

# The Congress of Local and Regional Authorities

## Chamber of Local Authorities



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### Local democracy in “the former Yugoslav Republic of Macedonia”

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Explanatory memorandum  
Institutional Committee

#### Summary:

This report is the latest of several Congress reports which examine the situation of local democracy in “the former Yugoslav Republic of Macedonia”. It has been prepared on the basis of information gathered during the visits of the Congress delegation to the country and of extracts from the relevant legislation and other information and documents provided by relevant sources. The process of decentralisation which took a new dimension following the 2001 Ohrid “framework agreement” is one of the main issues dealt with in the report, together with the local elections of 2005 as well as certain key legislative acts adopted or revised in the period following the year 2002. The report analyses the existing situation in the light of these developments and identifies certain shortcomings and problematic areas in the functioning of local democracy where further progress would be welcome.

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



## Foreword

1. Under Article 2.3 of Statutory Resolution (2000) 1 of the Committee of Ministers of the Council of Europe, the Congress prepares on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe.

2. “The former Yugoslav Republic of Macedonia” ratified the European Charter of Local Self-Government [CETS No 122] on 6 June 1997 without making any particular declarations upon the deposit of the instrument of ratification. The Charter has applied to the country since 1 October 1997.

3. The situation of local democracy in “the former Yugoslav Republic of Macedonia” has already been covered in several Congress reports. The first report on the situation of local and regional democracy was prepared in 1995 by Ms Magdalena TOVORNIK (Slovenia) [CG/BUR (2) 10 rev]<sup>1</sup>. In 1998, a report on the visit from 15 to 18 June 1998 to monitor the trials of Mr Rufi OSMANI, Mayor of Gostivar, and Mr Aladjin DEMIRI, Mayor of Tetovo, was prepared by Jean-Claude FRECON (France). In 1999, a fresh report was prepared for the Congress under the programme for stability in south-east Europe, following the Congress assessment visit to Albania and “the former Yugoslav Republic of Macedonia” [CG/BUR (5) 139 rev], by Mr Jean-Claude FRECON, Mr Gianfranco MARTINI (Italy) and Mr Owen MASTERS (United Kingdom), along with a contribution by Mr Stuart EVANS (United Kingdom) as expert. This was followed by a report prepared after the visit by the President of the Congress, Mr CHENARD, to “the former Yugoslav Republic of Macedonia” (19-20 July 1999) [CG/BUR (6) 20]. Lastly, the Congress’ fact-finding visit from 24 to 26 September 2001 also gave rise to a report [CG/BUR (8) 58]. The latter visit took place following the adoption by the Congress of Recommendation 82 (2000) and Resolution 100 (2000) on the situation of local democracy in “the former Yugoslav Republic of Macedonia” on the basis of the report prepared by Mr Jean-Claude FRECON [CPL (7) 8 Part II]. On 29 April 2005, the Bureau of the Congress also adopted a report on the observation of the local elections held in the country on 13 and 27 March and 10 April 2005, for which Mr Keith WHITMORE (United Kingdom, ILDG) was the rapporteur.

4. It should be noted that “the former Yugoslav Republic of Macedonia” is one of the countries for which the Parliamentary Assembly’s Monitoring Committee has established a post-monitoring dialogue, which also covers local and regional democracy issues where appropriate. [A Monitoring Committee delegation visited Skopje on 15 and 16 January 2007.] In addition, a Parliamentary Assembly delegation observed the conduct of the parliamentary elections held on 5 July 2006 and drew up a report on the subject [Doc. 11015, 7 September 2006].

5. The decision to prepare a new monitoring report on the situation of local democracy in “the former Yugoslav Republic of Macedonia” was taken by the Congress Bureau on 15 December 2003. Mr Jean-Claude FRECON (France, SOC, L) was appointed rapporteur to prepare a report and present it to the Congress. His substitute, Mr Michel GUEGAN, visited Skopje, Struga and Gostivar on 30 and 31 January 2006. Mr FRECON made a further visit from 20 to 22 February 2007.

6. The rapporteur was assisted by Mr Jean-Marie WOEHRLING, consultant (France), member of the Group of Independent Experts on the European Charter of Local Self-Government (both visits), Mr Daniil KHOCHABO (Congress Secretariat) (January 2006 visit) and Mr Jean-Philippe BOZOULS (Congress Secretariat) (February 2007 visit).

7. In view of the general election held in the country in July 2006, it was decided to defer the presentation of the report and to assess the state of progress of the reforms in the areas of local self-government and decentralisation, again following the election.

