

# The Congress of Local and Regional Authorities



**21<sup>st</sup> SESSION**  
**CG(21)12**  
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## Local and regional democracy in Slovenia

Monitoring Committee

Rapporteurs: Jos WIENEN, the Netherlands (L, EPP/CD<sup>1</sup>) and  
Merita JEGENI YILDIZ, Turkey (R, EPP/CD)

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### *Summary*

This report on the situation of local democracy in Slovenia follows upon a first monitoring visit conducted in 2001 and aims at assessing the action undertaken following the adoption of Recommendation 89(2001). The rapporteurs express satisfaction that local democracy in Slovenia complies with the provisions of the European Charter of Local Self-Government and provides options for citizen participation. The report takes note of the improvements as regards the distribution of shared state taxes, good practices concerning the integration of Roma minorities and the status of the capital city. It notes, however, that the consultation process between the local authorities and the central government has not improved, the fragmentation of municipalities remains an issue and the process of regionalisation is still blocked. This being said, a consensus between the political actors seems to have been reached on the necessity to set up regions in Slovenia.

The Congress recommends that Slovenia increase the local authorities' revenue autonomy, promote mergers of local authorities where appropriate, reach a compromise on the number of regions and launch the process of regionalization. It also invites the authorities to disseminate the existing good practices concerning the integration of Roma into local communities.

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



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

[\(see Recommendation 308 \(2011\) adopted on 18 October 2011\)](#)

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

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

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

c. Congress Resolution 299 (2010), which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy in its monitoring activities, as well as the reply made by the Committee of Ministers to the Congress recommendation 282 (2010) (CM/CONG(2011)Rec282final, encouraging the governments of member states to take account of the above mentioned Reference Framework;

d. the explanatory memorandum on local democracy in Slovenia drawn up by the Rapporteurs, Jos Wiene, the Netherlands (L, EPP/CD) and Merita Jegeni Yildiz, Turkey (R, EPP/CD) following an official visit to Slovenia from 8 to 10 November 2010. In their work, the Rapporteurs were assisted by a consultant, Mrs Inga Vilka (Latvia), a member of the Group of Independent Experts on the European Charter of Local Self-Government.

2. The Congress recalls that:

a. Slovenia signed the European Charter of Local Self-Government on 11 October 1994 and ratified it on 15 October 1996 with a commitment to observe all the provisions thereof with no reservations or declarations;

b. Slovenia signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority on 16 November 2009. The Congress notes with satisfaction that Slovenia ratified it on 5 September 2011;

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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. Geguzinskis*, *S. Glavak*, *S. Guckian*, *M. Guegan*, *M. Gulevskiy* (alternate: *V. Novikov*), *H. Halldorsson*, *M. Heatley*, *J. Hepburn*, *B. Hirs*, *J. Hlinka*, *C. Hughes*, *A. Ibrahimov*, *L. Iliescu*, *J. Jalinska* (alternate: *M. Juzupa*), *S. James*, *A. Jaunsleinis* (alternate: *N. Stepanovs*), *M. Jegeni Yildiz*, *M. Juhkami*, *J-P Klein* (alternate: *P. Weidig*), *A. Kriza*, *I. Kulichenko* (alternate: *Z. Chepey*), *O. Arild Kvaløy*, *F. Lec*, *J-P Liouville*, *I. Loizidou*, *M. Magomedov*, *P. Mangin*, *T. Margaryan*, *G. Marsan*, *H. Marva*, *V. Mc Hugh*, *M. Merrild*, *I. Micallef*, *I. Michas*, *T. Mikus*, *K. Miskiniene*, *G. Mosler-Törnström*, *A. Muzio* (alternate: *B. Toce*), *A. Ocana Rabadan*, *Z. Ozegovic*, *V. Oluiko*, *R. Paita* (alternate: *A. Miele*), *G. Pieper*, *H. Pihlajasaari*, *G. Pinto*, *C. Radulescu* (alternate: *L. Sfirloaga*), *R. Rautava* (alternate: *S. Ruponen*), *H. Richtermocova*, *A. Rokofillou*, *D. Ruseva*, *S. Sallaku*, *V. Salygin*, *V. Sau*, *J. Sauwens*, *P. Schowtka*, *W. Schuster*, *D. Shakespeare*, *P. Shatri*, *M. Simonovic*, *G. Spartanski*, *M. TAMILOS*, *A. Torres Pereira*, *V. Udovychenko*, *A. Ugues*, *G. Ugulava* (alternate: *E. Beruashvili*), *A. Uss*, *V. Varnavskiy* (alternate: *A. Borisov*), *O. Van Veldhuizen*, *L. Vennesland*, *L. Verbeek*, *H. Weninger*, *K. Whitmore*, *J. Wiene*, *U. Wüthrich-Pelloli*, *N. Zeybekci*, *J. Zimola*, *D. Zmegac*.

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

Secretariat of the Committee : *S. Poiré* and *S. Cankocak*.

c. The state of local and regional democracy in Slovenia had been the subject of a Congress monitoring report in 2001. The Institutional Committee<sup>3</sup> decided on 2 July 2010 to carry out a visit for monitoring the state of local and regional self-government in Slovenia and its compliance with the European Charter of Local Self-Government. It instructed Mr Jos Wielen (Netherlands, L, EPP/CD) and Mrs Merita Jegeni Yıldız (Turkey, R, EPP/CD) as Rapporteurs to update the above mentioned report on local democracy in Slovenia, and to submit it to the Congress;

d. The Congress delegation carried out a monitoring visit to Slovenia from 8 to 10 November 2010;

3. The Congress wishes to thank the Permanent Representation of Slovenia to the Council of Europe, the Slovenian authorities at central, regional and local levels, the Association of Municipalities and Towns of Slovenia (Skupnost občin Slovenije, SOS) and the Association of Municipalities of Slovenia (Združenje občin Slovenije, ZOS) as well as other interlocutors for their valuable cooperation at different stages of the monitoring procedure and the information conveyed to the delegation.

4. It notes with satisfaction that:

a. Slovenia, in general, complies with the provisions of the European Charter of Local Self-Government, and in particular provides options for citizen participation in local communities;

b. the distribution of shared state taxes (mainly personal income tax) was changed in 2006 and later in 2008 giving way to a system based on a per capita amount, calculated by the Ministry of Finance in accordance with the law and negotiated with the local authorities;

c. the Capital City Act was passed in 2004;

d. the Slovenian government has committed itself to the creation of regions, by amending the constitutional provisions on regional self-government which are a significant step towards that goal;

e. there are good practices concerning the integration of Roma minorities in some municipalities through, for instance, the pre-schooling system or the involvement of a Roma representative in municipal councils.

5. Taking note that a certain number of points taken up in Congress Recommendation 89 (2001) on the situation of local and regional democracy in Slovenia still remain relevant, the Congress notes with regret that:

a. The Slovenian municipalities' level of tax revenue autonomy is relatively low;

b. the consultation process between the local authorities and the central government has not improved and there are still shortcomings in its implementation;

c. the fragmentation of municipalities continued until 2006, further to the outcome of local referendums giving rise to problems in terms of the provision of local government services and the carrying out of tasks in smaller municipalities;

d. the difficulty in reaching a consensus on the number of regions constitutes the principal reason that the process of regionalisation is blocked.

6. In the light of the above, *the Congress requests the Committee of Ministers* to invite the Slovenian authorities to take the necessary steps, in particular through legislation, to:

a. increase the local authorities' revenue autonomy by widening local tax and fees revenue and ensure that the criteria used to calculate the per capita amount is revised and tied in more closely with local government functions;

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<sup>3</sup> Following the reform of the Congress, monitoring activities carried out by this committee were transferred to the Monitoring Committee established on 1 December 2010.

*b.* to strengthen the legal provisions concerning the process of consultation between the associations of local authorities and the government more closely, to give it its full meaning by making it more efficient on all questions that have an impact on local authorities, and not only on financial matters;

*c.* promote, where appropriate, the merger of local authorities, after their consultation, for a better functioning local democracy;

*d.* clarify the issue of the criteria and the number of regions rapidly in order to launch the process of regionalisation, by taking into account the principles laid down in the Reference Framework for Regional Democracy;

*e.* disseminate the existing good practices concerning the integration of Roma into local communities in order to improve their participation in local political life.

## EXPLANATORY MEMORANDUM

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### I. INTRODUCTION

1. The Congress of Local and Regional Authorities of the Council of Europe (hereafter the Congress), prepares 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 ensures, in particular, that the principles of the European Charter of Local Self-Government are implemented.

2. Slovenia signed the European Charter of Local Self-Government on 11 October 1994 and ratified it on 15 October 1996. Slovenia has adopted all the provisions of the Charter with no reservations or declarations.

3. On 16 November 2009 Slovenia signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority, and in February 2011 the Parliament ratified the Additional Protocol (Official Gazette No. 16/2011). By letter of 5 September

2011, the Permanent Representation of Slovenia informed the Secretary General of the Council of Europe about the ratification of the Additional Protocol to the Charter. The delegation expresses their great satisfaction about this and consider that the act of ratification is another positive sign by the Slovenian authorities towards development of local democracy in Slovenia.

4. The state of local and regional democracy in Slovenia has already been the subject of a Congress monitoring report – the previous report was drawn up and adopted in 2001.<sup>4</sup> On the basis of this report, Recommendation 89 (2001) on local and regional democracy in Slovenia was adopted by the Congress on 30 May 2001.

5. Mr Jos Wiene (Netherlands, L, EPP) and Mrs Merita Jegeni Yıldız (Turkey, R, EPP) were appointed Co-rapporteurs by the Institutional Committee<sup>5</sup> to monitor local and regional democracy in Slovenia. In carrying out their task, the Co-rapporteurs were assisted by a consultant, Mrs Inga Vilka (Latvia), a member of the Group of Independent Experts, and Mrs Stéphanie Poirel, Secretary to the Monitoring Committee of the Congress.

6. The monitoring visit took place from 8 to 10 November 2010. During the visit, the Congress monitoring delegation met representatives of the state institutions (parliament, government), judicial institutions (Constitutional Court, Ombudsmen), local authorities and their associations (for the detailed programme of the visit please see Appendix 1).

