

The Congress of Local and Regional Authorities



22nd SESSION
CG(22)6
8 March 2012

original English

Local and regional democracy in the Czech Republic

Monitoring Committee

Rapporteurs:¹ Emil CALOTA, Romania (L, SOC)
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Draft recommendation (for vote)	2
Explanatory memorandum	5

Summary

The present report on local and regional democracy in the Czech Republic follows upon Recommendation 77 (2000) adopted in May 2000. It expresses satisfaction that the Czech Republic has made considerable progress since the country ratified the European Charter of Local Self-Government in 1999 and that the legislative framework is in line with the Charter. It takes note, however, that the fragmentation of municipalities still poses a challenge to effective and efficient local self-government and that the overall system of controls carried out by the State administration would benefit from being coordinated and simplified.

The report recommends that Czech Government develop the mechanisms of consultation with local and regional authorities. It encourages the government to uphold the principle of concomitant financing and to ensure that sufficient funds are allocated whenever tasks are delegated to local authorities. It invites the authorities to ratify those provisions of Articles 4 and 9 of the Charter on which they had formulated reservations, since these are *de facto* operational now. Finally, it invites the Czech authorities to sign and ratify the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) as well as the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159).

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



DRAFT RECOMMENDATION²

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. Resolution 307(2010) REV on the “Procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122)”;

d. Recommendation 77 (2000) on local and regional democracy in the Czech Republic and Resolution 93 (2000) of the Congress pertaining to the previous monitoring visits carried out in November 1999 and March 2000;

e. the explanatory memorandum on local and regional democracy in the Czech Republic drawn up by the Rapporteurs, Emil Calota (Romania, L, SOC) and Philippe Receveur (Switzerland, R, EPP/CD), following an official visit to the Czech Republic from 13 to 15 June 2011.

2. The Congress notes that:

a. the Czech Republic signed the European Charter of Local Self-Government on 28 May 1998 and ratified it on 7 May 1999 with entry into force on 1 September 1999. It does not consider itself bound by Article 4, paragraph 5, Article 6, paragraph 2, Article 7, paragraph 2, Article 9, paragraph 3, paragraph 5 and paragraph 6;

b. the Czech Republic has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

² Preliminary draft recommendation approved by the Monitoring Committee on 24 February 2012.

Members of the Committee:

L. O. Molin (President), *M. Abuladze*, *U. Aldegren*, *K. Andersen*, *L. Avetyan* (alternate: *E. Yeritsyan*), *A. Babayev* (alternate: *I. Khalilov*), *T. Badan*, *M. Barcina Angulo*, *V. Belikov*, *G. Bende* (alternate: *E. Penzes*), *G. Bergemann*, *M. Bepalova*, *V. Broccoli*, *Z. Broz*, *A. Buchmann*, *X. Cadoret*, *E. Calota*, *S. Carugo*, *S. Chernov*, *D. Chichinadze*, *B. Collin-Langen*, *M. Cools*, *J. Costa*, *D. Çukur*, *L. Dellai*, *M. De Lamotte*, *N. Dogan*, *G. Doğanoglu*, *M. Gaju*, *V. Gebel*, *G. Geguzinskas*, *S. Glavak*, *S. Guckian*, *M. Guegan*, *M. Gulevskiy*, *H. Halldorsson*, *M. Heatley*, *J. Hepburn*, *B. Hirs*, *J. Hlinka*, *C. Hughes*, *A. Ibrahimov* (alternate: *R. Aliyev*), *G. Illes*, *J. Jalinska* (alternate: *M. Juzupa*), *S. James*, *A. Jaunsleinis*, *M. Jegeni Yıldız*, *M. Juhkami*, *J-P. Klein* (alternate: *E. Eicher*), *A. Kriza*, *I. Kulichenko* (alternate: *N. Rybak*), *F. Lec*, *J-P. Liouville*, *I. Loizidou*, *M. Magomedov*, *P. Mangin* (alternate: *J-M. Belliard*), *T. Margaryan*, *G. Marsan*, *H. Marva*, *V. Mc Hugh*, *M. Merrild*, *I. Micallef*, *T. Mikus*, *K. Miskiniene*, *M. Monesi*, *G. Mosler-Törnström*, *A. Muzio*, *M. Njilas*, *Z. Ozegovic* (alternate: *V. Vasic*), *R. Paita* (alternate: *A. Miele*), *U. Paslawska*, *H. Pihlajasaari*, *G. Pinto*, *G. Policinschi*, *A. Pruszkowski*, *C. Radulescu* (alternate: *L. Sfirloaga*), *R. Rautava* (alternate: *S. Ruponen*), *H. Richter-mocova*, *A. Rokofillou*, *N. Romanova*, *D. Ruseva*, *J. Sauwens*, *P. Schowtka*, *W. Schuster*, *D. Shakespeare*, *M. Simonovic* (alternate: *S. Lazic*), *G. Spartanski*, *M. TAMILOS*, *A. Torres Pereira*, *V. Udovychenko* (alternate: *O. Radziievskiy*), *A. Ugues*, *G. Ugulava* (alternate: *P. Zambakidze*), *A. Uss*, *P. Uszok*, *V. Varnavskiy* (alternate: *A. Borisov*), *O. Van Veldhuizen*, *L. Vennesland*, *L. Verbeek*, *H. Weninger*, *K. Whitmore* (alternate: *P. Grove*), *J. Wiene*, *D. Wrobel*, *U. Wüthrich-Pelloli*, *D. Zmegac*.

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

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

c. the Monitoring Committee decided on 23 March 2011 to carry out the second monitoring of the state of local and regional self-government in the Czech Republic and its compliance with the European Charter of Local Self-Government. It instructed Emil Calota (Romania, L, SOC) and Philippe Receveur (Switzerland, R, EPP/CD) to prepare and submit to the Congress, as Rapporteurs, a report on local and regional democracy in the Czech Republic;

d. the Congress delegation carried out a monitoring visit to the Czech Republic from 13 to 15 June 2011 visiting Prague, Brno and Velký Osek.

3. The Congress wishes to thank the Permanent Representation of the Czech Republic to the Council of Europe and the authorities at central, regional and local levels, the Association of Regions of the Czech Republic and the Union of Towns and Communities of the Czech Republic), experts as well as other interlocutors for their valuable cooperation at different stages of the monitoring procedure and the information conveyed to the delegation.

4. The Congress notes with satisfaction that:

a. considerable progress has been accomplished since the last monitoring mission and that the legal framework that is now established is generally in conformity with the Charter for local and regional authorities alike;

b. the mechanisms of consultation with local and regional authorities on matters concerning them directly are functioning well;

c. the creation of a regional tier of government recommended by Congress Recommendation 77 has been achieved;

d. Articles 4 (para. 5) and 9 (paras. 3, 5 and 6) of the European Charter of Local Self-Government are *de facto* operational, even though the Czech Republic has not ratified them.

5. The Congress draws particular attention to the following:

a. the system of financing remains heavily centralised while concomittant financing of delegated tasks is not always ensured and a genuine system of local taxes which would leave local and regional authorities free to determine their rate does not seem to be on the agenda;

b. the problem of fragmentation and the high number of municipalities which gives rise to problems in terms of the provision of local government services and the carrying out of tasks in smaller municipalities;

c. even though consultation mechanisms are in place as regards the associations of local authorities, these procedures should be formally recognised in a law which would provide details on the consultation process;

d. although the overall system of administrative controls function well, it should be further coordinated and simplified in order to ease the burden put on municipalities and regions through the supervision and data collection exercised by different branches of central government;

e. as regards the regional tier, there is still room for improvement, particularly as regards their dependency on the central government when it comes to the extent of their tasks and financial resources and their relationship between the regions and the major towns (outside Prague).

6. In the light of this, the Congress recommends that the Committee of Ministers invite the Czech Republic to:

a. ensure financing corresponding to the delegated tasks;

b. find a consensus on the possible alternatives which would lead to a process to gradually reduce the high number of municipalities by, for example, merging the smallest units, for a better functioning local democracy without destabilising the rural population which remains an important challenge for the government, or by developing intermunicipal cooperation;

c. develop and formalise the mechanisms of consultation with local and regional authorities on matters concerning them directly by a specific law, which would provide details on the consultation process, ensuring that such consultation takes place in “due time and in an appropriate way” as stipulated by Article 4 para. 6 of the Charter;

d. coordinate and simplify the overall system of administrative supervision (keeping it in proportion within the meaning of Article 8 para.3) in order to ease the burden put on municipalities and regions through supervision and data collection exercised by different branches of central government;

e. ratify Articles 4-5 and 9-6 of the Charter, on which reservations had been formulated, since these are *de facto* operational;

f. sign and ratify, in the near future, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) as well as the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159).