8. In the course of the visits, the Congress monitoring delegation met representatives of central government and local authorities, the national association of local authorities and experts and representatives of the international community in the country (for detailed programme of the visits, see Appendices I and II).

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<sup>1</sup> “The former Yugoslav Republic of Macedonia” became the 38th member state of the Council of Europe on 9 November 1995.

9. This report has been prepared on the basis of the information gathered during the visits to the country and of excerpts from the relevant legislation and other information and documents provided by the representatives of the national and local authorities, international organisations and experts.

10. The rapporteur has also taken into consideration the comments to the draft explanatory memorandum on local democracy in "the former Yugoslav Republic of Macedonia" made by Prof. Dr. Gordana SILJANOVSKA-DAVKOVA, the Vice President of the Group of independent experts on the European Charter of Local Self-Government and by the Ministry of Local Government of "the former Yugoslav Republic of Macedonia".

11. The rapporteur wishes to thank the authorities of "the former Yugoslav Republic of Macedonia" and the members of the Council of Europe Information Office in Skopje, Mr Michel RIVOLLIER and Mr Gjorgji JOVANOVSKI, for their assistance with organising the monitoring visits and the assessment of local democracy in the country by the Congress.

## **I. Introduction**

12. Congress Recommendation 82 (2000) pointed to serious shortcomings in local democracy in "the former Yugoslav Republic of Macedonia", emphasising the inadequacy of resources of municipalities.

13. A first series of measures to improve the position of local authorities was considered in 2000, in a draft law referred to the Congress for opinion. But that initiative seems not to have produced any concrete measures.

14. The question of strengthening local democracy in "the former Yugoslav Republic of Macedonia" took on a new dimension from 2002 in that decentralisation was a feature of the 2001 Ohrid "framework agreement" which restored calm to those parts of "the former Yugoslav Republic of Macedonia" with a sizeable Albanian population.

15. The European Union also made it clear that greater local democracy was one of the conditions to be met before "the former Yugoslav Republic of Macedonia" could apply for membership of the Union<sup>2</sup>.

16. Law No 52/95 on Local Self-Government was revised in 2002. But this revision did not radically alter the organisation of local authorities, because they cite and depend for their implementation on other instruments.

17. In 2004, the country's territory was reorganised on the basis of Law No 55/04 of 16 August 2004 on the organisation of local self-government units. This involved a reduction in the number of municipalities from 124 to 84 and the adoption of the Law on the City of Skopje. In November 2004, on the initiative of an NGO which had gathered the number of signatures required by law, parliament called a referendum. The question posed was as follows: "Are you in favour of the administrative boundaries of local authorities as defined in the law promulgated in 1996 and the Law on the City of Skopje promulgated the same year?" However, the referendum failed, as turnout was well below the statutory requirement of 50%. The failure of the referendum was welcomed by the international community, which had recommended not supporting it. However, it had the effect of delaying the local elections, which had been due in October 2004, and led to decentralisation being put on hold.

18. The process of strengthening local authorities therefore only began in July 2004, in particular, with the adoption of a Law on Local Finances, greater powers for municipalities in urban planning and the implementation from July 2005 of a programme which transferred to the municipal level certain infrastructure facilities (along with their budgets and personnel) in the area of primary and secondary

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<sup>2</sup> See the opinion of the European Commission of 8 November 2006 on the country's application for membership of the European Union, the opinion of the Committee of the Regions of 11 October 2006 on the 2005 enlargement package and on the Commission's communication on "The Western Balkans on the road to the EU: consolidating stability and raising prosperity," the Commission progress report on "the former Yugoslav Republic of Macedonia" and the Commission's communication on the enlargement strategy and main challenges for 2006-2007.

schools, museums and libraries and some welfare establishments (retirement homes, welfare centres, care centres, fire services and kindergartens).

19. This complex process only really got under way on 1 July 2005 (as the Law on Local Finances did not take effect until 1 January 2005). The fact that the reform was still in its early days at the time of the visit by the Congress rapporteur explains the conflicting assessments of the process. For the government authorities during the first visit and the Association of Units of Local Self-Government (ZELS), which agreed to this first transfer of responsibilities, it is a major reform consistent with real decentralisation. For some of those in charge at municipal level, however, decentralisation is not yet a reality and only partial measures have been decided on.

20. Both views are understandable. This first wave of transfers essentially concerns the management of a number of resources and infrastructure facilities, but does not as yet allow the municipalities to devise a genuine local policy. Those behind the reform believe that it had to be implemented gradually so that the municipalities could absorb the transfers of resources and responsibilities properly.