7. This report was drafted on the basis of information received during the visit to Slovenia, extracts from the relevant legislation and other information and documents provided by the representatives of the Slovenian authorities, international organisations and experts.

8. The delegation would like to thank the Permanent Representation of Slovenia to the Council of Europe, the Slovenian authorities, the national associations of local authorities and all the persons with whom discussions took place, for their readiness to assist, their interest in the Congress work and their cooperation throughout.

## II. BACKGROUND INFORMATION

9. The Republic of Slovenia has been an independent democratic parliamentary republic since 1991. It was previously part of the Socialist Federal Republic of Yugoslavia. It covers an area of 20,273 km<sup>2</sup>, its population in 2010 was 2.047 million<sup>6</sup> and is increasing. Since May 2004, the Republic of Slovenia has been a member of the European Union and in 2007 it introduced the euro as its currency. The official language is Slovene; in the ethnically mixed regions, Italian and Hungarian also enjoy official language status.

10. The Slovenian head of state is the President, who is elected by popular vote every five years and has mainly advisory and ceremonial duties. Since 22 December 2007, Mr Danilo Türk has been President of the Republic of Slovenia.

11. Parliament is the legislative branch of the state. Its most important duties include passing proposed laws, ratifying international treaties, adopting the national budget and exercising scrutiny over the government's activities. The bicameral parliament consists of the National Assembly and the National Council. The National Assembly comprises 90 members, elected in general elections for a four-year term. The most recent elections were held on 21 September 2008. The National Council is the representative body for social, economic, professional and local interests. It has 40 members elected for five years by the electoral colleges. The National Council is currently in its fourth term, which began in 2007. Legislative power is concentrated in the National Assembly.

<sup>4</sup> Situation of Local and Regional Democracy in Slovenia (Doc CG (8) 6 Part II, Strasbourg, 4 May 2001). Rapporteurs: Gerhard Engel (Germany) and Owen Masters (United Kingdom).

<sup>5</sup> Following the Congress reform, the monitoring activities carried out by this Committee were taken over by the Monitoring Committee set up on 1st December 2010.

<sup>6</sup> Eurostat data <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tps00001&plugin=1> (accessed on 22.11.2010.)

12. The executive branch of the state is headed by the Prime Minister and the Council of Ministers (Cabinet), elected by the National Assembly. Mr Borut Pahor has been Prime Minister since 21 November 2008. There are 15 ministries in Slovenia.

13. The judiciary consists of two main bodies, the Supreme Court and the Constitutional Court.

14. The Republic of Slovenia has been a member of the Council of Europe since May 1993. On 11 October 1994 Slovenia signed the European Charter of Local Self-Government, ratifying it two years later – on 15 October 1996. Slovenia has ratified all the provisions of the Charter. Article 8 of the Constitution of the Republic of Slovenia provides that “Laws and regulations must comply with generally accepted principles of international law and with treaties that are binding on Slovenia. Ratified and published treaties shall be applied directly”,<sup>7</sup> the European Charter of Local Self-Government has been directly applied in the Slovenian legislative system following its ratification by the National Assembly. In this sense, Slovenia has a monist legislative system.

15. Although the Constitution of the Republic of Slovenia and the main legislative acts on local self-government were adopted before ratification of the European Charter, it is interesting to see that the spirit of the Charter is reflected therein.

16. The delegation has noted that the Constitutional Court of Slovenia is indeed familiar with the European Charter of Local Self-Government. To date, the provisions of the Charter have been used in 34 decisions of the Constitutional Court. They include either an interpretation of specific provisions of the Charter (most often those regarding the financial resources for the activities of local authorities) or a direct review of the conformity of Slovenian legislation with the Charter. In the latter case, the Constitutional Court has, for example, ruled on whether national legislation may be declared to be in accordance with the standards of local self-government as prescribed by the European Charter. The issues the Court dealt with in these decisions are extremely varied and cover, for instance, the remuneration of local employees and elected representatives (Decision No.U-I-245/03), the intentional and prescribed use of the tourist tax (Decision No.U-I-165/00), whether the concept of local self-government in Slovenia complies with the one established by the Charter (Decision No.U-I-204/01), state supervision of local authority activities and specifically the grounds for dissolution of local councils or the dismissal of mayors (decision No.U-I-186/00), the delimitation of competences and tasks between central and local government (decisions No.U-I-215/96 and U-I-312/08), and the manner of financing local authorities (Decision No.U-I-24/07).<sup>8</sup>

17. Finally, as mentioned above, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority was ratified by the Parliament of Slovenia in February 2011.

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

#### **Article 2 (constitutional and legal basis)**

18. The principle of local-self government is recognised both in the Constitution and the legislation of Slovenia.

##### **a. Constitutional provisions**

19. The Constitution of the Republic of Slovenia was adopted on 23 December 1991 by the Assembly of the Republic of Slovenia. Since then, several amendments have been adopted<sup>9</sup>, some of which relate to local and regional democracy.

<sup>7</sup> There are two methods by which the terms of international treaties become part of Slovenia's national law: ratification and transposition. International treaties automatically become part of Slovenian law upon ratification by the National Assembly. A majority of the members of the National Assembly present must vote in favour of a treaty for it to be ratified. Prior to ratification, a treaty may be submitted to the Constitutional Court for assessment of its constitutionality. A finding by the Constitutional Court that a treaty is not in conformity with the Constitution has binding force and such treaties cannot be ratified. The second method, transposition, whereby the terms of an international treaty become part of Slovenian law, requires the passing by the Slovenian parliament of a law containing the provisions of the treaty.

<sup>8</sup> Information from the Constitutional Court of the Republic of Slovenia.

<sup>9</sup> In 1997, 2000, 2003, 2004 and 2006.

20. The Constitution (Article 9) provides that “Local self-government in Slovenia is guaranteed”. Part V of the Constitution is devoted to the basic principles of self-government – Articles 138, 142 and 144 are devoted to the principles of local self-government (the definition of the municipality, of the municipal territory and the procedure for its establishment, the scope of local self-government, special regulations for urban municipalities, municipal revenue and revenue from the state budget, supervision by state authorities), but Article 143 is devoted to regions, although they have not been established. In addition, several articles in other chapters contain provisions relating to self-government (cf. Articles 44, 64, 65, 146, 147, and 148).

21. The highest body of the judicial power for the protection of constitutionality, legality, human rights and fundamental freedoms in Slovenia is the Constitutional Court of the Republic of Slovenia. The composition and procedures thereof are regulated in detail by the Constitutional Court Act which dates back to 1994.

#### **b. The Local Self-Government Act**

22. The Local Self-Government Act – as a framework law on local self-government issues – was passed in 1993 and since then, there have been over 30 amendments.<sup>10</sup> The law contains chapters on general provisions, the territory and districts of municipalities, the duties and functions of municipalities including its bodies, administration, assets, financing and public services, general and individual acts of municipalities, supervision by state bodies, protection of local self-government and the rights of individuals and organisations. In the opinion of some local experts, the Local Self-government Act with its numerous amendments has become too detailed and in some places even casuistic.

#### **c. Other main legislative acts**

23. Alongside the Local Self-Government Act (1993), there is a range of other laws concerning self-government, including:

- Local Elections Act (1994);
- Capital City Act (2004);
- Financing of Municipalities Act (Nov 2006);
- Establishment of Municipalities and Municipal Boundaries Act (2006).

24. Regulations of the government of Slovenia and the decisions of the Constitutional Court also form part of the legal framework for the local government system and its operation.

#### **Article 3 (concept of local self-government)**

25. Municipalities are basic self-governing local authorities which, in accordance with the Constitution and laws, autonomously regulate and perform matters, duties and functions assigned to them by law.

26. The representative body of a local authority is the council, the decision-making body on all matters concerning the rights and duties of the municipality. The municipal council is elected by universal and equal suffrage by direct and secret ballot. The Local Elections Act (1994) regulates elections to the municipal councils, the mayoralty and the local, village, and town neighbourhood community councils.

27. Every citizen of the Republic of Slovenia aged 18 or over has the right to elect and be elected as municipal council members, as do citizens of other EU member states with permanent residence in Slovenia. Other foreigners with permanent residence also have the right to vote for members of the municipal council.

28. The right to elect and to be elected as a municipal council member and representative of the Italian or Hungarian national communities appertains to members of these communities who are eligible to vote. These rights, codified in the Constitution, also apply to the Roma community. Candidates for communities are selected by members of the national community within the relevant municipality by collecting the signatures of at least fifteen voters.<sup>11</sup>

<sup>10</sup> In 1994 (2), 1995, 1997 (2), 1998 (2), 2000, 2002, 2005, 2007, 2008, 2009 and in 2010.

<sup>11</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 651



29. Municipal council members are elected by proportional representation or in accordance with the majority principle (for representatives of Hungarian, Italian, and Roma communities). If a municipal council has fewer than 12 members, then councillors are elected according to the majority principle.<sup>12</sup> The term of office is four years and elections were held in 2010, 2006, 2002, 1998 and 1994.

30. Candidates for a municipal council post in elections using the proportional principle are determined by the political parties within a municipality. An adequate number of voters can determine a list of candidates for a municipal council as stipulated in the Act on Local Elections. At least 1% of the voters who voted in the last local elections but not less than 15 voters or more than 1000 have to sign/support the candidacy. The local election procedures are gradually introducing a gender mainstreaming policy - at the local election in 2006, it was obligatory to propose 20% of candidates of each gender, in 2010 - 30% and finally in 2014 the representation of one of the sexes will have to be 40%. Candidatures not submitted under this condition are eliminated from further electoral process.

31. The municipal council is the highest decision-making body and has between 7 to 45 members<sup>13</sup> depending on the size of the population. The municipal council appoints members of the supervisory committee, which oversees municipal public spending (internal audit).