EXPLANATORY MEMORANDUM

Table of contents

1.	INTRODUCTION: AIM AND SCOPE OF THE VISIT, TERMS OF REFERENCE	5
2.	POLITICAL CONTEXT	6
2.1.	International situation and relations with neighbouring countries	6
2.2.	Domestic political situation and elections	6
2.3.	Population	7
2.4.	Previous report and recommendations	7
3.	HONOURING OF OBLIGATIONS AND COMMITMENTS	8
3.1.	Constitution and legislative developments	8
3.2.	The status of the European Charter on Local Self-Government	9
3.3.	Administrative structure	9
3.4.	Fragmentation of municipalities	10
	Inter-municipal cooperation	10
	Mergers	10
3.5.	Citizen Participation	10
3.6.	Status of the capital city	11
3.7.	Transfrontier cooperation	11
3.8.	Analysis of the situation of local democracy in light of the European Charter on Local Self-Government on an article by article basis	12
3.8.1	Article 2	12
3.8.2.	Article 3	12
3.8.3.	Article 4	13
3.8.4.	Article 5	14
3.8.5.	Article 6	14
3.8.6.	Article 7	15
3.8.7.	Article 8	15
3.8.8.	Article 9	17
3.8.9.	Article 10	20
3.8.10.	Article 11	21
4.	CONCLUSIONS	21
	Appendix 1 – Information on the implementation of Human Rights at Local and Regional level	23
	Appendix 2 – Congress Monitoring visit to the Czech Republic (13-15 June 2011)	25
	Appendix 3 – Comments on the preliminary draft report from the Ministry of the Interior of the Czech Republic	26

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

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

2. The Czech Republic joined the Council of Europe on 25 May 1993 and ratified the European Charter for Local Self-Government (ETS 122, hereafter "the Charter") with reservations on 7 May 1999, with entry into force on 1 September 1999 (for the list of reservations see paragraph 26).

3. The Czech Republic ratified the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities (ETS 106) on 20 December 1999, with entry into force on 21 March 2000. It has not signed the Additional Protocol to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities (ETS 159), or the

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

4. The Czech Republic was the subject of a first visit in November 1999 and March 2000, resulting in Recommendation 77 (2000) and Resolution 93 (2000) of the Congress.

5. The present report relates to the second visit of the Congress to the Czech Republic from 13 to 15 June 2011, to monitor the situation of local and regional democracy in this country on the basis of the Charter. The Monitoring Committee appointed Emil CALOTA (Romania, L, SOC) and Philippe RECEVEUR (Switzerland, R, EPP/CD), as co-rapporteurs on local and regional democracy in the Czech Republic, respectively. They were assisted by Professor Eivind SMITH, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government and Lilit NIKOGHOSYAN, from the Secretariat of the Congress.

6. The Congress delegation met with the Minister and the Deputy Minister of the Interior, officials from the Ministry of Finance, the Presidents of the Constitutional Court and the Supreme Audit Office, members of the Committee of International Affairs of Prague City Council, the Mayors of Brno and Velký Osek, the Ombudsman from the Office of the Public Defender of Rights, and representatives of the Association of Regions of the Czech Republic and the Union of Towns and Communities of the Czech Republic. The detailed programme is appended to the present report.

7. The co-rapporteurs wish to thank the Permanent Representation of the Czech Republic to the Council of Europe and all those whom it met on the visit for their readiness to assist the delegation and for the information they so willingly supplied. It also thanks the Czech delegation to the Congress and the Associations of local and regional local authorities for contributing to the organisation and smooth running of the visit.

2. POLITICAL CONTEXT

2.1. International situation and relations with neighbouring countries

8. After the collapse of the Soviet-led block and the split of Czechoslovakia into two separate states with effect from 1 January 1993, the Czech constitution (adopted earlier on 16 December 1992) came into effect at the same time. Shortly after, the country became member of the Council of Europe (30 June 1993), joined NATO (1999) and has been a member of the European Union since 2004. The country may safely be counted among Europe's stable democracies.

9. The Czech Republic is a member of the Visegrad group (also known as the "Visegrad Four" or simply "V4") bringing together four central European countries (the Czech Republic, Hungary, Slovakia, Poland) to work together in a number of fields of common interest within the European Union. During its one-year presidency of the Visegrad Group (June 2007-June 2008), the Czech Republic pursued a special liaison program with Ukraine, as well as ongoing programs to improve relations with Moldova and to promote democratisation in Belarus.

10. The Czech Republic has a special relationship with Slovakia as both countries were part of former Czechoslovakia between 1918 and 1992. They established diplomatic relations in 1993 and continued to have privileged relations (when a president or prime minister is inaugurated, very often his or her first international visit is to the former part of the common country). There are around 200,000 people of Slovak descent living in the Czech Republic and around 46,000 people of Czech descent living in Slovakia.

2.2. Domestic political situation and elections

11. The Constitution of the Czech Republic, adopted in 1992, organises a unitary state with no federal structure and with parliamentary democracy as form of government. It also stipulates that "the self-administration of territorial self-governing units shall be guaranteed" (Act No. 1/1993).

12. The President, as formal head of state, is granted specific powers such as the right to nominate Constitutional Court judges, dissolve parliament under certain conditions, and enact a veto on legislation. So far, presidents have been elected by the two chambers of parliament for a maximum of

two five-year terms. Following a constitutional change adopted in February 2012, presidents will be elected in direct elections in the future (two-round majority system), with no particular change of competences. The president incumbent is Vaclav Klaus.

13. The Parliament, as the seat of legislative power, has two chambers, namely the Chamber of Deputies (200 seats) and the Senate (81 seats). The deputies are elected for four-year terms on the basis of proportional representation. The senators are elected for six years, at two-year intervals, when one-third of the senators are elected. The members of both parliament chambers and representatives at regional and local levels are directly elected.

14. In the 2010 elections, the political parties shared the parliamentary seats as follows: Civic Democratic Party (ODS), 53 seats; Czech Social Democratic Party (CSSD), 56 seats; Communist Party of Bohemia and Moravia (KSCM), 26 seats; Public Affairs (VV), 24 seats; TOP 09, 41 seats. A center-right coalition was formed by the established ODS, the formerly local Prague party Public Affairs (VV), and the newly formed TOP 09. Petr Necas from the ODS is the present Prime Minister.

15. In the Czech Republic, since 1998, municipal elections take place in the same year as general elections to the Chamber of Deputies.

16. Even if the scores obtained during the immediate post-communist elections have not been emulated more recently, the electoral turnout for the Parliament's Chamber of deputies is relatively high by European standards (1990: 96,3 % - 1992: 84,7 % - 1996: 76,3 % - 1098: 74,0 % - 2002: 58,0 % - 2006: 64,5 % - 2010: 62,6 %). This turnout may be compared with the 2010 elections to the Senate, where 44,5 % of the voters took part in the first round, and 24,6 % only in the second and decisive round.

17. When it comes to municipal elections, the participation rates are less impressive. For the municipal elections, we find a decreasing tendency comparable to the one seen in parliamentary elections, albeit starting from a somewhat lower level (1990: 75 % - 1994: 62 % - 1998: 58 % - 2002: 43,4 % - 2006: 46,4 % - 2010: 48,5 %). Moreover, the turnout tends to be significantly higher in rural (and generally smaller) than in urban (and generally bigger) municipalities. Less than comforting in themselves, these facts are far from being uncommon by European standards insofar as the turnouts remain around 50 % of the electorate.

18. Compared to municipal elections, the level of voter turnout in regional elections gives reason to more concern (2000: 33,6 % - 2004: 29 % - 2008: 40 %). They seem to confirm the delegation's impression that the regions are the tier of government in the Czech Republic that have been the least successful in establishing themselves as visible actors among the public and achieving a satisfying degree of popular legitimacy. However, it goes without saying that this state of affairs cannot be solely imputed to the regions themselves. It is in part related to the fact that they remain dependent on the central government when it comes to the extent of their tasks and financial resources.

2.3. Population

19. The country has a population of approximately 10,5 million inhabitants (2010, World Bank source). Czechs represent 90.1 % of the population, the next most numerous groups are Slovaks (1.8 %), Poles (0.5 %) and Germans (0.4 %). Alongside these groups, there is a non-negligible Roma population. In the 2001 population census, only 11.7 thousand, i.e. 0.1 % of the population, chose Roma as national identity although the real number of Roma living in the Czech Republic is estimated to be about fifteen times larger which would make them the second or third most numerous ethnic minority. In spite of its size, the Roma group is geographically dispersed, living mostly in urban settlements.³

2.4. Previous report and recommendations

20. Congress Recommendation 77(2000) essentially focused on the establishment of functioning regions with real powers and the necessity for consultation between national authorities and local/regional authority associations. It also recommended inter alia, to :

³ Michal Illner, "Thirteen years of reforming subnational government in the Czech Republic", in *Reforming Local Government in Europe*, Leske and Budrich, 2003.

- increase municipalities' own powers and to diminish their dependence on the State based on delegated competencies;
- ensure that administrative scrutiny of local authority acts is governed by appropriate legislation and, with respect to their own powers, is concerned only with the legality of such acts;
- set up an administrative court to ensure that local and regional government bodies enjoy legal protection through a right of recourse to a judicial remedy;
- step up efforts to train local and regional government staff;
- encourage mergers between municipalities and inter-municipal cooperation, in any form they choose, in order to avoid excessive fragmentation;
- promote trans-frontier co-operation between local and regional authorities and explore the possibility of signing the additional protocols to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities.

21. Congress Resolution 93 (2000) which followed upon Recommendation 77 underlined two points:

“- to follow closely the progress of the reform under way in the Czech Republic, and in particular implementation by the Czech authorities of the proposals set out in the recommendation;

and

- to consider setting up associations for the local authorities and the regions, so as to protect and promote their respective common interests”.

22. Many of these issues have been dealt with in the intervening years. The rapporteurs have analysed the existing situation in the light of the previous recommendation and have come up with conclusions which highlight the progress that has been made but also some issues that remain, as set out in Section IV of this document.