21. The thinking behind the reform seemed to have been to initiate a process of gradually giving the municipalities greater responsibility for their own affairs. In the past, they had had no real autonomy, so there was often little coherence in their operations. A fair number of the measures taken are generally in line with the suggestions made by the Congress in Recommendation 82 (2000). They are now being given a package of new, but still relatively limited responsibilities, under close supervision from central government. If this first stage proves successful, further transfers of power might follow<sup>3</sup>. The process will be monitored by a special committee for two years.

## **II. The political context**

### **1. The local elections on 13 and 27 March and 10 April 2005**

22. The 2005 local elections mainly set the Social Democratic Union of Macedonia (SDSM), the main party of the government at the time, with the Liberal Democratic Party (LDP), against a fragmented opposition comprising, in particular, the Internal Macedonian Revolutionary Organisation-Democratic Party for Macedonian National Unity (VMRO-DPMNE) and the People's Party (VMRO-NP). The opposition supported the independent candidate in Skopje, Trifun Kostovski, who is now the city's mayor. The party of the Albanian community in the then governing coalition, the Democratic Union for Integration (DUI), is the successor to the former National Liberation Army. It opposed a coalition headed by the Democratic Party of Albanians (PDSH) and the Party for Democratic Prosperity (PDP).

23. According to the Congress and OSCE observer delegations, while the local elections were generally in line with most OSCE and Council of Europe standards and marked progress compared with previous years, they did not always meet key standards guaranteeing universal and equal suffrage and ensuring the secrecy of the ballot, in particular as provided for in Article 3, para. 2, of the Charter of Local Self-Government. The Congress drew the authorities' attention to the seriousness of the electoral irregularities reported (party political control of the appointment of electoral board chairs, influencing of voters through intimidation and pressure, calls for boycotts, inadequate measures or sanctions for those responsible for violations or irregularities, approval of the candidacies of persons who had been sentenced to long prison terms, family voting). It issued several recommendations to improve future electoral processes, in particular in terms of increasing the efficiency and transparency of the electoral authorities, promoting participation by citizens, including women, providing training for electoral officials, prohibiting group and family voting, restoring confidence among the main political parties and punishing those who disobey the regulations [see report CG/BUR (11) 122].

24. These elections were important because of the much broader powers assigned to the new mayors in areas such as town planning, the environment, local economic development, education and welfare under the decentralisation process. Nevertheless, the Congress noted low turnout at the elections, with

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<sup>3</sup> 26 000 officials were to be concerned, with 345 primary and 94 secondary schools now coming under municipal responsibility. The transfer began officially on 1 July 2005. The funds from the central government budget have been transferred in installments, depending on the local authorities' ability to use them properly.

voters tending to have limited and declining confidence and interest in politics. In addition, there were calls for a boycott by an Albanian party. Overall, the coalition in power at the time, "Together for Macedonia" (SDSM, LDP), and the BDI/DUI, which was taking part in such elections for the first time, came out of the elections in a stronger position.

25. Following the promulgation of the new Electoral Code and its publication in the Official Gazette on 31 March 2006, the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (ODIHR) adopted an opinion on the code, in preparation for the parliamentary elections (5 July 2006). This opinion (Opinion No 356/2005) adopted in June 2006 sets out a list of recommendations to the Macedonian authorities for implementation [CDL-AD(2006)022].

## **2. The parliamentary elections on 5 July 2006**

26. The elections on 5 July 2006 saw the opposition win power from the former ruling coalition. The ad hoc committee of the Bureau of the Parliamentary Assembly of the Council of Europe, which observed the elections, regretted the fact that the parties were still divided along ethnic lines and that there was no party with broad support among all the ethnic groups. That could be an obstacle to the continuing integration of all ethnic groups in society.

27. The parliamentary elections in "the former Yugoslav Republic of Macedonia" were largely in line with Council of Europe commitments and standards for democratic elections. However, the democratic process was marred by instances of violence and intimidation during the first half of the campaign, as well as isolated instances of serious irregularities on polling day. In overall terms, however, voters were able to decide on the political direction of their country in a democratic fashion and the irregularities observed should not be allowed to overshadow the democratic progress made.