32. The most recent local elections in Slovenia were on 10 October 2010. In the first round, held on 10 October, where 51% of citizens voted, mayors and councillors were elected in 134 municipalities. As none of candidates won a majority in the remaining 74 municipalities, a second round of local elections was held, with a 48% turnout.<sup>14</sup> More than 26,000 people stood for 3,380 seats in municipal councils. More than one third of the candidates were women, but they formed only about a quarter of the actually elected council members.<sup>15</sup> Two areas did not take part in electoral activities in 2010. In referendums held in November 2009, the people of Ankaran and Mirna decided to break away from Koper and Trebnje. The National Assembly therefore created two new municipalities but this act was later vetoed by the National Council. As a result, the Constitutional Court stopped the execution of the 2010 local elections in these two communities<sup>16</sup>. The parliament established the Mirna municipality in January 2011 and elections were held in April 2011. In April 2011, the draft law on establishing the Ankaran municipality as well as the law on elections in the urban municipality of Koper were still before the Parliament for decision.

33. Article 44 of the Local Self-Government Act provides for direct citizen participation in decision-making through citizens' assemblies, referendums and popular initiatives.

34. The most important form of direct democracy at national and local level is the referendum. A referendum is required for the establishment of a municipality with the participation of the residents of the area in question. In principle, local authorities have the right to hold referendums on all questions, with the exception of the budget, municipal taxes and other contributions, but, in practice, this right is exercised only on certain issues. The municipal statute sets out detailed rules on referendum initiatives, the holding of a referendum, and the decision-making method. If so requested by at least 5% of voters in a municipality, the municipal council is obliged to hold a referendum. A binding referendum is carried out as a subsequent (affirmative) referendum and its result is binding on the municipal council, while a council may call a consultative referendum before a decision is made (e.g. contributions to water infrastructure etc.).<sup>17</sup>

35. Other forms of direct participation in local decision-making are citizens' assemblies, popular initiatives, public deliberations, public viewing, consultations, workshops, meetings with interest groups, petitions, individual initiatives and e-participations (surveys, web portals). The rapporteurs

<sup>12</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 651

<sup>13</sup> Local Self-Government Act, Article 38.

<sup>14</sup> "Local elections in Slovenia finished, coloured person mayor in Piran": <http://www.emg.rs/en/news/region/136555.html> (accessed 22.11.2010).

<sup>15</sup> Triumph of the independent. The Slovenia Times. 05.11.2020: <http://www.sloveniatimes.com/en/inside.cp2?uid=17D499AD-B38D-775B-4A1D-EE34353BD092&linkid=news&cid=BEAF1BF5-A047-2FFA-3BC2-D2EA2CC627CE> (accessed 22.11.2010).

<sup>16</sup> Štor B. Decision Time. Local elections 2010. The Slovenia Times: <http://www.sloveniatimes.com/en/inside.cp2?uid=B9DEE6D4-A520-9F13-3454-CFFF7E7F0DEF&linkid=news&cid=BEAF1BF5-A047-2FFA-3BC2-D2EA2CC627CE> (accessed 07.01.2011).

<sup>17</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal, Local and Regional Democracy in Europe, Oxford: Oxford University Press, 2010. pp 650.

were informed by local experts that, in their opinion, the level of citizen participation in local public life was not satisfactory.

#### **Article 4 (scope of local self-government)**

36. The local authorities are responsible for a substantial share of public affairs. The basic powers and responsibilities are prescribed by the legal acts. According to the Constitution of the Republic of Slovenia, "The competencies of a municipality comprise local affairs which may be regulated by the municipality autonomously and which affect only the residents of the municipality".<sup>18</sup>

37. Local government responsibilities are prescribed by the Local Self-Government Act and other legal acts. According to the Local Self-Government Act, in order to satisfy the needs of its inhabitants, a municipality should perform primarily the following duties and functions:

- managing the assets of the municipality;
- providing the conditions for the economic development of the municipality and in accordance with the law, carrying out tasks in the areas of catering, tourism and agriculture;
- planning spatial development, carrying out tasks in the areas of activities affecting the physical space and the construction of facilities in accordance with the law, and ensuring the public service of building land management;
- creating the conditions for the construction of housing and providing for an increase in the rent/social welfare housing fund;
- regulating, managing and providing for local public services within its competences;
- promoting the services of social welfare for pre-school institutions, for the basic welfare of children and the family, and for socially threatened, disabled and elderly people;
- providing for the protection of the air, soil and water sources, for protection against noise and for collection and disposal of waste, and performing other activities relating to environmental protection;
- regulating and maintaining water supply and power supply facilities;
- creating conditions for adult education, important for the development of the municipality and for the quality of life of its population;
- promoting activities relating to upbringing and education, information and documentation, associations and other activities on its territory;
- promoting the development of sports and recreation;
- promoting cultural/artistic creativity, ensuring accessibility to cultural programmes, ensuring library activities for general education purposes, and being responsible for preserving the cultural heritage in its territory in accordance with the law;
- constructing, maintaining and regulating local public roads, public ways, recreational and other public areas; regulating traffic in the municipality and performing tasks of municipal public order;
- exercising supervision of local events;
- organising municipal services and local police and ensuring order in the municipality;
- providing for fire safety and organising rescue services;
- organising assistance and rescue in natural and other disasters;
- organising the performance of funeral and burial services;
- determining offences and fines for offences violating municipal regulations and inspecting and supervising the implementation of municipal regulations and other acts on the basis of which it shall regulate matters falling within its competences unless otherwise determined by law;
- adopting the statute of the municipality and other general acts;
- organising municipal administration;
- regulating other local matters of public interest.<sup>19</sup>

38. This means that the responsibilities of local authorities include primary education (school buildings and facilities), social welfare (child care, care for the elderly and social assistance), health (primary healthcare and pharmacies), social housing, leisure (museums, libraries, theatres, sport facilities, leisure centres) and local public utilities and networks (waste and water management, urban city transport, local road network, urban heating, etc.).

39. The Local Self-Government Act stipulates additional duties and functions for urban municipalities that refer to urban development, enabling the functioning and integration of all urban tasks. Urban municipalities have the same competences as other municipalities. In accordance with the

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<sup>18</sup> Article 140, part 1.

<sup>19</sup> Article 21.

Constitution and within their competence, urban municipalities may also exercise tasks which refer to the development of the city under State competence stipulated by law. Thus, by means of sector-specific acts, some state competences are exercised by urban municipalities strictly within their territory (culture, education, environment protection, urban transport etc). The Capital City Act stipulates special capital city functions and joint state and capital city functions, even if it has no special status (see below para. 117).

40. If a municipality has subdivisions (village or city (town) district communities) municipal statutes may transfer to those subdivisions the implementation of tasks such as local public services, maintenance of local roads and other public spaces, management of property and the promotion of cultural and other social services.

41. Tasks carried out by a municipality are defined in its statute and in the law. The legislation stipulates that, when central government transfers new functions or tasks to local authorities, it has to provide the municipalities with additional resources. The Constitution provides that “The state may by law transfer to municipalities the performance of special duties within the state competence if it also provides financial resources to enable such.”<sup>20</sup> The Local Self-Government Act stipulates that “The state may by law vest in a municipality the performance of individual duties and functions that fall under national competences (transferred tasks) subject to the prior consent of the municipality. (...) The state shall provide the municipality with appropriate means for the performance of duties and functions vested in it.”<sup>21</sup>

42. Despite these provisions, according to some mayors and National Council members, there is a problem regarding the assignment of new tasks imposed by the legislature without the provision of additional funds for their implementation. The most frequently mentioned examples were the amendments in legislation regarding kindergartens, whereby kindergarten services for a second child are free of charge for parents, being covered by the municipality (normally, approximately 30% of the costs are covered by parents). The growing number of regulations, new standards and increasing bureaucracy in pre-schooling and in other fields also increase local expenditure in fulfilling such tasks, not always covered by additional resources. Furthermore, in the current economic situation, municipalities are affected to an even greater extent – people are experiencing major social problems and, as a result, there are increased needs for social transfers.

43. There are different interpretations about the transfer of new tasks. According to representatives of municipalities, in particular cases (e.g. in the field of pre-school and school education) the tasks are transferred from state level and, accordingly, should be entitled to additional funds. However, in some cases the Government does not consider this as a devolution of tasks. In view of the failure to reach an agreement on local government financing in the last two years, local authorities have continued to maintain that no resources were allocated to cover the new tasks; for its part, the Ministry of Finance maintains that such tasks are fully or partly covered as the revenue from local government budgets has increased.

#### **Article 5 (protection of local boundaries)**

44. Slovenia has a single-tier self-government system. The Constitution defines both local self-government and regional self-government, although regions have not yet been created.

45. Upon gaining independence in 1991, Slovenia was divided into 60 municipalities, but in 1995 these were reorganised into 147 municipalities. In 1998, 46 new municipalities were founded. In 2006, some municipalities were further divided, reaching the total of 210. In April 2011, with the establishment of the municipality of Mirna, the total number of municipalities in Slovenia reached 211.

46. The Local Self-Government Act states that “A municipality must be capable of satisfying the needs and interests of its inhabitants and of fulfilling other duties and functions in accordance with the law.” (Article 13). The Act also states that “The municipality has a population of at least 5,000. Upon its establishment a municipality may have fewer than 5,000 inhabitants if this involves the establishment of a new municipality by way of a merger of two or more municipalities. As an exception, a municipality may have less than 5,000 inhabitants but not less than 2,000 inhabitants for geographic, border

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<sup>20</sup> Article 140.

<sup>21</sup> Article 24.

location, nationality, historical or economic reasons.” (Article 13a before amendments of June 2010). In June 2010 the Act was amended with the aim of stopping the process of division of municipalities. According to the amended Act, the only condition for establishing a municipality is a population of at least 5.000 inhabitants.

47. The Constitution (Article 139, paragraph 3) states that “A municipality is established by law following a referendum by which the will of the residents in a given territory is determined. The territory of the municipality is also defined by law” and the Local Self-Government Act (Article 14) provides that “The municipal area may be amended or new communities may be established by law following a referendum to ascertain the will of the people.”