3. HONOURING OF OBLIGATIONS AND COMMITMENTS

3.1. *Constitution and legislative developments*

23. The Constitution of 16 December 1992 provides rather extensively for the existence of self-governed municipalities and regions. A general “guarantee” is enshrined in its Article 8, whereas the more detailed provisions are found mainly in Chapter 7 on territorial self-government. Article 99 of the Constitution differentiates between local and regional levels of self-government. Article 101 paragraph 3 establishes the legal subject status of territorial self-governing units, and presumes that self-governing units have their own property and manage themselves out of their own budget. Article 101 paragraphs 1 and 2 and Article 102 confirm the democratic character of self-government at the constitutional level in the guarantee of elected representative bodies. The Constitution also presumes (Article 105) that territorial self-governing units will share in the exercise of state power on the basis of statutory authorisation.

24. At legislative level, Czech law holds an impressive list of enactments specifying, in sometimes great detail, the organisation of local and regional self-government and the relationship between local and regional councils and central government. In addition to the two main legal texts regarding local and regional government, i.e. the Law on Municipalities (Act No. 128/2000) and Regions (Act No. 129/2000), one could cite, as examples, Act No. 130/2000 on elections of regional councils, Act No. 131/2000 which governs the capital city of Prague, Act No. 157/2000 on the transfer of certain objects, rights and obligations from property of Czech Republic to property of provinces, Act No. 250/2000 which lists all municipal revenues, Act No. 314/2002 which defines the different types of municipalities, Act No. 312/2002 which provides a new legal regulation of status of employees of local government, Act No. 22/2004 which establishes local referendums as the only device of direct

democracy at municipal level, Act No. 118/2010 on Regional Referendum and Act No. 108/2006 on Social Services which requires municipalities to use the instrument of community planning to prepare their social services plans.

3.2. The status of the European Charter on Local Self-Government

25. As mentioned above in paragraph 2, the Czech Republic ratified the European Charter of Local Self-Government on 7 May 1999, with effect from 1 September 1999.

26. Among the 45 parties to the Charter, the Czech Republic is one of the countries that have submitted a high number of reservations. According to a declaration submitted by the time of ratification (see Article 12 of the Charter), the Czech Republic does not consider itself bound by Article 4, paragraph 5 (on discretion when adapting delegated powers), Article 6, paragraph 2 (on the conditions of service for local government employees), Article 7, paragraph 2 (on financial compensation for expenses incurred by local elected representatives), Article 9, paragraph 3 (on local taxes and charges), paragraph 5 (on financial equalisation) and paragraph 6 (on consultation regarding the allocation of redistributed resources).

3.3. Administrative structure

27. According to the Constitution, the country is divided into basic (municipalities; *obce*) and higher (regions: *kraje*) territorial self-government units. The country is currently divided into 6246 municipalities, a number that has increased greatly in the last two decades (4104 in 1990) and now seems to be the highest among European states when compared with the entire population. The most populated among them, the city of Prague, counts more than 1.2 million inhabitants whereas the least populated only counts around 20 people. The municipalities' average population is some 1700 persons, but the population of about 80 % of them is less than 1000. It should be noted in this context that the population of the Czech Republic is approximately 10,5 million, of which the urban population represents 74 %.

28. The Congress Recommendation 77 adopted in 2000 had been essentially focused on the important efforts to reform the system of territorial self-government that were then going on, not least of which was the creation of a regional tier of government. It must be underlined here that a local and regional self-government system has emerged since then and that important parts of the legal framework concerning the present system were established in 2000. These legal instruments include the acts on municipalities (Act No. 128/2000), regions (Act No 129/2000), the budgetary assignation of taxes (Act No. 243/2000), elections to municipal and regional councils (Acts No. 491/2001 and 130/2000) and financial control in public administration (Act No. 320/2001).

29. Since 2000, the Czech Republic is divided into thirteen regions (not including the City of Prague that also has the status of a region), which are separate geographical entities covering 6246 municipalities as noted above, of which 23 are statutory towns, 574 are towns, 210 townlets, 5438 municipalities and, finally, the capital city of Prague.⁴ Regions are not entitled to levy any regional taxes themselves. The regional budget revenues originate from taxes that are levied nationwide, a percentage of which is legally destined to regions. The percentage is defined centrally, after consultation with the Association of Regions. Additional revenues come from state subsidies and from regional property revenues, economic activities of the regions sources. Other very important revenues originate from the EU structural funds.

30. Municipalities in the Czech Republic administer their territories within the framework of both independent and delegated competences.

31. Municipalities' independent tasks include management of the municipality, formulation and approval of the municipal budget and final account, establishing of legal persons and organizational bodies, organisation, management, personnel and material arrangement of the municipal office publishing of generally binding regulations of the municipality, local referendum, municipal police force, imposing penalties for administrative offences, program of development of the municipal

⁴ These figures were transmitted to the delegation by the Ministry of the Interior. The figures given for the same entities by the Union of Towns and Communities of the Czech Republic are : 6250, 24, 592, 198 and 5436 respectively.

cadastral district, municipal cadastral plan and regulation plan and cooperation with other municipalities.

32. As regards delegated competences, municipalities have been divided into three groups according to the increasing scope of their delegated powers: the Act No. 314/2002 defines 388 municipalities with broader elementary delegated powers of which 205 municipalities execute extended delegated powers. The other municipalities are those with elementary delegated powers. They dispose of few independent revenue sources (they own property and have rent revenues). The majority of the tax revenues comes from shared tax revenues (personal income tax, corporate income tax and value added tax) as distributed by the central government.⁵

3.4. Fragmentation of municipalities

33. It should be noted that 5566 out of the 6246 municipalities in the country are rural municipalities (89.1%) where only 28.3% of the country's inhabitants live. The Czech Republic is one of the EU countries with the smallest municipalities with regard to population. To overcome the difficulties created by fragmentation, and in the absence of a nationwide restructuring of municipalities, local authorities have searched for solutions for cooperation. Mergers are also an alternative.

Inter-municipal cooperation

34. Smaller municipalities have established unions for cooperation in the sphere of their independent responsibilities. 474 Unions of Municipalities involving 4,680 municipalities were registered in 2005, i.e. more than 70 percent of the total number of municipalities existing in the country at the time. The number had gone up to 570 in 2010. These unions (sometimes also called "micro-regions") are constituted by an agreement signed by the member municipalities. They are legal persons administered by their own organs, and have their own by-laws, property and budget.⁶

Mergers

35. Existing legislation allows for municipalities to merge by decision of the municipal councils concerned or by local referendums. New municipalities can be formed through the consent of the inhabitants of the prospective break-away part of an existing municipality by a referendum. Any other kind of boundary changes that do not involve mergers are made by agreement between the municipalities concerned.

36. The above solutions are, in some measure, a reply to Recommendation 77(2000) which proposed a general policy approach encouraging mergers between municipalities and inter-municipal cooperation, in any form they choose, in order to avoid excessive fragmentation. However, the rapporteurs are of the opinion that the authorities might consider, in close collaboration with representatives of local and regional authorities through their associations, initiating a discussion with a view to the possible institution of a structured plan to gradually reduce the impressive number of municipalities by merging the smallest units, on the basis of well-defined criteria (thresholds as regards population, size etc.) notably to guarantee effective delivery of public services.

3.5. Citizen participation

37. The forms of representation and participation at local level are established by law. Residents of a municipality or a region can elect and be elected as members of municipal and regional councils, propose local referendums and attend council sessions to express their opinion. According to Act No. 22/2004, local referendums allow citizens to decide issues concerning local authorities' own competences but they cannot be applied to statutory powers, such as the municipal budget, fees or the dismissal of a mayor. All local citizens may propose referendums if supported by a petition signed by a qualified proportion of local voters. Referendums at regional level are based on similar principles, according to Act No. 118/2010 Coll.

⁵ Lucie Sedmířradská, Rudolf Kubík, Jakub Haas, "Political Business Cycle In Czech Municipalities", in Prague Economic Papers, 1, 2011.

⁶ Michal Illner, "Bottom-Up Territorial Consolidation In The Czech Republic?", Presentation at the Conference "Lessons Learned from Territorial Consolidation" Reforms – the European Experience, Warsaw, 2008.

38. As to foreigners' participation in local political life, be they EU citizens or other nationals, see paragraphs 8 and 9 of the Appendix hereto concerning human rights at local level.

3.6. Status of the capital city

39. The status of the capital city is regulated by a special act (Act No. 131/2000 with later amendments), making Prague jointly a municipality and a region. Under the law, it is divided into municipal districts. The relations between the capital and its districts is ruled by Act 131 and by by-laws issued by the City of Prague. The competences assigned to the capital and its districts differ in that district assembly decrees are not generally binding while those of the capital are.

40. The most important city authority is the Prague Assembly, membership of which is determined by elections based on universal, equal and direct suffrage by secret ballot, and proportional representation. The Assembly decides on matters pertaining to the city's autonomous powers. It has the right, among others, to submit drafts of new laws to the Chamber of Deputies, to decide on participation in international associations, to organise local referendums and to decide on property matters as specified in Section 59 (3) of the Act. It has 63 members, eleven of whom form the Prague Council. They are elected for a four-year term of office.

41. The Mayor, who is also a member of the Council, is elected by and is responsible to the Assembly. The mayor represents the city in external relations and carries out activities as approved by the Assembly.

42. A third pillar of the city administration is the Prague City Hall which performs both autonomous and delegated tasks. Its director is responsible to the Mayor.

43. The special status of the capital city which combines the qualities of being a municipality and a region takes account of its status as capital, but also of its exceptional size relative to the population of the country (approx. 12% of the total population with 1,2 million inhabitants).