28. The new government is basically a coalition between the VMRO-DPMNE, PDS and NSDP parties: the VMRO-DPMNE, previously in opposition, captured 32.5% of the votes and 55 of the 120 seats, the NSDP 6% of the votes and 8 seats, the Albanian PDS, 7.47 % of the votes and 11 seats. The other Albanian party, the DUI-PDP, which won 12.11% of the votes and 17 seats, thus outperforming the PDS, very much resents being replaced in government by the PDS and has adopted a strategy of systematic opposition and boycott which particularly affects management of municipalities whose mayors are DUI-PDP members.

29. The new government intends pursuing a policy of decentralisation, like the previous one. It is said, however, to attach priority to boosting and liberalising the economy and less importance to developing local self-government. However, its action programme for 2007-2010 includes measures to assist local authorities. According to the information gathered these measures should include legislation on regional development and inter-municipal co-operation and measures concerning the second phase of financial decentralisation.

## **III. The framework for decentralisation**

### **1. The Ohrid Framework Agreement**

30. Among the fundamental principles set out in the Ohrid Framework Agreement of 13 August 2001 was the need to develop local authorities so as to encourage citizen participation in democratic life and to promote respect for minority identities. The agreement contained important provisions regarding "decentralised government". According to the text, the provisions of the Constitution on local authorities were to be amended. The Law on Local Self-Government would be revised to reinforce the powers of local elected officials in line with the European Charter of Local Self-Government, these new municipal powers being in the areas of public services, urban and rural planning, environmental protection, culture, local finances, education, social welfare and health care. A Law on Local Finances would provide municipalities with a system of funding commensurate with local responsibilities. These financial rules would give local authorities true budgetary independence and would enable them to levy local taxes of a substantial level and receive a share of the national taxes collected in their area. Municipal boundaries would be redrawn. Local heads of police would be selected by municipal councils from a list drawn up by the Ministry of the Interior. These local police chiefs would be answerable to the municipal councils. In municipalities where a minority group made up 20% of the population, that minority's language would be

used by municipal bodies as an official language in addition to the national language. Any laws on matters of local competence had to confine themselves to regulating matters which could not be decided at local level. Lastly, the Law on the Civil Service would be revised to ensure equitable representation of the communities.

31. The reform of the Constitution as provided for under the Ohrid Framework Agreement (Appendix A to the agreement) amended Articles 114 and 115 of the 1991<sup>4</sup> Constitution so as to:

- ensure that the law on local self-government cannot be approved without a majority of two-thirds of votes of the total member of representatives, which must comprise a majority of votes cast by representatives claiming to belong to communities not in the majority in the population;
- ensure that the laws on local finances, municipal boundaries and the City of Skopje receive a majority of votes comprising a majority of votes cast by representatives claiming to belong to communities not in the majority in the population;
- give local authorities powers in the areas of public services, urban and rural planning, environmental protection, local economic development, local finances, municipal activities, culture, sport, social security, child care and health care.

32. It may be asked whether these qualified majority rules provided for in the Constitution will also apply to the adoption of special laws laying down practical rules for the exercise of local powers. The qualified majority rule must also apply to laws related to culture, language, education, personal documents and the usage of symbols. Any eventual litigations concerning the rules of qualified majority are defined by a committee of inter-community relations.

## **2. Law No. 5/2002 on Local Self-Government**

33. As the 2000 Congress Recommendation pointed out, the 1995 law included many generally satisfactory provisions. The real problem was the resources made available to municipalities to implement those provisions effectively<sup>5</sup>.

34. The 1995 law, nevertheless, underwent comprehensive revision. Particularly noteworthy are the following changes:

- a number of provisions are designed to make it easier to take ethnic minorities into account;
- the provisions on local authority powers (Art. 22) have been rewritten and are now far more precise and extensive. However, these provisions cite special laws (Art. 22, para. 2) on which they depend for their implementation. Very few of these provisions directly improve the powers, resources and actual effectiveness of municipal institutions;
- the provisions on the scrutiny of local authority acts have been amended slightly. Regarding the verification of lawfulness, the authorities have a general power to suspend municipal authority acts. Cases of prior authorisation for the adoption of municipal measures are not defined in the Law on Local Self-Government itself, but provided for in special laws. Financial scrutiny by the central audit office is mentioned, but the law does not say how it is to be performed and what its consequences are. Municipalities do have a right of redress against acts by bodies of the state which impinge on their powers (Art. 87 and 88).