48. The exception has become the general rule, resulting in a fragmentation of the country. Half of the municipalities (110) have a population of fewer than 5,000 residents and seven of these have fewer than 1,000; 47 municipalities have a population of between 5,000 and 10,000; 50 have a population of between 10,000 and 50,000; only one municipality has a population of between 50,000 and 100,000 and two of over 100,000.<sup>22</sup> The population in the smallest municipality is 371 (Hodoš) and 267,313 in the largest (Ljubljana, the capital).<sup>23</sup> According to 2007 data, the average population for municipalities in Slovenia was 9,600, almost twice the average in the EU (27) – 5,400.<sup>24</sup> Today, the difference is not so high as the EU average has risen because of administrative territorial reforms in countries such as Denmark and Latvia. The area covered by municipalities in Slovenia varies between 7 km<sup>2</sup> and over 500 km<sup>2</sup>.<sup>25</sup>

49. A municipal area comprises the area inhabited by a community or several communities bound together by common needs and interests. A town (city) is a large urban settlement, which in terms of its size, economic structure, density of population and historical development differs from other settlements.<sup>26</sup> There are 6,005 settlements in Slovenia and only about 70 of these are officially towns.<sup>27</sup> To qualify for the status of urban municipality, the number of inhabitants has to be at least 20,000; there must be 15,000 jobs available within its boundaries and it must be the economic, cultural and administrative centre of a wider area.<sup>28</sup> There are 11 urban municipalities in Slovenia: Celje, Koper, Kranj, Ljubljana, Maribor, Murska Sobota, Nova Gorica, Novo Mesto, Ptuj, Slovenj Gradec and Velenje. Not all urban municipalities meet the requirements regarding the size of the population or 15,000 jobs.

50. A municipality may establish smaller units (subdivisions) within the municipality - local community, village or city (town) district communities. Those subdivisions may be, but are not obliged to be, legal entities.<sup>29</sup>

51. In its previous Recommendation 89(2001), the Congress had underlined that it “consequently thinks it would be better to stop creating new municipalities, in order to prevent even greater fragmentation, coupled with inadequate funding”.<sup>30</sup> During the period after 2001, the trend on this particular point was contrary to the Congress’s recommendation – the process of further dividing local authorities continued.

52. Resistance to centralism was one of the most frequently mentioned reasons for establishing separate municipalities in Slovenia. The dominant expectation was that residents will satisfy their needs with the help of funds from various sources within their own smaller municipality far better than

<sup>22</sup> The Office for Local Self-Government and Regional Policy. <http://www.svlr.gov.si/fileadmin/svlr/srp.gov.si/pageuploads/lok-sam05/angl/munici/munici01.htm> (accessed 22.11.2010).

<sup>23</sup> The Office for Local Self-Government and Regional Policy. <http://www.svlr.gov.si/fileadmin/svlr/srp.gov.si/pageuploads/lok-sam05/angl/munici/munici01.htm> (accessed 22.11.2010).

<sup>24</sup> EU sub-national governments: 2007 key figures. CEMR-Dexia, 2008 edition.

<sup>25</sup> Data of the Statistical Bureau of the Republic of Slovenia.

<sup>26</sup> The Local Self-Government Act, Article 15a.

<sup>27</sup> Pichler-Milanovič N. Ljubljana: Strategic Development for Competitiveness and Sustainability.

<sup>28</sup> The Local Self-Government Act, Article 16.

<sup>29</sup> The Local Self-Government Act stipulates that a local community may organise lower organisational forms: village, locality or quarter communities. These lower organisational forms may have directly elected councils or special deliberative bodies appointed by the municipal council from among their inhabitants. The latter should, on the one hand, mean a deconcentration of the decision-making process and, on the other hand, a possibility of a more direct influence of local community inhabitants on the administration of issues which concern them most.

<sup>30</sup> Paragraph 4.b.i.

previously in a larger municipality.<sup>31</sup> At the same time, the growing fragmentation of the municipalities could be a reason for speeding up the centralisation process. From the local authorities' point of view, the financing system that existed until 2007 was a key reason for promoting the splitting of local authorities. Under that system, the total funding for a territory after splitting was higher than before.

53. According to the information gathered by the delegation, the municipalities were allowed to fragment because some of the political parties saw the new municipalities as possible centres of support. Small municipalities have problems in performing many tasks and are more dependent on the equalisation principle under the Local Finance Act.

54. Representatives of different state and municipal institutions have highlighted the large number of small municipalities as one of the key problems of local democracy in Slovenia. There is no territorial reform on the agenda which seeks to form larger municipalities. In accordance with amendments to the legislation introduced in 2010, central government will provide additional finances only if citizens express the wish to merge two or more municipalities.

#### **Article 6 (appropriate administrative structures and resources) and Article 7 (conditions under which responsibilities are exercised)**

55. The mayor is the official representative of a municipality. Mayors are elected by direct elections for a period of four years. Any person with the right to vote for the municipal council has the right to vote for a mayor. Regular mayoral elections take place at the same time as regular municipal council elections. The mayor represents the municipal council, convenes and chairs the municipal council's meetings but does not have the right to vote.

56. The mayor proposes the municipal budget for adoption by the municipal council, as well as ordinances and other acts falling under municipal council competences, and is responsible for implementing municipal council decisions. The Congress delegation has taken note that Slovenian mayors have a very strong status. According to local experts, it is one of the strongest in comparison with other European countries.

57. Municipalities have at least one deputy mayor appointed from among the members of the municipal council by the mayor. The highest body of supervision of public expenditure in a municipality is the supervisory committee whose members are appointed by the municipal council. Within the framework of its competency, this committee supervises municipal property disposal, the destination and expediency of the use of budgetary funds and the financial operations of the users of budgetary funds.

58. The municipal administrative authority is responsible for carrying out the council's professional and administrative work. At the mayor's proposal, the municipal council defines the organisation and areas of operation of the municipal administration which is directly managed by the Municipal Secretary (or Director of Administration) appointed by the mayor. Smaller municipalities may share the same administrative authority.<sup>32</sup> The previous monitoring report referred to a clear tendency to greater professionalisation through the appointment of municipal secretaries to assist the mayor in his or her functions as head of the administration.<sup>33</sup> At the same time, the fragmentation of municipalities is not compatible with the increase in qualifications, specialisation and professionalism in smaller municipalities.

59. The office of mayor is incompatible with other offices such as that of a deputy mayor, membership of a municipal council or the supervisory committee, or work in the municipal administration. However, mayors and municipal council members may also have seats in the National Assembly. After the elections of 2006, there were 18 National Assembly members standing as mayors, and after the elections of 2010 there were 24. In the recent local elections, seven out of the 40 National Council members stood as candidates for mayor. Five of them were elected, while two became members of a municipal or city council.

<sup>31</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal. The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 649.

<sup>32</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal. The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 652

<sup>33</sup> Situation of Local and Regional Democracy in Slovenia. Strasbourg, May 2001

60. The current Members of Parliament Act and Local Self-Government Act do not exclude dual office holding as member of parliament and mayor at the same time. The legal system allows a mayor to hold his or her office on a professional or non-professional basis. The Members of Parliament Act states that the office of member of parliament is a professional one. This means that the dual function is largely held by mayors from smaller municipalities. The office of member of parliament is typically an office of the legislative branch of power, while that of the mayor is an executive office.<sup>34</sup> Opinions are divided on whether the holding of dual office should be allowed. One of the key criticisms is the inequality this creates between municipalities – those with direct representation in parliament and those without. Members of parliament who are also mayors of smaller municipalities form a significant lobby.<sup>35</sup>

61. One repercussion of dual office-holding for an electoral body is the prevalent negative public opinion that neither office can be fulfilled optimally. Another disadvantage is that the office of member of parliament may take up too much time to the detriment of the mayoral function. That being said, it appears that there is less fear that the opposite may be the case. An obvious general weakness regarding dual office holding is work overload. Co-ordinating the work of mayor and member of parliament demands a sound functioning municipal administration. The daily commute from municipality to the capital is also a major burden on people holding both offices.

62. On the other hand, dual office holding has advantages which include the possibility of acquiring funding and some influence at national level. It allows for direct access to information and the right to participate in drafting legislation. Having a professional politician who is both member of parliament and mayor has benefits for a municipality. The professional involvement in politics improves their skills, which can have a positive impact on the running of the municipality. The practical experience of the local environment that mayors/members of parliament bring with them also means they are often more aware of the consequences of a proposed solution if implemented. Members of parliament also maintain links with their voting base by working in the constituency office within a municipality at least once a month. The benefits thus accruing to several municipalities give rise to a general shortcoming of dual office-holding, namely inequality and unfairness regarding access to information and the possibilities of exerting influence on major decisions regarding local self-government.

63. In order to discharge their municipal functions, municipal officials have the right to a salary if performing their function in a professional capacity, or to an allowance if performing functions in a non-professional capacity. "Salaries for professional municipal officers are determined in accordance with the law governing public sector wages. If mayors carry out the function in a non-professional capacity, they are entitled to a payment of 50% of the salary they would have obtained had they been serving in a professional capacity."<sup>36</sup>

64. In last decade the Slovene government has adopted some measures to promote inter-municipal cooperation. One of these measures is joint municipal administration. The first joint municipal administration was formed in 1994. The breakthrough came in 2005 with the amendment to the Act on Local Finances when the state began co-financing the joint municipal administration at 50% for specific tasks (which include municipal inspection, the functions of internal financial controls and financial accounting, administrative and professional tasks related to spatial planning, management of public services). It was mainly the smaller municipalities which significantly benefited from the inclusion in the joint administration. Every other municipality has fewer than 5,000 inhabitants and one fifth of them have less than 3000 inhabitants. Joint administration allows for benefits such as a more professional and rational performance of the tasks, saving financial resources, full employment of human resources, etc. Most joint municipal administrations are established for tasks of inspection (auditing, spatial planning and environmental protection, and financial accounting). That this is a really useful and meaningful means of joint performance of tasks is proven by the continuous upward trend in the number of joint municipal administrations: 17 in 2006; 21 in 2007; 37 in 2008; 40 in 2009; 44 in 2010 and 48 in (April) 2011.