3.7. Transfrontier cooperation

44. One of the projects Czech cities are engaged in concerns the Centrope Capacity project, funded under the EU programme "Central Europe", encompassing four European countries: Slovakia, Austria, Hungary and Czech Republic. It aims to create a multilateral and binding framework for the cooperation of local and regional authorities, enterprises and public institutions in the Central European Region. This trans-frontier initiative is built around themes such as innovation, territorial integration, development of human capital, culture and tourism. The objective is to constitute a common marketing strategy at regional level and to collaborate for common projects. It also offers participating countries new tools for a balanced spatial development as well as integrated development strategy and action plan.

45. The city of Brno, the capital of South Moravia, is one of the founders of the Association of Towns and Municipalities of South Moravia, which aims to create a coordination platform for the economic, cultural and social development of the region. Since 2009, South Moravia has been part of a bilateral European project with Lower Austria, engaged in a cross-border transfer of know-how to make the activities of the region more efficient and of higher quality by increasing the professional knowledge, skills and competences of selected regional and representatives through participation in training workshops and seminars.

46. The Czech Republic has also been pursuing trans-frontier cooperation with Poland. An intergovernmental commission meets regularly and the implementation of the operational programme for cooperation between Poland and Czech Republic for the period of 2007-2013 is ongoing.

47. Karlovy Vary has been part of the cross-frontier local public transport project Egronet launched in 2000 between Germany (the states of Bavaria, Thuringia and Saxony) and the Czech Republic. The rural districts and cities cooperating in the scheme have jointly launched a number of projects including rebuilding the railways and issuing Egronet tickets which enable holders to travel in every train, bus and tram on 702 local public transport lines across state borders for one day.

3.8. Analysis of the situation of local democracy in light of the European Charter on Local Self-Government on an article by article basis

This analysis is based on the last recommendation.

48. The Rapporteurs' point of departure is to identify and highlight issues in the system of local and regional self-government in the Czech Republic in light of the standards established by the European Charter of Local Self-Government and as refined and developed throughout the years by virtue of a series of other reports and recommendations.

3.8.1 Article 2

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

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

49. The Charter is applicable with reference to local authorities of all categories (Article 13), and the Czech Republic has made no specific declaration as to its applicability to the regional authorities that have existed since 2000. However, the main line of legal and financial regulations in the Czech Republic is the same for local municipalities and regions. This makes it reasonable to present a common exposé of the situation for both, but with separate remarks regarding each of them insofar as commanded by the nature of each question addressed.

50. As already pointed out, the provisions enshrined in Article 8 as well as Chapter 7 of the 1992 Constitution take ample care of the requirement under Article 2 of the Charter that the principle of local self-government be recognised in the Constitution.

3.8.2. Article 3

Article 3 – Concept of local self-government

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

51. The legal and financial regulations leave little room for doubt that local and regional authorities in the Czech Republic enjoy a well-defined right according to Article 3 (1) of the Charter to regulate and manage their part of public affairs within the limits of the law only. This point will be further developed in later paragraphs. On the other hand, whether the requirement under Article 3 (1) of the Charter that the share of public affairs devoted to the regulation and management of local and regional authorities is "substantial", may be open to some doubt.

52. According to information provided by the representatives of the Ministry of Finance during the meeting with the Congress delegation, the combined budgets of local and regional authorities represent approximately one third of the country's total public spending. This may easily be qualified as "substantial". On the other hand, the distribution of the combined local and regional share between tasks qualified by Czech law as either proper or delegated has been hard to identify. The rapporteurs therefore limit their observation to taking note that there is a possibility that what is left to the proper powers of local and regional authorities, much less strictly regulated indeed and therefore closer to genuine "self-government" than the delegated powers, might be below the level qualified as "substantial".

53. The requirements under Article 3 (2) of the Charter that the right to self-government be exercised by councils elected through free elections of free elections, gives rise to no particular concern as far as the Czech Republic is concerned. Because the executive organs are elected by the relevant councils, the same goes for the requirement about responsibility towards the council.

3.8.3. Article 4

Article 4 – Scope of local self-government

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

54. The Czech Republic meets the requirement under Article 4 (1) of the Charter in that the basic powers of local and regional authorities are prescribed by law. As already pointed out, not only the constitutional provisions but also the statutory instruments adopted in or around 2000 are compatible with the Charter.

55. The same goes for the requirement about full discretion within the limits of the law according to Article 4 (2) of the Charter. As to the proper powers of local and regional authorities, there is not much to be added. When it comes to the powers delegated by law to a limited number of bigger municipalities and to the regions, on the other hand, the scope of discretion is generally much more limited. But the fact that Article 4 para. 1 explicitly opens up the way for the attribution of powers and responsibilities for specific purposes in accordance with the law, is but one of the elements that indicate that limited discretion in the execution of such functions is not in itself contrary to the obligations undertaken by the Charter (see further under Article 4 (5) of the Charter).

56. Whether the principle of subsidiarity, as explicitly recognised in Article 4 (3) of the Charter, is respected by the Czech Republic in an optimal manner depends, among other factors, on the share of public responsibilities devoted to the proper powers of local and regional authorities, and not only to delegated powers that are much more strictly regulated (see above).

57. According to Czech law, only the judiciary may decide with binding effect upon contested questions regarding the limits to the powers of local and regional authorities under the law, the Constitutional Court playing a prominent role. It thus seems that the obligations of the Czech Republic under Article 4 para. 4 of the Charter do not give rise to serious doubts.

58. As already noted, Article 4 para. 5 of the Charter is not binding for the Czech Republic. On the other hand, the Congress delegation's clear impression is that Czech law is well in conformity with that provision. Not only does the Charter limit itself to talk about what is "possible", a criterion the substance of which is by necessity much left to the determination of the relevant state. Even more does it seem clear that the systematic need for a decision by the judiciary in cases where a local or regional authority is in disagreement with central government on the extent and/or substance of its responsibilities under the law makes Czech law comply with the obligation under the Charter, had Article 4 para. 5 been applicable.

59. It follows from what has just been said that the Czech Republic should consider withdrawing its declaration concerning Article 4 para. 5 of the Charter.

60. As regards Article 4 para. 6 of the Charter, during the Congress delegation's visit, some complaints were received regarding the presumed lack of due consultation in the planning and decision-making processes for all matters which concern local authorities directly. The Czech Republic is one of the member States where no particular law exists that makes it a general requirement to

consult local authorities at the different legislative stages. After the visit, the Ministry of the Interior drew the delegation's attention to the fact that such a duty is stipulated by general laws (Act on Municipalities, Act on Regions, Act on the Capitals City of Prague) and also by the Legislative Rules of the Government that define regions and associations of municipalities as "obligatory consultative subjects" as regards legislative proposals with reference to self-government matters or competences. Moreover, all legislative proposals are included into the Electronic Library of the Office of the Government and thus made public. In addition, regional councils have the right of legislative initiative, which entitles them to submit legislative proposals.

61. To some extent, the complaints may probably be explained by the fact that the relationship between central and regional government is spelled out in quite detailed statutory (including budgetary) provisions, thus leaving the final say to the political processes carried out within the two chambers of the Parliament (consultation is foreseen for procedures related to changing the boundaries of local authorities but such consultation has the legal value of an opinion and not of a decision binding on national authorities). Also, many elected local officials hold parliamentary mandates which is a form of political influence and information exchange that lies somewhere between "consultation" and "lobbying", and has a major impact on decisions concerning local authorities.⁷

62. But it may nevertheless be worthwhile considering whether proper mechanisms of consultation should be further developed and formalised, not the least by involving the representative associations concerned (see further below on the right of local and regional authorities to associate under Article 10 of the Charter). Indeed, the Congress has already called on members States (including the Czech Republic), through its Recommendation 171 (2005) on consultation of local authorities, to introduce particular legislative provisions with a general requirement to consult local authorities at the different legislative stages "for all matters which concern them directly" and also to consult local authorities at all stages concerning the financial resources allocated to them (Article 9 para.6 of the Charter).

63. The question of the deadlines given to local authorities is an important element of proper consultation. In order that the terms stipulated by the Charter under Article 4 para. 6 ("in due time and in an appropriate way") can be implemented in a satisfactory manner, clear provisions should be set out in relevant legislation allowing local government authorities sufficient time in which to consider the issues of interest brought to their attention.

3.8.4. Article 5

Article 5 – Protection of local authority boundaries

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

64. Under Czech law, decisions to amalgamate two or more municipalities are based upon an agreement between the relevant municipalities (Act No. 128/2000, Chapter I, Part 3). Break-outs may be decided following a referendum held in that part of the municipality that wishes to break away. There is no reason to believe that the Czech obligation to consult before changes in the boundaries are made, as stipulated under Article 5 of the Charter, is not respected.

3.8.5. Article 6

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

1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.

⁷ CLRAE, Council of Europe, 6th General Report on implementation of the European Charter of Local Self-Government (Articles 4.6, 5, 9.6 and 10) "Consultation of Local Authorities", 2005: <https://wcd.coe.int/ViewDoc.jsp?id=889737&Site=COE>

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| 2 | The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided. |
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65. The internal structures of local and regional authorities are regulated quite extensively by national legal provisions. At the properly administrative level, however, they enjoy a high degree of adaptation to local needs and management. The Congress delegation has no reason to believe that Article 6 para.1 of the Charter is not respected by the Czech Republic.