## **3. Organic Law No 55/04 on Territorial Organisation and the Special Law on the City of Skopje of 16 August 2004**

35. The Law on Territorial Organisation passed on 16 August 2004 reduced the number of municipalities from 123 to 84. This reform of the territorial structure of the municipalities seems to have been prompted by a twofold consideration:

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<sup>4</sup> See Appendix 3

<sup>5</sup> See Appendix 4

- the need to streamline the organisation of the municipalities by scrapping those which are considered too small and have not proved viable; despite the reform, the structure of the municipalities remains diverse, with numerous small ones: 16 municipalities have a population smaller than 5 000 and 32 a population smaller than 10 000. Only 22 municipalities have a population greater than 30 000. It should, nevertheless, be mentioned that the size of a municipality is a very partial indicator of its potential efficiency; in many European countries the size of municipalities is smaller than in “the former Yugoslav Republic of Macedonia”;
- the need to adjust the relative proportions of the Macedonian majority and ethnic Albanian minority in some municipalities (thus in the municipality of Struga and Kičevo, Albanians went from being 20% of the population to 50% when it was merged with neighbouring municipalities). This was criticised as an apparent concession to the Albanian minority.

36. This reorganisation decided at central level seems not to have been the subject of enough prior consultation with local authorities (a requirement laid down in Article 5 of the European Charter of Local Self-Government, ratified by “the former Yugoslav Republic of Macedonia”) and it met with considerable resistance. A series of referenda (30 local and one national) were held to oppose the law, but without success. The process was ultimately accepted as provided for in the law.

37. The scrapping of some municipalities did not produce a better representation of those units classified as smaller than a municipality (villages comprising the former municipalities).

38. In the case of the capital, the 2004 reorganisation provides for 10 municipalities (as opposed to seven previously) within the City of Skopje, and extended its boundaries to include rural areas. As a result, the Albanian community now makes up over 20% of the population in the city, making it bilingual. One of the criticisms levelled in this connection is that the reorganisation was based largely on political and ethnic compromises and did not take enough account of other criteria such as the quality of public services and the quality of life, etc.

39. The Special Law on the City of Skopje supplements the existing constitutional and legislative provisions and clarifies the powers of the city and the municipalities that make it up and the relations between the two. The representative body for the city is the city council, while the municipalities have municipal councils with councillors elected for four-year terms. The city has a single executive organ, the mayor, who is also elected in direct elections for a four-year term. The same applies to the mayors of the 10 municipal councils. Under Article 53 of the Law on the City of Skopje, the city mayor is responsible for liaising with the mayors of the 10 municipalities in a co-ordination body. Supervision of the lawfulness of the regulatory measures of the City of Skopje and its municipalities is performed by the Ministry for Local Government. Supervision of the lawfulness of the activities of the City of Skopje and its municipalities is performed by central government authorities. Financial supervision is exercised by the Finance Ministry.

#### **IV. Transfers of responsibilities**

40. The 1995 law gave fairly broad powers to local authorities. But these had in large part remained theoretical, due to a lack of funding and staff and because the provisions of special laws allowed the state administration to retain an essential role in many areas.

41. In 2005, however, a whole raft of special laws (several dozen) came into force to bring about the transfer of responsibilities in a number of areas:

- urban planning and development;
- education;
- water;
- agricultural land;
- economic development.

42. This transfer of responsibilities was to be accompanied by transfers of appropriate state personnel. One can understand the reason for these staff transfers based on competences, but it should be underlined that as a result, local authorities are compelled to recruit staff members, whom they did not

chose, which is not in line with Article 6 of the Charter. Thus, for urban planning, 585 officials were to be transferred to the municipalities, a figure that was subsequently reduced to 220 at the request of the Association of Units of Local Self-Government (ZELS). A further 55 public officials were to be transferred for the social welfare sector. The Government of “the former Yugoslav Republic of Macedonia” indicates that 30.200 members of staff have been transferred to local authorities.

43. The Council of Europe monitoring delegation was given very little information on these special laws and the improvements they make for municipalities.

44. Transfer of these powers in legal terms was accompanied by a “detailed plan” for the transfer of powers and the corresponding resources in practice. This plan was drawn up in 2004 and organised the transfer of management operations (including funding) for some areas of infrastructure. About 500 different structures were transferred in this way: 27 000 staff, 400 000 m<sup>2</sup> of buildings and 2 million m<sup>2</sup> of land.