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<sup>34</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal. The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 653.

<sup>35</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal. Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. pp 653

<sup>36</sup> Local Self-Government Act, Article 34a

## Article 8 (administrative supervision)

65. The delegation received the overall impression that state supervision of local authorities and their acts is not considered excessive and complies with the provisions of the Charter in this respect.

### a. State supervision

66. The Constitution provides that: "State authorities supervise the legality of the work of local community authorities".<sup>37</sup> Broader supervision is provided for regarding the execution of delegated state tasks in another article of the Constitution: "State authorities shall supervise the proper and competent performance of work relating to matters vested in the local community bodies by the state".<sup>38</sup>

67. The supervision of local authorities by national bodies is regulated in the Local Self-Government Act (chapter X) and provides primarily for the cooperation of state bodies with municipalities.<sup>39</sup>

68. State bodies supervise the legality of the work of municipal bodies. In matters vested in municipalities by the state, they also supervise the adequacy and expertise of their work. The supervision of the work of a local community body is exercised by the government and ministries.<sup>40</sup>

69. For the purpose of supervising the legal operation of municipal bodies, the ministries are required to ensure adequate cooperation, mutual exchange of information and professional assistance to municipal bodies. They are expected to warn the municipal body, which they believe has issued a legal act that does not comply with the Constitution and the law, and to propose suitable solutions. In addition, ministries should alert the competent municipal bodies if they establish that the municipal administration is not acting in accordance with the law or other regulations, and propose suitable measures. Where the municipal body does not harmonise its general legal act with the Constitution or law, the competent ministry should propose that the government initiate proceedings before the Constitutional Court for the assessment of conformity of the said general legal act of the municipality with the Constitution and law.<sup>41</sup>

70. For example, the Ministry of Finance supervises the legality of local decrees and individual acts regarding the adoption of the municipal budget, while the Ministry of Environment and Spatial Planning supervises the legality of local spatial plans and issues relating to land use, etc.

71. In the previous monitoring report, this arrangement for supervision by the different Ministries was described as a legacy of the centralist structures of the past, based on a top-down line-ministry approach.<sup>42</sup>

### b. The Office for Local Self-Government and Regional Policy

72. The main government institution responsible for development of the local self-government system in the country is the Office for Local Self-Government and Regional Policy (hereafter, the Office). The Office was established in 1993 to carry out the reform of local self-government. It was initially called "the Office for Local Self-Government Reform", later "the Office for Local Self-Government" and currently, according to its field of competence, "the Office for Local Self-Government and Regional Policy" as the main areas of the Office's work are local self-government, regional development, EU cohesion policy and European territorial cooperation.

73. In the field of local self-government, the Office performs the following tasks:

- preparing system regulations concerning the organisation, functioning and financing of municipalities;
- co-ordinating the work with the ministries and other bodies in the preparation of system solutions and regulations concerning the organisation, functioning and financing of municipalities;

<sup>37</sup> Article 144

<sup>38</sup> Article 140, paragraph 3

<sup>39</sup> The Constitution provides for the state control of the legality of local authority action. The precise conditions of this control are defined in the LSGA and in the Act on State Administration.

<sup>40</sup> Article 88

<sup>41</sup> Article 88a, paragraphs 2;3;4.

<sup>42</sup> Situation of Local and Regional Democracy in Slovenia. ( Doc CG (8) 6 Part II, Strasbourg, 4 May 2001). Rapporteurs Gerhard Engel (Germany) and Owen Masters (United Kingdom). p 13

- ensuring implementation of the European Charter of Local Self-Government and legislation on the organisation, functioning and financing of municipalities;
- assisting and advising municipal bodies in ensuring the legality of their work in the field of system regulations on local self-government;
- preparing system analyses of local self-government;
- providing professional assistance to municipalities and co-operating with the associations of municipalities;
- participating in the Council of Europe's Steering Committee on Local and Regional Democracy (CDLR), and co-operating with the delegation of the Congress of Local and Regional Authorities, the delegation of the European Union's Committee of Regions, and organisations, institutions and other bodies in foreign countries in the field of the organisation and implementation of local self-government;
- setting-up a database for monitoring the operation of municipal bodies and a database for the support of municipalities;
- performing other tasks in the field of local self-government.<sup>43</sup>

74. The Office acts as mediator between the municipalities and the Government. It participates in the discussions on and drafting of any laws concerning the development of local self-government. By way of example, the new Financing of Municipalities Act was drafted by the Office.

75. The Office's administrative manager is the State Secretary, but the political leader is the Minister without portfolio responsible for local self-government and regional policy. During the monitoring visit, the Minister was Mr Henrik Gjerkeš, PhD.<sup>44</sup>

### **c. External budget supervision**

76. The institution responsible for supervision of local authorities' external budget and finance, along with the execution of budgets and municipal assets, is the Slovenian Court of Audit.<sup>45</sup>

77. The Constitution stipulates that the Court of Audit is the highest body for supervising state accounts, the state budget and all public spending in Slovenia. It further provides that the Court of Audit is independent in the performance of its duties and bound by the Constitution and law. The Court of Audit began operations in January 1995. It has three members: a president and two deputy presidents. They are appointed for a term of nine years on a proposal from the President of the Republic by the National Assembly. In addition to the members, the Court of Audit also has a maximum of six supreme state auditors, who head the audit departments.<sup>46</sup> One of the departments is for Municipalities and Local Authorities.

78. As the Court of Audit is unable to carry out an annual audit of every local authority, the municipalities are selected for audit on the basis of material and risk factors. It also carries out cross-cutting audits at a number of local authorities. In the interests of prevention and in order to gain greater insight into the problems experienced by local authorities, representatives of the Court of Audit try to visit as many municipalities as possible. Based on its findings, the Court of Audit prepares a report for the parliament containing a number of recommendations, which may also concern amendments to existing legislation.

79. According to the Slovenian Court of Audit Strategy (2007 - 2013), in addition to its primary task of carrying out financial audits of local authorities, an important part of its work is examining the management of public debt in municipalities. Results-based budgeting is also becoming a specific area of work. One further aspect of its activities is to assess the internal controls of the authorities selected for audit.

80. In December 2004, the Court of Audit opened an office in Maribor and it is planned to extend the Court's regional presence to other cities.

<sup>43</sup> <http://www.svlr.gov.si/> (accessed 29.12.2010).

<sup>44</sup> Mr Henrik Gjerkeš was appointed as Minister on 22 October 2009, but resigned from this post on 22 December 2010. Source: The Office for Local Self-Government and Regional Policy <http://www.svlr.gov.si/> (accessed 29.12.2010).

<sup>45</sup> The State Audit Office.

<sup>46</sup> The Court of Audit of the Republic of Slovenia;: <http://www.rs-rs.si/> (accessed 20.12.2010).



#### **d. Dismissal of municipal councils and mayors**

81. The Local Self-Government Act states that only the National Assembly can dissolve a municipal council at the government's suggestion for failing to comply with constitutional or legal requirements, implement mandatory responsibilities, adopt a budget within the stipulated legal time limits or hold municipal council sessions as often as required by law. In addition, it is only the National Assembly that can remove mayors from office under certain conditions.<sup>47</sup>

82. Prior to the passing of a decision on the dissolution of a municipal council or the dismissal of a mayor, the National Assembly draws the attention of the people concerned to their illegal conduct and suggests ways of addressing any illegalities within an appropriate time limit. If the municipal council or mayor acts in compliance with the warning, the National Assembly may decide to suspend the procedure on dissolution or dismissal.<sup>48</sup>

#### **Article 9 (financial resources)**

83. In recent years, significant changes have been made regarding the finances of local authorities, which have several sources of revenue.

##### **a. Local government revenue**

84. The Constitution provides that "A municipality is financed from its own sources. Municipalities that are unable to completely provide for the performance of their duties due to insufficient economic development are assured additional funding by the state, in accordance with principles and criteria provided for by law"<sup>49</sup>; "The state and local communities raise funds for the performance of their duties by means of taxes and other compulsory charges as well as from revenue from their own assets"<sup>50</sup> and "Local communities impose taxes and other charges under conditions provided for by the Constitution and Law".<sup>51</sup>

85. Some basic provisions on local finances are included in the Local Self-Government Act, for instance: "Local matters of public interest shall be financed by the municipality from its own sources, national means and from loans. The municipality's own sources shall be: 1. taxes and other obligatory contributions; 2. revenue from the assets of the municipality. The state shall ensure additional funds for municipalities which cannot adequately finance local affairs of public importance from their own resources. The amount of and method of ensuring additional funds shall be determined by law."<sup>52</sup>

86. It is rather complicated to understand the development of the special law regulating local authority finances. The new Financing of Municipalities Act (enacted in November 2006) has been in force since 1 January 2007. It replaced the previous Financing of Municipalities Act (enacted in March 2006 as a consolidated version act). Since its introduction in 2007, the current law has been amended several times.

87. The Act stipulates that the financing of municipalities is based on the principles of local self-government, on the principle of proportionality of funding resources to the tasks of municipalities, and on the principle of the municipalities' autonomy to finance municipal functions.<sup>53</sup>

88. Local government expenditure is around 5 - 6% of the country's Gross Domestic Product (GDP) and in the period 2006-2009 it varied between 5 and 5.83%.<sup>54</sup>

89. The sources of local authority financing are own taxes, other own resources, revenue from national budget tax-sharing and borrowings. The total revenue of local government budgets in Slovenia in 2008 was EUR 1,875.19 million and in 2009 it was EUR 2,036.56 million. The upward trend in local government revenue also continued in 2010, as the revenue in the period between

<sup>47</sup> Articles 90c and 90b.

<sup>48</sup> Article 90 c.

<sup>49</sup> Article 142.

<sup>50</sup> Article 146.

<sup>51</sup> Article 147.

<sup>52</sup> Article 52.

<sup>53</sup> Article 3.

<sup>54</sup> Data from the meeting with representatives of the National Assembly.