66. On the other hand, the country has decided not to submit to Article 6 para. 2 of the Charter on the conditions of service for local (and regional) government employees. This fact may be understood in light of the wide discretion enjoyed by local and regional authorities in shaping their administrative and technical services and deciding about the staff needed to fulfil the different tasks. For that reason, training opportunities or requirements, career prospects etc. provided by central government may be considered as an interference in the autonomy of local and regional authorities within the limits established by generally applicable labour law within the framework of the national (and European) labour market.

3.8.6. Article 7

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

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

67. No elements suggest that the free exercise of the functions of local and regional elected representatives is hampered under Czech law in a way contradicting Article 7 para. 1 of the Charter. The same goes for paragraph 3 of that article on incompatibilities.

68. On the other hand, the country is not bound by Article 7 para. 2 about financial compensation to elected representatives. This must be understood in the light of the fact that such questions are left to the discretion of the local and regional council themselves.

69. Law 128/2000 sets out the conditions of remuneration of municipal councillors as public civil servants. Councillors are divided into two categories, namely “released” and “non-released” members. Those who belong to the first group, i.e. who are “released” on a long-term basis in order to perform their office and those who were not in an employment relationship before being elected to the council, are remunerated by the municipality (this includes monthly salaries plus any additional remuneration and remuneration at the end of term of office). The “non-released” members of the municipal council, if they are in an employment relationship, are granted leave by their employer with a salary compensation for performance of their office. The salary compensation is transferred by the municipality to the employer. Non-released members who are not employed receive a lump sum from the municipality as compensation for loss of earnings in relation to the performance of their office.

3.8.7. Article 8

Article 8 – Administrative supervision of local authorities' activities
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| 1 | Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute. |
| 2 | Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities. |
| 3 | Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect. |

70. In the Czech Republic, supervision of local and regional authorities' activities by central government is systematically carried out according to the Constitution or statutory law and is basically limited to the legality of those activities (Article 8 paras. 1 and 2 of the Charter). In principle, discretionary power is left with the local and regional authorities themselves, and the final word when agencies of central government think the territorial authorities have acted or decided against the law is systematically left to the judicial branch of government. In this way, the requirement for proportionality between the controlling activities and the importance of the aims pursued under Article 8 para. 3 of the Charter, seems well taken care of.

71. The Supreme Audit Office (SAO), an independent body, is responsible for the "audit the management of state property and financial resources collected under the law for the benefit of legal persons, with the exception of resources collected by municipalities or regions under their independent jurisdiction" (Act 166/1993, Part 2, Section 3). This means that it can only control the use of means allocated by central authorities. The SAO also controls ministries which manage subsidies granted to local authorities (for example for construction of water works).

72. Local authorities call on external auditors for all activities that fall outside the competence of the SAO. There is an additional "cascade" system of control through the regions, whereby the Ministry of Finance audits the regions to verify their control over the municipalities.

73. The rapporteurs have heard during their visit a number of complaints about an overburden due to suboptimal coordination of the controls, collection of statistical data etc. exercised by different branches of central government. Even if part at least of this supervision seems to have been directed towards activities that have little or nothing to do with the particular status of local and regional authorities (such as food and water supply hygiene), the complaints are linked to the need for a rational exploitation of limited resources in a way that clearly deserves attention by central government, possibly starting with due mapping of the problem.

74. It is also interesting to note that the National Reform Programme 2011 of the Czech Republic enumerates under its heading of "Concrete reform priorities", para. 3 (a), that measures will focus on local government units in order to "increase transparency in decision making processes, both in the decision-making of policy bodies (assemblies and councils) and in decision-making at official level".⁸ According to this, the SAO will be given the power to supervise local and regional government units; the relationship between assemblies and councils will be revised in order to prevent circumvention of the law, and assembly members will have easier access to information relevant to their decisions and supervisory activities. In addition to these steps, a register of violations will be introduced and public authorities will be required to prepare and publish a code of ethics.

75. It is not clear from the text whether this supervision by the SAO is intended to go beyond the verifications related to delegated tasks. However, it is clear from the above paragraph that there is a will to move towards more rigorous supervision of local authorities on the government's part.

76. The problems raised by the Czech system of local and regional government are essentially linked to the financial system. However, the main problem is not a clear violation of Article 9 of the Charter. It lies rather in the fact that the Czech Republic has decided not to ratify important parts of that Article (paragraphs 3, 5 and 6), but behaves in accordance with these declarations and reservations (see further in the following text devoted to Article 9 paragraphs 3, 5 and 6).

⁸ Investing into European Competitiveness: Contribution of the Czech Republic to Europe 2020 Strategy, National Reform Programme of the Czech Republic 2011, http://ec.europa.eu/europe2020/pdf/nrp/nrp_czech_en.pdf

3.8.8. Article 9

Article 9 – Financial resources of local authorities

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

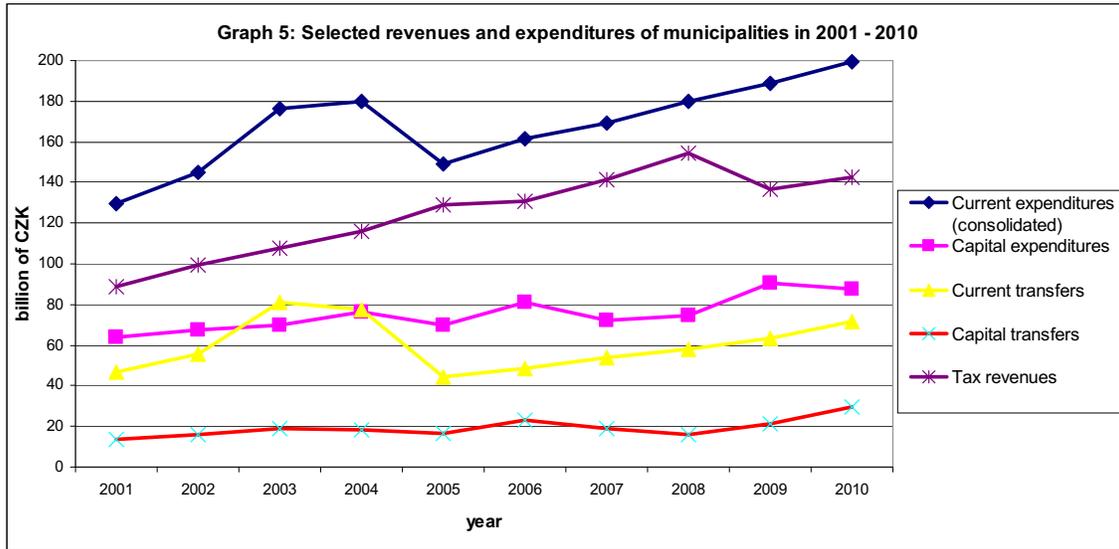
77. As to the provisions enshrined in Article 9 para. 1, no clear failures to comply were signalled to the Congress delegation. To the contrary, the general impression is that Czech local and regional authorities, although affected by the crisis, have not been victims of the recent financial crisis in the way so often claimed by sub-national authorities in other European states. At least partly, this is confirmed by a Dexia report of 2011 ("Sub-national public finance in the European Union"), according to which the Czech Republic counts among the EU countries where the sub-national revenues in 2010 increased at least as much as the country's GDP (pp. 3 and 7)⁹. However it has been brought to the delegation's attention that, in 2009, there was a 12% decrease in the amount of shared taxes allocated to local authorities, followed by a slight improvement in 2010.

78. In the Czech Republic, municipalities are highly dependent on financial redistribution by the State (which is based on population numbers and not on a population's wealth). This system of "shared taxation", according to which approximately 9 % of state taxes are transferred to regional authorities and about 22 % of state taxes are transferred to local and regional authorities, leaves the latter considerable freedom in deciding how these resources should be used within the field of their proper responsibilities. However it is also a system which is beneficial to large cities and does not encourage local authorities to increase their own tax base. Municipalities have discretion over local fees (representing 2.3 % of municipal revenues in 2010) and some discretion over the property tax (representing about 3 % of municipal revenues). Municipalities share the air pollution fee, the levy on the withdrawal of land from agriculture and the levy on the withdrawal of land from forestry as well as the charges for waste deposition in landfills.

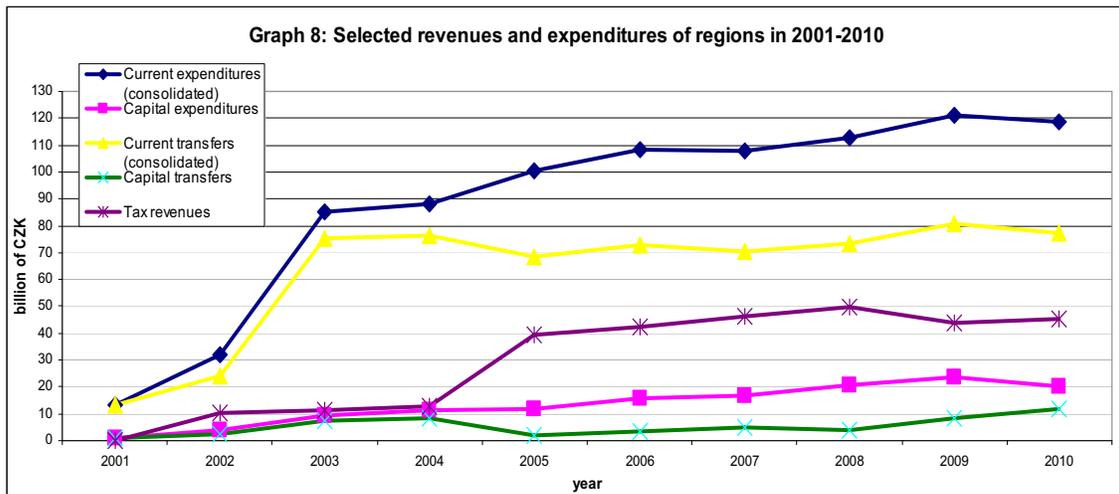
79. The non-tax revenues are composed mainly of rental incomes, incomes from municipalities' own activities and income from interests. Capital revenues amount to about 4,5 municipal revenues and their majority comes from property sale.

