of Public Administration
- Prof. Inga Vilka

**5 November 2010**

- Mr Andris Teikmanis, Secretary of State of the Foreign Affairs Ministry, Former Ambassador of Latvia to the Council of Europe
- Mr Ugis Mitrevics, Chairman of the Sigulda Region Municipality