January and September was 4.2% higher than the same period in the preceding year.<sup>55</sup> This is not a typical trend for European countries, since public revenue and expenditure and local government revenue and expenditure have fallen in many European countries as a consequence of the economic crisis. The projected figures for the 2011 budget would appear to indicate that this upward trend will not continue.<sup>56</sup>

90. Total tax revenue (own taxes and shared taxes) in local government budgets in 2009 was EUR 1,295.31 million, accounting for 64% of total revenue; in 2008 tax revenue accounted for 65% of total revenue.<sup>57</sup>

91. Municipal own taxes are:

- compensation for the use of building land;
- tax on watercraft;
- real estate transfer tax;
- tax on inheritances and gifts;
- tax on gambling.

92. There can be other taxes provided that they are prescribed by law. Own tax revenue accounts for approximately 10% of the total local authority revenues. It is planned to replace the tax for compensation for the use of building land with the real estate tax.

93. Other own revenue sources are fees, concessions, voluntary contributions, payments for public services, property income and additional co-financing funds from the national budget and EU funds. A municipality may levy fees for the use of public spaces for organising exhibitions and entertainment events, advertising in public places, parking on public land, use of public space for camping and other matters as may be provided for by law. It does not have the right to introduce fees where such are not provided for by law.

94. In the view of some municipal representatives, the proportion of local tax and other own revenue is rather small. The level of local tax autonomy appears to be low and needs to be improved. This is also the view of the Office and the Court of Audit. In comparison, for example with Scandinavian countries, the proportion of local tax revenue in Slovenia is rather small, but at the same time there are countries within the EU and the Council of Europe where there are no local taxes at all or where their proportion within the total revenues is less than in Slovenia.

95. Local authorities' income from their share of national taxes comprises personal income tax revenue and other taxes stipulated by law (property tax, corporate tax etc.). Personal income tax revenue is the most important local government revenue source and, in 2008/2009, it accounted for approximately 50% of total local government revenue and almost 80% of total tax revenue. It is a state tax over which local authorities have no influence.

96. During the period 1999-2007, the personal income tax share that went to municipalities was 35% of the total personal income tax revenue (prior to 1999 it was 30%). Because of economic differences, its distribution was very disproportional and there were significant disparities among municipalities in tax revenue per capita. This, together with the difference in own revenue, created significant demands for a financial equalisation system. The number of municipalities receiving grants as a result of financial equalisation from the state budget increased year by year and was more than 90% of the total number of municipalities in 2007. Some municipalities were in receipt of financial equalisation exceeding their own revenue by more than 100% (in the case of the smallest municipality of Hodoš, it was 460%).<sup>58</sup> The increase in the number of municipalities dependent on financial equalisation has resulted in a loss of autonomy and has also discouraged municipalities from acquiring their own revenue.<sup>59</sup>

97. In the past, the main changes to local government finances related to the distribution of shared taxes – especially personal income tax. The aim of the reform of local government finances was to

<sup>55</sup> Data from the Ministry of Finance.

<sup>56</sup> Information from the Ministry of Finance.

<sup>57</sup> Calculations made on the basis of data from the Ministry of Finance.

<sup>58</sup> Žohar F. Reform of Financing Municipalities in Slovenia. *Financial Theory and Practice* 31 (2), 2008, pp 159-179.

<sup>59</sup> *Ibid.*

increase the financial independence of the majority of municipalities and reduce the substantial differences between them.<sup>60</sup>

98. Following this reform, the distribution of shared taxes (mainly personal income tax) has been based on current expenditure needs (without investments) – and comes in the form of a per capita amount required to finance the municipalities' statutory functions calculated on the basis of a range of criteria: number of inhabitants (with permanent residence), size, length of municipal roads, number of inhabitants under 15 and number of inhabitants older than 65, Natura 2000 areas, development index. Although this range of criteria is rather broad, the municipalities have indicated that the demographic criteria (i.e. age groups) should tie in more closely with local functions. For instance, there should be separate criteria relating to the number of children of kindergarten age (up to 6 years) and the number of children of school age (7 - 18).

99. The new Act stipulates a transitional period of five years, during which the new system of financing municipalities will gradually be introduced. The average ratings for 2007 and 2008 (EUR 469.45 and EUR 482.13) were stipulated in the Act, while the average ratings for the years 2009 - 2012 are calculated by the Ministry of Finance in accordance with a government decree specifying particular duties and functions whose costs are taken into account in the calculation of the average rating, and the methodology of such calculation.<sup>61</sup> The per capita amount in 2009 was EUR 521.81 and in 2010, EUR 538.39.<sup>62</sup>

100. Following these changes, slightly more than half of municipalities require no additional financing from the financial equalisation system, and for those that do (approximately 100) the amount of equalisation has significantly decreased. The new system has improved the financial situation of the majority of municipalities, but for the capital, Ljubljana, and some other municipalities (Šempeter-Vrtojba, Trzin and Log-Dragomer) the result was the opposite. According to the calculations made by Ljubljana city council, the municipality's annual losses (compared with the previous PIT distribution system) amount to approximately EUR 60 million. The municipality has submitted a complaint on this matter to the Constitutional Court. The decision of the Court is still pending.

101. The level of the per capita amount is one of main topics in the annual negotiations between the central government (the Ministry of Finance) and the municipalities. According to information provided by the local authorities, following the entry into force of the new Act in 2007, an agreement was reached for 2008, but they were unable to reach an agreement for 2009 and 2010. The municipalities claim that the government fails to take new tasks and functions into account, with the introduction of increasing responsibilities and bureaucratic rules without any additional funding. For the 2011 budget, the local authorities say that there is no dialogue at all. The Ministry of Finance disagrees, although it acknowledges that decisions have to be taken very quickly, which is why local governments have been asked to submit their proposals in a couple of days.

## **b. Expenditure**

102. The situation regarding the expenditure autonomy of local governments is the opposite of that concerning revenue autonomy. The level of autonomy in this respect is not as low, and local authorities are free to decide on how they spend their budget in order to fulfil their functions and tasks. In the past, the amount of local authority expenditure was higher than revenue. In 2008, total expenditure amounted to EUR 2,047.95 million and in 2009, EUR 2,192.46 million. The high proportion of capital expenditure and capital transfers reflects a trend among local authorities. In 2008 the proportion of current expenditure and current transfers in local government expenditure was 54.7%, with capital expenditure and transfers accounting for the remaining 45.3%; in 2009, the respective proportions were 55.1% for current expenditure and current transfers, and 44.9% for capital expenditure and transfers.

103. The budgetary data available indicates that local authorities reacted to the economic crisis by cutting expenditure only very slowly and to a limited extent. The Ministry of Finance is planning to freeze public expenditure in 2011 significantly.

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<sup>60</sup> Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Data from the meeting with representatives of the Ministry of Finance

### c. Borrowing

104. Local government borrowing rights are regulated by the Public Finance Act (1999) and the Financing of Municipalities Act (2006). Municipalities have the right to borrow by issuing securities and contracting loans, but they may not borrow from abroad. They may take long-term borrowing for investment if confirmed by the municipal council. Loan contracts are concluded by the mayor on the basis of the adopted budget and with the prior consent of the Ministry of Finance.<sup>63</sup> Municipalities may also issue guarantees for public companies and public institutions of which they are the founders. The local government sector does not have large debts (3% of total public debt) as following the amendments introduced in 2008 in the Financing of Municipalities Act, restrictions on indebtedness are very strict (the level of indebtedness may not exceed 8% of the revenue generated by the municipality in the year prior to the year of borrowing (without donations and investment transfers)). The Court of Audit has suggested that parliament should consider whether these restrictions are appropriate.

105. There is no special law or provisions for procedures in the event of a municipality's insolvency.

#### Article 10 (right to associate)

106. Municipalities may decide to establish one or more bodies of joint municipal administration. They can co-operate for the purposes of fulfilling their functions (e.g. waste management, water supply, transport organisation etc.) and for joint development projects.

107. Slovenian local authorities have the right to form associations. One way that local authorities cooperate with and influence central government is through associations representing the common interests of local authorities. Currently, there are three local self-government associations in Slovenia.

108. For a long time there were two national associations in Slovenia - the Association of Municipalities and Towns of Slovenia (SOS) and the Association of Municipalities of Slovenia (ZOS).

109. The Association of Municipalities and Towns of Slovenia is the biggest representative association of municipalities, established in 1992. It has 166 member municipalities (out of 210 municipalities). Because of different needs relating to a municipality's size, the association is organised in three sections – town municipalities, mid-size municipalities and other smaller communities.<sup>64</sup>

110. When SOS was very close to meeting the criteria for recognition as an official association with national status, the second association was set up by a group of smaller municipalities dissatisfied with its work. This was the Association of Municipalities of Slovenia (ZOS) which was established in 1997, with a current membership of 138 municipalities, predominantly small and medium-sized.<sup>65</sup> A significant number (approximately 60%) of municipalities are members of both associations, but some do not belong to either.

111. The SOS would like the two associations to merge but because of different opinions on issues such as the fragmentation of local authorities, the financing of municipalities and regions (status, functions, number), this has not taken place. Indeed, there has been an opposite outcome as, one year ago, the Ljubljana city municipality was behind the setting up of a third association – the Association of Urban Municipalities of Slovenia – which currently has a membership of 11 urban municipalities.

112. The law stipulates that local authorities and central government negotiate solely on finance issues, to the exclusion of any other matters. The two associations take part in the negotiations with central government and usually two proposals are put forward. The representatives of the associations evaluate the negotiation process as poor: there is no time to discuss draft laws and consultations are rushed – local authorities are asked to prepare and submit their opinion within one week or a matter of days, and sometimes there are no consultations at all.

<sup>63</sup> Repar B. Fiscal Equalization in Slovenia.

<sup>64</sup> [http://www.skupnostobcin.si/zgmenu/english/general\\_about\\_sos/index.html](http://www.skupnostobcin.si/zgmenu/english/general_about_sos/index.html) (accessed 01.12.2010).

<sup>65</sup> Situation of Local and Regional Democracy in Slovenia. (Doc CG (8) 6 Part II, Strasbourg, 4 May 2001). Rapporteurs Gerhard Engel (Germany) and Owen Masters (United Kingdom).