80. On the other hand, transfers that represent 36 % of the income of municipalities (with huge disparities according to the size of their population) and 64 % of those of the regions are mainly destined at coping with expenses caused by the exercise of delegated powers which leave little or no room for local or regional freedom within the framework of those powers.

⁹ Council of European Municipalities and Regions-Dexia, *EU Subnational Governments*, 2010/2011 edition.

Municipal revenue and expenditures 2001 - 2010¹⁰

Regional revenue and expenditure 2001 – 2010



81. It has been argued that the transfers for the execution of delegated powers are not commensurate with the size and nature of these powers as stipulated by Article 9 para. 2 of the Charter and also para. 1 as regards the “adequacy” of financial resources. According to some local representatives, some municipalities or regions have to subsidise the accomplishment of these tasks by drawing on their share of taxes in a way detrimental to their possibilities to exercise their proper powers according to their own decisions about the nature and size of these activities.

82. The adequacy of the available resources compared with the expenditure necessitated by mandatory “delegated” tasks is a constant source of conflict in many European states, but on this point, the Czech Republic is far from appearing as a “worst case” among the parties to the Charter, particularly given that a reform instituting a two-party system of technical evaluation of the costs objectively incurred by the accomplishment of delegated powers seems to have been established

¹⁰ Document submitted by the Ministry of Finance to the delegation.

(a pilot project is now under preparation). Such a reform would represent a valuable contribution to improving the Czech system of local and regional autonomy.

83. As already mentioned, the Czech Republic is not bound by Article 9 (3) of the Charter on the right to local taxes and charges, the rates of which the local and regional authorities themselves have the power to determine. This declaration corresponds to the actual state of the financial situation in the country. As a matter of fact, non-tax revenues and local charges and fees represent less than 14 % of the revenues of the municipalities and just 3,5 % of those of the regions. The overwhelming part (close to 90 %) of the financial resources for local and regional authorities thus stems from state taxes imposed according to rates decided by central government, and from state transfers.

84. The issue of whether Article 9 para. 4 of the Charter, by which the country is actually bound, is fully respected depends on considerations already addressed by reference to paragraphs 1 and 2 of Article 9. It should be mentioned, however, that no major complaint regarding the relationship between the overall tasks of municipalities and regions and the financial resources available for pursuing them was heard by the Congress delegation.

85. Article 9 para. 5 is the next provision by which the Czech Republic is not bound. This corresponds to the present state of the system that does contain elements of financial equalisation between weaker and wealthier municipalities and regions. The authorities seem to consider that the objective criteria of distribution of (mainly) shared taxes between local and regional authorities as defined by law, take sufficiently care of the needs in this respect.

86. It must be noted in this context that, there being no clear policy instrument in the Czech Republic which deals with fiscal equalisation transfers, and taking into account the inability of small municipalities to achieve a significant level of tax autonomy (only 50% of municipal budgets is based on tax revenue), local fiscal imbalances and investment needs are financed by borrowing (grants and loans). There are no clear rules for the distribution of these grants.

87. As regards municipal bonds, the delegation was informed during the visit that a draft of a new law would allow local authorities to issue municipal bonds for obtaining funds to a) invest in fixed assets (long term tangible assets), b) remove damages caused by natural or other disaster, and c) finance projects co-financed from EU funds. This means that under a new legislation local authorities cannot issue municipal bonds for repayment of existing debts, as bonds are expensive investment instruments.. However, it is worth noting that although the indebtedness of municipalities in the Czech Republic is growing and may constitute a problem for individual municipalities, this does not pose a serious problem in relation to the GDP, since the overall indebtedness of all municipalities does not exceed 3 % of GDP.¹¹

88. The fact that the Czech Republic is not bound by Article 9 para. 6 either, must be understood in the light of what has just been said: The absence of a genuine system of financial equalisation makes formal consultations about the criteria of equalisation superfluous.

89. On the other hand, consultations about the criteria to be used for the distribution of shared taxes to local authorities¹² might be most valuable indeed not only as a means for searching a higher degree of consensus but even for the systematic adaptation of the system that would be needed. After all, the provision talks about "redistributed resources" in a way not at all excluding the kind of redistribution from central to local and regional government that actually plays an important role in the Czech system. In this respect, it should be mentioned that the provision does not require the consultation of every local council. Consultation with representative associations of the different tiers of territorial authorities would be sufficient.

90. For the reasons just mentioned, the Czech Republic should be invited to consider withdrawing its declaration of non-application of Article 9 para. 6 of the Charter.

¹¹ Marek Havrda, "Local government borrowing in the Czech Republic" publication of Europeum – European Policy Forum, http://www.europeum.org/doc/arch_eur/EPF_Local_Borrowing.pdf

¹² Shared tax revenue of regional authorities (as well as the percentage for each region) was not set on a multi-criteria basis, but primarily on amounts of grants paid by government to regions before the tax share was assigned to regions by the law on budgetary allocation of taxes.

91. As to Article 9 para. 7 of the Charter, Czech law features the particularity of combining a system where earmarking and freedom are combined through two quite distinctive parts of local and regional finances. Whereas transfers are basically earmarked in the sense of being linked to the fulfilment of delegated powers, the part of local and regional financial resources that stems from shared (state) taxes are disposed of freely in the interest of the proper powers of local and regional authorities (see above). According to the information received from the Ministry of Finance, earmarked subsidies include subsidies for social care institutions or contributions to the school system, and a special type of subsidy called “contribution towards performance of the state administration”.

92. Article 9 para. 8 of the Charter seems to be well taken care of by the Czech system. Under the law, local and regional authorities are free to borrow under their own responsibility, and approximately half of the municipalities have actually contracted debts. If they want to issue obligations, on the other hand, formal acceptance of the Ministry of Finance is needed, a question that is likely to come up only for a few big players. But applications are rarely denied, and should it nevertheless happen in a way not accepted by the relevant authority, the final decision is submitted to the Constitutional Court.

3.8.9. Article 10

Article 10 – Local authorities' right to associate

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

93. According to Article 10 of the Charter, local (and regional) authorities have the right to form different kinds of “consortia” with other municipalities in order to carry out tasks of common interest (paragraph 1), to associate for the protection and promotion of common interests (paragraph 2) and to co-operate with their counterparts in other states (paragraph 3). Czech law seems to comply with all these requirements (see, inter alia, Act. No. 128/2000 Chapter II Parts 3 and 4). Section 50 thereof sets out in detail the activities that unions of municipalities may engage in, namely:

- a) tasks in the field of education, social services, health care, culture, fire protection, public order, environmental protection, tourism and care for animals,
- b) ensuring cleanliness of the municipality, administration of public greenery and public lighting, collection and transport of communal waste and its safe processing, use or disposal, water supply, waste water transport and treatment,
- c) installation, extension and improvement of networks of technical infrastructures and systems of public passenger traffic to secure transport services for a given locality,
- d) tasks in the protection of the quality of air, tasks connected with the reconstruction of solid fuel heating or water heating to environment-friendlier sources of thermal energy in residential and other objects owned by the municipality,
- e) operation of stone quarries, sand pits and facilities serving for the extraction and treatment of mineral resources,
- f) administration of the municipality's property, especially local roads, woodland, housing and residential stock, sporting, cultural facilities and other amenities administered by the municipalities.

94. In particular, it should be mentioned that all the regions are members of their association. And if the Union of Towns and Municipalities of the Czech Republic represents only 40 % of the local councils, its approximately 2500 members holds sway over 75 % of the country's entire population. In other words, the main “absents” in this organisation are most of the numerous very small municipalities. These small municipalities are organised under several associations, as explained under paragraph 3.4 above,. There are also professional associations of local government staff, such as the Association of Chief Administrative Officers.

95. The municipal and regional associations seem active and influential. They have trimestrial consultation meetings with the national authorities. The impression the delegation got during the visit

is that these regular consultations are considered fruitful by both sides but that their effectiveness very much depends on whether the consultation is launched early in the process. The rapporteurs are of the opinion that it would be an improvement to formalise this consultation mechanism by legislation as regards legal and budgetary procedures directly concerning municipalities and regions, in order to render it more systematic and to establish minimum safeguards.

3.8.10. Article 11

Article 11 – Legal protection of local self-government

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

96. Finally, local (and regional) authorities' right of access to a judicial remedy according to Article 11 of the Charter is very well taken care of in the Czech Republic.

97. First of all, central government cannot decide over local and regional authorities with legally binding effect. In cases of disagreement, they are bound to refer the question to the Constitutional court for the final decision. This instance (sitting in Brno) is completely independent from central government and takes itself care of the procedural rights of territorial authorities when considering such matters.

98. Constitutional complaints of local authorities can be dealt with by the Constitutional Court (Act 182/1993) and there can also be disputes over competences that are dealt with both by the Constitutional Court and the Supreme Administrative Court. The Constitutional Court also deals with petitions emanating from the Ministry of the Interior which may propose the annulment of a statute, or the individual provisions of a municipal self-government regulation.