113. As there is no legal requirement for consultations on issues other than finance, there were no consultations on questions of particular importance for local authorities, such as the Sustainable Development Act. Moreover, the municipalities claim that it takes a long time to conduct meetings with central government. The representatives of the National Assembly with whom the rapporteurs spoke during their monitoring visit expressed the opinion that the consultation process should be improved.

114. Approximately one year ago local authorities, being dissatisfied with this situation, submitted a complaint to the Constitutional Court.

115. In Recommendation 89 (2001), adopted following the previous monitoring report, the Congress had said that it “would like to see an improvement in cooperation between the Ministry of Finance, the Ministry of the Interior and existing municipal associations and involve local authorities in discussions, notably in respect of local finance, and regrets that local authorities are not sufficiently involved in discussions about local authority funding or in the preparatory work on the various bills on local and regional self-government.” There continues to be room for improvement in the field of consultation.

#### **Article 11 (legal protection)**

116. Local authorities can refer issues to the Constitutional Court and to the Administrative Court, particularly in cases of conflicts over central government decisions. The significant shortcoming of this process in many cases is the very long time it takes before decisions are given.

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

117. The capital city of the Republic of Slovenia is Ljubljana. Ljubljana has constitutional recognition<sup>66</sup> as the capital city but it does not have special administrative status.

118. Ljubljana is the largest city in the country. Its population is 267,313 (approximately 13% of the total population in the country) and is rising. By virtue of the legislation, Ljubljana city municipality manages local matters of public importance independently. The city council has 45 members, a directly elected mayor and five deputy mayors. There are approximately 600 employees in the administration of the city. Ljubljana has 17 neighbourhoods (local communities) carrying out activities in the areas under their responsibility within the competence of the Ljubljana city municipality. Neighbourhoods are legal entities under public law, represented by the neighbourhood council. Such subdivisions are not specific to the capital city, but are an entitlement of all municipalities. So far, Ljubljana is the only municipality in Slovenia to have adopted a long-term (25 years) strategic development plan. Since 2006, the mayor of the City has been Mr Zoran Janković. His re-election as mayor in 2010 is a sign of satisfaction expressed by the citizens of Ljubljana with regard to the local policy in effect in the capital city and the activities of the municipality.

119. The Capital City Act was passed in 2004. It primarily regulates cooperation between central government and the city municipality in implementing common tasks, special capital city tasks, spatial planning and development. The Act provides for a special agreement between central government and the capital city, defining additional responsibilities for Ljubljana and additional resources to carry out those tasks. Significant amendments to the Act were introduced in 2009, whereby 0.73% of personal income tax goes to the budget of the capital city (approximately EUR 16 million) to finance special capital city functions. However, this does not compensate for the amount the city loses as a result of the changes regarding personal income tax distribution. After the amendments to the Capital City Act in December 2010, Ljubljana will get more state funds for its functioning as the capital city.

120. Ljubljana city municipality in general considers the Capital City Act to be a rather formal document. At the same time, Slovenian legislation has, in general, taken account of Congress Recommendation 219 (2007) on the Status of Capital Cities.

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<sup>66</sup> Congress, Status of Capital Cities. May, 2007. p 6

## V. ACTIVITIES REGARDING REGIONALISATION

121. Regional reform has been on the agenda for more than 15 years, but no agreement has yet been reached in principle on the configuration and number of regions.

122. The previous monitoring report (2001) stated that “Presently, the Constitution of Slovenia seems the basic obstacle to successful regionalisation as it refers to a principle of voluntary association of municipalities to create a region”.<sup>67</sup>

123. Fifteen years after the Constitution of the Republic of Slovenia was adopted (1991), the political situation has come to a point where the constitutional amendments were necessary in order to enable the establishment of regions as self-governing local communities at the second level of local self-government in Slovenia. In 2006 the Constitution was amended. The main obstacles referred to previously were removed and there are new provisions concerning regions: “A region is a self-governing local community that manages local affairs of wider importance, and certain affairs of regional importance provided by law. Regions are established by a law which also determines their territory, seat, and name. Such law is adopted by the National Assembly by a two-thirds majority vote of deputies present. The participation of the municipalities must be guaranteed in the procedure for adopting the law. The state transfers by law the performance of specific duties within the state competence to the regions and must provide them with the necessary financial resources to enable such.”<sup>68</sup> The new Article 143 is related to the amendments to Articles 121 and 140. The former lays down that local communities (municipalities and regions) and, on the basis of public authority, natural and legal entities beyond state administration may also carry out certain tasks of state administration, and the latter provides that prior consent of the municipalities is no longer necessary in order to transfer the performance of certain tasks from the state competence if the necessary funds are provided for carrying out those tasks. Thus the barrier preventing the vesting of state tasks in municipalities has been removed.<sup>69</sup> The adopted constitutional amendments in the field of local self-government will enable Slovenia – after long years of professional and political debates – to achieve a two-level self government system.

124. Chapter IX (Articles 72-85, 87) of the Local Self-Government Act was devoted to regions and like the previous Constitution’s provisions did not promote the establishment of regions.<sup>70</sup> However, following the amendments to the Constitution, those articles relating to regions have been deleted from the Local Self-Government Act.

125. Following the amendments to the Constitution, the Government put forward a draft law on regions.<sup>71</sup> Despite the fact that since 2004 experts have used economic, social, geographic, comparative, cross-border, national, European, globalisation and other arguments to call for the creation of six to eight regions, each with a minimum of 100,000 inhabitants, the Government’s proposal was for 14 regions. This proposal was not supported by the parliament.

126. On 22 June 2008 a consultative referendum was held on the number of regions. The government and parliament turned the decision over to the electorate, which was not sufficiently informed about the issues involved. The referendum was organised as 13 local referendums, which some considered as a manipulation of the electorate, given the complexity of the regionalisation issue. Voter participation was the lowest ever, with the vast majority staying at home; the electoral turnout was just 10.94%. The total number of “yes” votes was 106,128, just 6.27% of the 1,692,559 eligible voters.<sup>72</sup>

<sup>67</sup> Situation of Local and Regional Democracy in Slovenia. ( Doc CG (8) 6 Part II, Strasbourg, 4 May 2001). Rapporteurs Gerhard Engel (Germany) and Owen Masters (United Kingdom).

<sup>68</sup> Article 143. The previous name of the article was “Wider Self-Governing Local Communities” and the provisions were as follows: “Municipalities may independently decide to join into wider self-governing local communities, as well as regions, in order to regulate and manage local affairs of wider importance. In agreement with such communities, the state may transfer specific matters within the state competence into their original competence and determine the participation of such communities in proposing and performing particular matters within the state competence.

The principles and criteria regarding the transfer of competence in the preceding paragraph are regulated by law”.

<sup>69</sup> Vljaj S. Local self-government in the Republic of Slovenia: current situation and perspective, p. 10.

<sup>70</sup> For instance: “A region shall be established, changed or abolished by law on the basis of municipal council decisions passed by a two-thirds majority of all members”(Article 72); “ A municipality may withdraw from a region by decision of the municipal council. In a municipality, a referendum on the decision of the municipal council may be conducted.” Article 73, part 2).

<sup>71</sup> The adopted constitutional provisions are the basis for drawing up the laws which will enable the decentralisation of powers and the transfer of an important part of public matters from the state to the regional level.

<sup>72</sup> Setnikar – Cankar S. Slovenia in Transition: Decentralization as a Goal. The Oxford Handbook of Local and Regional Democracy in Europe. Oxford: Oxford University Press, 2010. p 659.

127. The previous comments on regionalisation in Recommendation 89(2001) remain relevant. Perhaps even more so, as the fragmentation of local authorities has continued and the small size of the majority of municipalities raises the problem of their ability to carry out all of their functions. The state could transfer to regions issues that cannot be transferred to (too) small municipalities. This would allow for decentralisation and the implementation of the subsidiarity principle and Slovenia would become part of the club of countries with developed internal regionalism.

128. The creation of regions will make sense if the central government transfers some of its powers and financial resources to them; furthermore, certain functions would have to be transferred from local to regional level. The state authorities agree that regions are necessary; the SOS tries to talk about six future regions, but the ZOS considers that there is no necessity for political regions. The opinions of individual local authorities vary considerably (about whether they are necessary, their functions, number etc.). It is hard to predict when the region issue will be resolved, but it will not be before the next parliamentary elections in 2012. The fact that every two years there are elections in Slovenia (presidential, parliamentary, local) continually postpones the possibility of finding a solution to the regionalisation issue.

129. There are 6 - 8 natural regions in Slovenia, but there is a lack of a self-governing tradition at regional level.

130. For the purpose of analytical-statistical and policy documents alone, i.e., with no political representation, 12 NUTS 3 level (statistical) regions have been established since the mid-1990s and two NUTS 2 level European cohesion regions exist since January 2008 (the more developed western Slovenia, which includes Ljubljana, and the less developed south-eastern Slovenia).<sup>73</sup>

## VI. HUMAN RIGHTS AT LOCAL AND REGIONAL LEVEL

131. The previous Congress report on local and regional democracy in Slovenia stated that: "In general, ethnic minorities do not seem to be a problem of a major size in Slovenia. Hungarians, Italians and Roma are indigenous minorities whose rights are protected under the Constitution of Slovenia".<sup>74</sup> The special provisions in the Local Elections Act guarantee their representation in local councils. In the border areas, the Italian and Hungarian languages have second official language status.

132. The main problems concerning Roma, according to the experience of some municipal representatives, are a lack of willingness to be employed, the fact that they have become accustomed to living on benefits, alcohol and low school attendance. However, there are some good examples of Roma integration in local communities in Slovenia. For instance, Murska Sobota urban municipality has a separate Roma village community Pušča that has its own local council, receives a budget from the municipality, and has its own kindergarten and voluntary fire brigade. The community feels responsible for itself but at the same time feels a part of the urban municipality. The Murska Sobota mayor, Mr Anton Štihec, believes that the key to successful integration is the kindergarten. Roma children in the Pušča kindergarten learn Slovene and are given a good preparation for school.

133. In the event of violations of human rights caused by the activities of local authorities, both individuals and organisations are entitled to submit complaints to the Constitutional Court and the Human Rights Ombudsman. The decisions of the Constitutional Court have to be complied with and implemented, whereas the decisions of the Ombudsman are in the form of recommendations.

134. Article 159 of the Constitution provides: "In order to protect human rights and fundamental freedoms in relation to state authorities, local self-government authorities, bearers of public authority, the office of ombudsman for the rights of citizens shall be established by law". The Office of the Human Rights Ombudsman of Slovenia has been in operation since 1995; it is an independent institution at national level but it also deals with local government issues. On 22 February 2007, psychiatrist Dr Zdenka Čebašek-Travnik was appointed Human Rights Ombudsman for a 6-year term of office.

<sup>73</sup> Pichler-Milanovic N. Ljubljana: Strategic Development for Competitiveness and Sustainability.

<sup>74</sup> CG(8)6 Part II (see 6.4).

135. The Ombudsman's office monitors whether central government bodies, local government bodies and holders of public authority operate in observance of the rights of individuals and groups. There are no local ombudsman offices in Slovenia, nor local headquarters of the national Ombudsman office. With a view to strengthening cooperation with municipalities and developing human right issues in localities, each month the Ombudsman visits one municipality. During these visits, the Ombudsman meets the mayor, discusses cases, examines issues relevant to her terms of reference and holds a small press conference with local journalists.

136. A particular issue in Slovenia concerns the "erased people" and this issue gives rise, at local level, to the problem of their integration and participation in local political life. The Republic of Slovenia "erased" a number of its inhabitants (approximately 25,000) from the register of permanent residents in 1992. This meant that citizens of the republics of former Yugoslavia with a residence permit in Slovenia who did not apply for Slovenian citizenship lost the right to permanent residence in the country without any legal basis or any decision being served. The "erased" were thus discriminated against compared with other foreigners. The erasing denied them their social and other rights in a country in which they had permanent residence and in which many of them had been born and attended school. This unconstitutional activity represents a major failure and tarnishes the image of the country. The Constitutional Court of the Republic of Slovenia has twice (in 1999 and in 2003) established that this situation was unconstitutional, i.e. that erasing was illegal and that the government had failed to properly address its consequences. The unconstitutionality and illegality of erasing has been noted by the Constitutional Court indirectly in seven other cases. In 2004 a legally binding referendum was initiated and organised, following which the "erased people" were once again denied vindication.

137. In 2010, the Slovenian National Assembly adopted an Act Amending the Act regulating the Legal Status of Citizens of Former Yugoslavia living in the Republic of Slovenia. This Act entered into force on 24 July 2010. The Act also governs the status of the children of the "erased persons".

138. At the meetings held during the monitoring visit, the representatives of the state authorities informed the delegation that, with the new Act, the situation of "erased people" had been resolved. The Ombudsman, however, was not so optimistic, referring to the problems the individuals in question came up against in completing all the necessary formalities for obtaining a residence permit.

139. The delegation hopes that this Act clarifies the situation of "erased people" and consequently, gives them a possibility of full value inclusion in local life, including the access to vote to local elections.

## VII. CONCLUSIONS AND RECOMMENDATIONS

140. In the period since 2001, when the previous monitoring report and recommendations were drafted, the following changes in local and regional democracy have taken place in Slovenia:

- the fragmentation of municipalities continued until 2006, further to the outcome of local referendums;
- the distribution of shared state taxes (mainly personal income tax) was changed in 2006 and later in 2008. Now it is based on a per capita amount, calculated by the Ministry of Finance in accordance with the law and negotiated with the local authorities;
- the Capital City Act was passed in 2004;
- the Constitutional provisions on regions have been amended, but there is still no agreement on regions.

141. In general, Slovenia has complied with the provisions of the European Charter of Local Self-Government, and particular mention should be made of provided options for citizen participation in local communities. Ratification of the Additional Protocol of the Charter has confirmed the positive signs towards the development of local democracy. There are nevertheless some areas where improvements could be made.

142. The main part of Recommendation 89(2001), adopted on the basis of the previous monitoring report for Slovenia remains relevant.



143. Although the fragmentation of local authorities reflected the wish of the local communities, it gives rise to problems in terms of the provision of local government services and the carrying out of tasks in smaller municipalities. It is recommended that the State promote and provide financial incentives for the merger of local authorities.

144. Though arrangements for local finances have changed significantly, it is recommended that the local authorities' revenue autonomy be increased, by widening local tax and fees revenue. It is recommended that the criteria used to calculate the per capita amount be revised, and that they be tied in more closely with local government functions.

145. Participation by municipalities and their associations in the process of drawing up regulations by ministries, the government or state legislation is regulated formally (Act on Local Self-government and Rules of Procedure of the National Assembly) and is regularly used. But unfortunately the consultation process between local authorities and central government has not improved. There are certain issues of relevance to local authorities on which they are not consulted at all, as there is no legal requirement for such consultation; there are also some issues (of a financial nature) where the consultations are carried out too hastily. It is recommended that the government involve local authority associations to a greater extent in discussions on all issues that have an impact on local authorities. Article 4, para. 6 of the Charter provides: "Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making process for all matters which concern them directly".

146. The monitoring delegation considers that the fact that local authorities are represented by only two associations is reasonable. Representing municipalities by more associations in such a national configuration would lead to a deficit of representativity and perhaps, consequently, to less efficiency in official consultations with national authorities.

147. During its visit, the delegation was told that the holding of multiple offices is a recurrent problem in many municipalities. The fact that it is possible for a mayor to also be a member of the National Assembly gives rise sometimes to a perception of inequality and unfairness between municipalities.

148. Although the constitutional provisions on regional self-government have been amended, and despite the fact that those amendments are a significant step towards the creation of regions, political parties, state institutions, local authorities and society at large are still unable to agree on the main principles of regions (functions, number, elections, institutional structure and finances). The negotiations on the regionalisation issue are ongoing but it seems that the decision has been referred to the next parliament (2012). The regionalisation of Slovenia might compensate for the fragmentation of municipalities and help attract resources for investments. According to the Reference Framework for Regional Democracy, the right of regional self-government shall be exercised by assemblies, directly elected through free and secret ballot based on universal suffrage, or indirectly elected by and composed of popularly elected representatives of constituent local self-government authorities. It seems to the delegation that there is a general consensus on the principle of regionalisation. However, it seems difficult to come to a consensus concerning the number of regions, which remains the major point of contention between the authorities. The delegation would underline that if this important point could be dealt with through a compromise, the regionalisation process could be launched relatively quickly.

149. Concerning the minorities issue, the delegation wishes to underline the existence of good practices concerning the integration of Roma minorities in some municipalities. This is the case for instance in Murska Sobota where one of the members of the city council is a representative of the Roma minority. Moreover, the delegation was informed that Roma can have their own kindergartens where the staff speaks Slovene in order to teach this language to Roma children and thereby contribute to their integration. This practice is a long term process but appears to be effective and deserves to be disseminated in countries where municipalities have difficulties integrating Roma into local society.

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**APPENDIX****PROGRAMME OF THE MONITORING VISIT OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES DELEGATION TO SLOVENIA****Meetings in Ljubljana, Murska Sobota and Benedikt  
(8 - 10 November 2010)****Congress delegation**

Mr Jos WIENEN	Co-Rapporteur, member of the Monitoring Committee of the Congress, Mayor of Katwijk, Netherlands
Ms Merita Jegeni YILDIZ	Co-Rapporteur, member of the Monitoring Committee of the Congress, member of the Provincial Council of Ankara/Yenimahalle, Turkey
Prof. Inga VILKA	Consultant

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**Monday, 8 November 2010, Ljubljana**

Mrs Bernardka KRNC, Head of the Slovenian delegation to the Congress  
Mr Miha MOHOR, Secretary of the Slovenian delegation to the Congress

Ms Jasmina VIDMAR, Secretary General of the Association of Municipalities and Towns of Slovenia (SOS)  
Mr Robert SMRDELJ, President of the Association of Municipalities of Slovenia (ZOS) and Mayor of Pivka municipality

Dr Pavel GANTAR, President of the National Assembly of Slovenia

Mr Vili TROFENIK, Chair of the Committee on Local Self-Government and Regional Development  
Mr Darko FRAS, President of the Commission for Local Self-Government and Regional Development  
Mr Milan OZIMIČ, Leader of the Interest Group of Local Interests  
Mr Jernej VERBIČ, Vice-President of the Commission of Local Self-Government and Regional Development

Dr Igor ŠOLTES, President of the Court of Audit of Slovenia  
Mrs Mojca PLANINŠEC, Supreme State Auditor, Head of the Local Self-Government Department  
Mrs Nina FURMAN, Head of President's Cabinet

**Tuesday, 9 November 2010, Ljubljana**

Mr Franc KRIŽANIČ, Minister of Finance of Slovenia

Mr Henrik GJERKEŠ, Minister for Local Self-Government and Regional Policy

Dr Ernest PETRIČ, Judge of the Constitutional Court of Slovenia  
Mrs Urska UMEK, Acting Head of the Analysis and International Cooperation Department of the Constitutional Court of Slovenia

Dr Zdenka ČEBAŠEK-TRAVNIK, the Human Rights Ombudsman of Slovenia

Mr Zoran JANKOVIĆ, Mayor of Ljubljana  
Mr Aleš ČERIN, Deputy Mayor of Ljubljana  
Mr Vasja BUTINA, Director of Administration of Ljubljana City Council  
Mr Vojko GRÜNFELD, Local Self-Government Office  
Mr Matjaž BREGAR, Ljubljana City Council Office  
Ms Urška OTONIČAR, Head of Finance and Accounts

**Wednesday, 10 November 2010, Murska Sobota and Benedikt**

Mr Anton ŠTIHEC, Mayor of Murska Sobota

Mr Milan GUMZAR, Mayor of Benedikt;  
Mr Janez ZORKO, Deputy Mayor;  
Mrs Andreja LORBER, Director of Municipal Administration  
Ms Sabina ŠIJANEC, Consultant