99. Even in cases brought to the administrative court by private citizens or legal persons against a local or regional council, the relevant authority has an equal status as a party to the process, and may itself have access to courts in given cases.

100. The right of recourse to a judicial remedy guaranteed under Article 11 of the Charter is limited to securing free exercise of the powers of local (and regional) authorities as enshrined in domestic law. In the Czech Republic, however, international treaties by which the state is bound are a part of domestic law with a semi-constitutional position (Article 10 of the Constitution). By consequence, the Constitutional court has referred to the Charter in more than 20 decisions initiated by the Ministry of the interior (on behalf of the relevant ministry) or – more frequently – by members of parliament according to the procedure for abstract up-stream review of new legislation. In the landmark decision 34/02 (2002), the Court defines in some length the exact impact of the Charter in domestic law, underscoring among others (as translated by the services of the Court) that “the framework nature of the Charter and the specific nature of collective rights it expresses do not prevent it from being used as a measure for the abstract review of the constitutionality of statutes”.

4. CONCLUSIONS

101. The Czech Republic deserves praise for the considerable progress accomplished since the last monitoring mission. Equally important is the fact that the legal framework that is now established is – for local and regional authorities alike – generally in conformity with the Charter. The active role of the relevant associations contributes further to ensuring for the municipalities and regions a high level of autonomy within the limits of the law.

102. One important challenge facing the government is finding a solution to the problem of fragmentation of municipalities without destabilising the rural population. The country might consider instituting a process to gradually reduce the impressive number of municipalities by merging the smallest units, as quite a few of them appear to be too small to act effectively as motors in the service of local well-being and development. It even seems as though a number of them are not even run by directly elected councils due to the absence of candidates and (occasionally) even of voters, thus leaving the effective management to the Ministry of the Interior.

103. In other directions, the overall system of controls, collection of statistical data etc. carried out by different parts of the state administration would benefit from being coordinated and simplified in order to ease the practical burden of municipalities and regions. This might prove to be an opportune moment for the central government to look into the question, as the issue of supervision already has a place in the national reform programme.

104. Mechanisms of consultation with local and regional authorities on matters concerning them directly should be further developed and formalised by a specific law, which would provide details on the consultation process: the consultation procedure should be compulsory on issues of interest to local authorities and ensure that sufficient deadlines are given to allow for preparation of comments, i.e. should be made "in due time and in an appropriate way" as stipulated in the Charter, Article 4 para.6.

105. One of the important steps to be acclaimed is the creation of a regional tier of government announced during the former mission. But it seems as if the legitimacy of the regions as genuine institutions of political self-government could still be improved, thereby giving them a higher and better defined profile in the eyes of the electorate. Indeed, the relationship between the regions and the major towns (outside Prague) is one area that would benefit from being developed and clarified.

106. The problems as to the legal framework identified by the Congress delegation are linked to the declarations of non-applicability of a number of Charter provisions. In certain areas, it is hard to say that the system already in operation provides convincing grounds for maintaining the relevant reservations (see above paragraphs concerning Articles 4 para. 5 and 9 para. 6 of the Charter). Withdrawal of the relevant declarations is unlikely to represent much more than bringing the international obligations of the Czech Republic in conformity with domestic legislation and practice as already established.

107. On the other hand, some declarations of non-applicability are undeniably linked to substantive political concerns regarding core elements in the very concept of local/regional autonomy. This goes namely for Article 9 para. 3 on local taxes and charges as with Article 9 para. 5 regarding financial equalisation. The most striking impression collected by the Congress delegation is the seemingly lack of political will for establishing a genuine system of local taxes which would leave local and regional authorities free to determine their rate.

108. An important notion of local democracy is the idea that genuine local and regional taxes may contribute to the reinforcement of responsibility experienced by local and regional elected officers who have to face the electorate regarding the services provided, as well as the choice between different levels of taxation and of the corresponding extent and quality of local and regional life. However, this idea was not mentioned by the interlocutors of the Congress delegation during their meetings. This is true not only for the representatives of central government, but also for those at local and regional level.

109. Within the heavily centralised system of financing, it should be mentioned that the State does not appear to cover the finances for delegated competences in a way fully conforming to its obligations under Article 9 para. 2 of the Charter. The rapporteurs would call on the government to uphold the principle of concomitant financing and to ensure that sufficient funds are allocated whenever tasks are delegated to local authorities, taking note, on the other hand that, apparently municipalities and regions have not unduly suffered the consequences of central government's efforts to fight the ongoing financial crisis.

110. Finally, the rapporteurs would welcome the signing of the Additional Protocol to the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities (ETS No. 159), and the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) as a very positive step towards the fulfilment of the countries' obligations under the Charter.

Appendix 1 – Information on the implementation of human rights at local and regional level

INFORMATION NOTE ON HUMAN RIGHTS AT LOCAL AND REGIONAL LEVEL

1. In general, the legal norms regarding citizen involvement in decision-making at municipal and regional level responds to common European standards. As always, it is much harder to establish whether or not the practise experienced in everyday life is satisfying. However, nothing makes the Delegation believe that Czech municipalities in general are more closed to influence from the citizens than similar entities in other countries. The same goes for the freedoms of expression and of association in the Czech Republic, as – by the same token – at regional and local level.

2. When it comes to the regions, their rather remote presence in the public mind is not unlikely to lead to a less positive evaluation of the practise regarding citizen involvement in decision-making.

3. As already reported (see paragraph 6 above), the overall turn-out in municipal elections could have been higher, first of all in urban areas, but is not really below a wide-spread level in other parts of Europe. When it comes to regional elections, on the other hand, the evaluation is less positive even in this respect.

4. In principle, the electorate is sovereign – within the limits of the law – to decide who shall serve as members of the different elected assemblies regularly submitted its judgment. However, a wide-spread assumption within the member-states of the Council of Europe is that relatively equal representation of men and women is better than heavy inequality.

5. Few if any country can boast of a strictly equal presence of men and women in their local and regional assemblies. According to information provided by letter of 30 August 2011 from the Ministry of the interior of the Czech Republic, the figures in the Czech Republic regarding the presence of women are the following:

Local Assemblies		Regional Assemblies	
Year	Women	Year	Women
2002	22,7 %	2000	14,4 %
2006	25 %	2004	15,1 %
2010	26,4 %	2008	17,6 %

6. Albeit improving slowly over time and not necessarily below what may be found in a number of other Council of Europe member-states, the table shows that the presence of women representatives remains feeble. This impression is confirmed by the fact that the part of female mayors in 2006 is reported to be 18 % (the figures after the 2010 municipal elections and in the regional assemblies have not been available to us). Without being comparatively exceptional, the level is not impressive.

7. As to foreigner's right to vote (in particular) at local and regional level), two series of information should be provided.

8. First, citizens of the European Union (EU) having accomplished the age of 18 years at latest at the time of the elections and enjoying at least partial legal capacity, are entitled to vote and stand as a candidate in the elections to local and regional assemblies under the same conditions as any Czech citizen insofar as they are registered in the electoral rolls and in the population register of the Czech Republic.

9. Other citizens (as well as non-citizens) are entitled to vote and stand as a candidate in the elections to local and regional assemblies only by virtue of an international treaty which is binding for the Czech Republic and has been published in the Collection of international treaties. However, this means that such foreigners enjoy the right to vote and to be elected in local and regional elections only insofar as reciprocity is guaranteed between the Czech Republic and the state to which the relevant persons belong. For the time being, the only example is the Treaty of accession of the Czech Republic and other states to the EU.

10. Some 10 % of the Czech population belongs to other groups than the Czechs, and some 5 % practise other languages. However, no serious concerns regarding the status of national or linguistic minorities have been signalled. As a matter of fact, the information and material received from the Office of the Public Defender of Rights (the "Ombudsman") gives the Delegation no reason to believe that the regional and municipal tiers of government in the Czech Republic give rise to particular concern when it comes to the rights of national minorities and questions pertaining to non-discrimination.

11. The country is a party to all the major instruments on human rights and in a position to offer them the protection that flows from the existence of a stable democratic environment. The relevant case-law of the European Court of Human Rights does not seem to give rise to concerns similar to those raised by a number of other member states situated in Central and Eastern Europe.

12. On the other hand, some cases regarding the situation of Roma in the Czech Republic have been reported. The Roma population is approximately 250,000 in the country and although there are Roma coordinators in both regions and municipalities, they are not numerous and do not appear to be very involved in the integration processes. The main problem of the Roma population is social exclusion and poverty. The cases concerning Roma, because they are related to questions of housing, etc. by necessity concern regional and local governments. But to the extent that the delegation has been able to get into such cases, they seem to relate more to ordinary problems of ensuring housing for people with too little income to ensure the regular payment of their rents than to questions regarding discrimination in the proper sense. What may remain seems to depend on central government policies at the least inasmuch as on the attitudes at regional and local level.

Appendix 2 – Congress Monitoring visit to the Czech Republic (13-15 June 2011)**CONGRESS MONITORING VISIT TO THE CZECH REPUBLIC
Prague - Velký Osek - Brno (13 - 15 June 2011)****PROGRAMME****Monday, 13 June 2011 - Prague**

Ministry of the Interior of the Czech Republic:

- Mr Jan Kubice, Minister of the Interior
- Mr Ondřej Veselský, Deputy Minister of the Interior for Public Administration, Legislative Matters and Archiving Services
- Mr Robert Ledvinka, Director of Public Administration Department
- Ms Marie Kostruhová, Director of Public Administration Supervision Department
- Mr Vít Šťastný, Legislative and Legal Regulation Coordination Department
- Mr Petr Fejtek, Department for Public Administration, Representative to the European Committee for Local and Regional Democracy (CDLR)

Supreme Audit Office of the Czech Republic:

- Mr František Dohnal, President

Ministry of Finance of the Czech Republic:

- Mr Jan Zíkl, Head of Local budgets and program financing Department
- Ms Karla Rucka, Head of General financial relations of local budgets Unit
- Mr Pavel Krecek, Budget analysis for regional and municipal budgets Unit
- Ms Jarmila Hanslova, Legislation and methodology of local self-government Unit

Committee of International Affairs of the Prague City Assembly:

- Mr Kalousek, President of the Committee

Tuesday, 14 June 2011 - Prague - Velký Osek

Velký Osek City Hall:

- Mgr. Pavel Drahovzal, Mayor of Velký Osek
- Members of the Municipal Assembly

Association of Regions of the Czech Republic:

- MUDr. Jiří Běhounek, President of Vysočina Region
- Ing. Jana Fischerová, President of the Czech Délégation to the Congress
- Ing. Martin Bělčík, Director of the Office of the Association

Union of Towns and Communities of the Czech Republic:

- Mr Zdeněk Brož, Member of the Congress
- Ms Hana Richtermocová, Member of the Congress

RNDr. Tomáš Kostecký, Head of Department for local and regional studies
Institute of Sociology, Academy of Sciences

Wednesday, 15 June 2011 - Brno

Constitutional Court of the Czech Republic:

- JUDr. Pavel Rychetský, President of the Court

Brno City Hall:

- Mr Roman Onderka, Mayor of Brno
- Deputies of the Mayor and members of the Municipal Assembly

Office of the Public Defender of Rights:

- JUDr. Pavel Varvařovský, Ombudsman

Appendix 3 – Comments on the preliminary draft report from the Ministry of the Interior of the Czech Republic**Comments on the draft report**
“Local and regional democracy in the Czech Republic”

Compiled by the Ministry of the Interior of the Czech Republic

A. Introduction

1. The Czech Republic appreciates very much the overall constructive approach of the rapporteurs to their work, both during the monitoring visit in the Czech Republic in June 2011 and as concerns the preparation of the draft report; the report itself can be considered as comprehensive, objective, thorough and well balanced. Nevertheless, several comments stated below should be added to its content and conclusions and some corrections of the text should be made.

B. Commentary Part

2. The problem of fragmentation of municipalities in the Czech Republic is partly caused by the nature of the urban structure and its solution is of a high complexity. The citizens usually identify themselves with their settlements, not with administrative units. Therefore, they – as a rule – do not support any amalgamation efforts. In addition, no integration may be decided without prior consultations with them, as the Charter clearly stipulates. In this context, we welcome very much the conclusion concerning a proposed introduction of a process focused on a gradual reduction of the huge number of small municipalities. Respective state authorities (especially the Ministries of Finance and Interior) have tried to find an appropriate solution in this direction for many years, using the same or similar argumentation as appears in the report. However, a strong resistance of municipalities to any considerations (even to very moderate ones) regarding reduction of their number politically precludes adopting such a “strong solution”. There are two main reasons of the municipalities and their associations for this resistance: their interest to administer independently their matters even in very small units and bad historical experience concerning “administrative amalgamations” of municipalities before 1989 (decisions of state authorities without any consultations with the citizens). Consequently, to solve the situation, the State currently deals with this issue very carefully within the process of optimisation of public administration, various forms of inter-municipal co-operation are supported and certain positive and negative incentives (e. g. size limitations for new municipalities) have been introduced. Hopefully, the conclusion made by the Congress delegation (as representatives of self-government) could moderate a strict refusal of this solution from the side of Czech municipalities and contribute to a positive development towards fully effective and efficient local self-government.

3. Referring to mechanisms of consultation with local and regional authorities, the Ministry of Interior, in a close co-operation with local and regional representatives, seeks to find possibilities of improvements in this area. At present, so-called pyramidal communication line is being tuned (central state administration authorities → regions → municipalities with extended powers → municipalities within the territory of the municipality with extended powers) that should moderate complications connected with the high number of municipalities in the Czech Republic avoiding in some cases direct consultations.

4. The statement saying that “the Czech Republic is one of the member States where no particular law exists that makes it a general requirement to consult local authorities at the different legislative stages” (par. 60) is not untrue, but seems to be rather distorting – it evokes an impression as if such a duty does not exist. But in fact, such a requirement is embedded in general laws (Act on Municipalities – § 13, Act on Regions – §15 , Act on the Capital City of Prague – § 5) and also in the Legislative Rules of the Government, which define regions and association of municipalities as “obligatory consultative subjects” for legislative proposals with reference to self-governing matters or competences. Moreover, any legislative proposal must be published on-line in the Electronic Library of the Office of the Government. In addition, it should be pointed out that regional councils have the right of a legislative initiative, enabling them to submit any legislative proposal (concerning, for example, regulation of topics connected with local and regional democracy, but also a proposal with no relation to self-governing matters).

5. As regards the systems of controls, a completely new Control Procedure Code is being prepared, which should fully replace the old Act on Control. According to this new Code, control procedures within the whole public administration should be unified, co-ordinated and simplified, thus repeating of controls should be avoided. In addition, the Ministry of Interior, in co-operation with other central state authorities, pays significant attention to reduction of bureaucratic burdens (impinging on citizens or public administration). Within this framework, the Czech Statistical Office, for example, significantly reduced the quantity and extent of statistical data to be collected with relation to regions and municipalities.

6. We are aware of the relatively low turn-out in elections, especially at local and regional level. Some measures aimed at solution of this problem have been considered recently in connection with preparation of a new Electoral Code (electronic elections, postal voting, voting in advance, information campaigns), but no final decision in this regard has been adopted yet.

7. A new system of financing of public administration (including delegated competences) is being prepared by Ministries of Interior and Finance, based on reimbursement of really executed activities by municipalities in the field of delegated powers. This system should eliminate complaints of municipalities that “the transfers for the execution of delegated powers are not commensurate with the size and nature of those powers” (par. 81). A pilot project should be launched in 2014.

8. The Ministry of Finance prepared an amendment to Act on Budgetary Allocation of Taxes. This amendment, if adopted, would modify the disproportion in allocation of tax revenues between large cities and smaller municipalities. Nonetheless, it should be pointed out that a lot of citizens from smaller municipalities work in large cities and use their infrastructure, without any contributing to their tax incomes – this fact is on contrary burdensome and disadvantageous for large cities.

9. The indication of a “complete absence of interest for establishing a genuine system of local taxes” (par. 107) seems to be slightly inadequate. Such a solution has been proposed few times by the Ministry of Interior (in analytical materials for the Government or during negotiations with the Ministry of Finance), but it is true that never with a positive conclusion. Moreover, apart from the existing system of local fees, the Ministry of Finance aims at reinforcement of the importance of immovable property tax (a possibility for municipalities to introduce “local coefficient”) that remains in budgets of municipalities where the real estate is located.

10. As concerns the conclusions on limited legitimacy of regional tier of self-government, it can be accepted only partially. The position of regions should be perceived in the wider context of public administration system in the Czech Republic. The constitutional construction of regions, on contrary, seems to be very strong (significant guarantees concerning creation, change of boundaries, competences). It is however true that the regions cannot be considered as “genuine” institutions of political self-government because the system of joint (combined) public administration also attributes

execution of delegated state competences to them. The problem deserving attention however may be the proportion of own (independent) and delegated (state) powers. This proportion is currently being analysed, it is supposed that the position of regional self-government could be reinforced by transferring of some competences from the sphere of “delegated” tasks to the area of independent ones.

11. A wholly new Act on Civil Servants in Public Administration is now being prepared that will cover officials of both central and territorial (local, regional) level of public administration. It should hence lay down working conditions of officials of local and regional authorities in a more complex way, including their status and remuneration, and fully taking into account provisions of Articles 6 and 7 of the Charter.

12. Regarding the doubts expressed as to whether local and regional authorities are entitled to manage a “substantial share of public affairs” (par. 51, 52), it should be pointed out that this question is sensitively perceived in the context of optimisation of the public administration, by both the self-governments and state authorities. In this framework, a significant strengthening of the role of self-governments is envisaged, especially as refers to financial matters and own competences. Once these measures are introduced, no doubt about the “self-governing” share of public share should persist.

13. Following findings of the report, the Czech Republic will carefully consider the possibility of withdrawing of some declarations that were made at the time of ratification of the Charter (1999) as it really seems redundant to maintain all of them.

14. As a final conclusion, the signature of the Additional Protocol to the Charter (CETS 207) and Additional Protocol to the Madrid Outline Convention (ETS 159) is recommended as a very positive step towards the fulfilment of the obligations under the Charter. The perspective that the Czech Republic could sign these two legal instruments differs regarding each of them. While the former was involved among “priority items” in the list of international documents of the Ministry of the Interior to be signed or ratified (thus the process of the signature should be finalised this or next year), no specific progress can be envisaged as regards the latter. The area of trans-frontier co-operation falls under the responsibility of the Ministry for Regional Development (since 1996), which, however, decided itself in 2008 to cover this field merely for the European Union (implementation of the EC Regulation No. 1082/2006 on a European Grouping for Territorial Cooperation) and no longer for the Council of Europe. All negotiations focused on a change of this approach have been unsuccessful.

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