45. The following observations may be made about implementation of the transfers in the year and a half since July 2005.

a) Town planning

46. Wide town-planning and planning-permission powers were assigned to the municipalities but the ministerial authorities retain significant supervisory and approval powers. Details of the division of powers and responsibilities are contained in the special town-planning legislation<sup>6</sup>. Despite the efforts to provide training, many municipalities lack specialist staff appropriate to their responsibilities in this area.

b) Schools

47. The transfers which prompted the most debate among senior municipal officials were those pertaining to the management of school buildings. Local authorities complained that the cost to them of this new responsibility was higher than the amount of transferred funding they received.

48. It should be noted that, in principle, these transfers do not alter substantive responsibilities for the organisation of education (curricula, etc). Discussions are under way regarding the respective powers of the mayor and boards of governors in appointment of head teachers. Head teachers are nominated by the school council and appointed by the mayor. The ministry has accused a number of mayors of appointing people who lacked the appropriate qualifications and withdrawn their appointment powers. In other cases mayors have dismissed head teachers deemed to be incompetent.

49. Key responsibilities are vested not directly in the municipality but in the school council, on which parents, teachers and the municipality are all represented. This is a useful arrangement which should help depoliticise school management and stimulate parent involvement in ensuring that schools function properly. It is nonetheless possible for municipalities to assume the real school-management authority, which requires that they appoint municipal school inspectors. So far only urban municipalities have taken that course of action.

50. Most municipalities are focused on financial matters. They take the view that buildings have been transferred without funding adequate to the new responsibilities. There is said to be a 40% shortfall in central-government allocations in comparison with the resources previously allocated to this sector. It is also pointed out that some schools were transferred to municipalities with their debts (particularly unpaid heating bills) without the allocation's taking that into account. Ministerial departments admit that allocations are inadequate and are announcing significantly higher allocations for 2007<sup>7</sup>. For proper exercise of delegated responsibilities it is essential to consult the municipalities and lay down precise, transparent rules on amounts and arrangements for the allocations that accompany transfer of powers and responsibilities.

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<sup>6</sup> In particular the Building Act (Law 51/05).

<sup>7</sup> The new government's 2006-2007 work programme dated 14 August 2006 refers to an increase in central-government budget allocations.



51. Transfer of responsibility for teachers' pay seems to have been somewhat delayed and will probably not take place before July 2007. Teachers will then become municipal employees.

c) Culture

52. Some cultural institutions (museums, libraries, arts centres, etc) have been transferred. These transfers have been less controversial than those in education but some municipal officials like the mayor of Struga comment that municipal cultural action is hindered because a number of public buildings in the culture sphere such as culture and leisure centres remain state-owned.

d) Welfare

53. There have been transfers in the fields of health care and welfare (retirement homes, hospitals, welfare centres, etc.).

e) Police

54. A new Police Act was passed in 2006 and came into force in 2007. It provides for the chief constable to be appointed by the minister, an arrangement which some mayors have criticised. There seem to be some difficulties between mayors and chief constables, particularly in municipalities whose mayors belong to an opposition party. Although, given the great sensitivity of policing matters, it is understandable that chief constables are appointed by the minister, it is desirable for such appointments to be made after consultation with mayors.

55. These various transfers give municipal authorities a new administrative dimension and greater "institutional weight", which they can use to operate more independently and more dynamically once they have absorbed and "digested" this body of institutions, personnel and resources. Municipalities must also have the know-how to use these somewhat disparate transfers of responsibilities in a manner which enables them truly to build municipal administrations capable of developing an original policy of local management. Measures to strengthen good local governance and training programmes for local elected representatives and officials are therefore very important for the purpose of consolidating local democracy.

## **V. Transfers of resources**

56. One essential aspect of the new decentralisation policy is the improvement of funding for the municipalities.

57. The much criticised provisions of earlier laws on local finances which restricted the way in which local budgets could be spent (in particular, the obligation to pay back surpluses to the state) have been abolished. The proportion of total local funding accounted for by local budgets, just 1% in 2000, has also been improved.

58. The new Law on Local Finances of July 2004 gave the municipalities new resources enabling them to make significant improvements to their budgets, though these remain modest:

a) Share of national taxes

59. The municipalities now receive set proportions of yield from certain taxes collected by the state:

- 3% of total VAT collected nationally; this sum is redistributed on the basis of criteria set by government (formula based on 50% of the number of inhabitants as well as the surface and number of villages);
- 3% of the revenue from income tax levied on the wages and salaries of natural persons in the municipality;
- 100% of the revenue from income tax levied on occupational income of individuals in the municipality who are working in trades or small-scale self-employment.

60. Municipalities have no means of directly influencing the amount of revenues they receive in this way. These revenues are not local taxes but a share of national taxes.

61. The municipalities also receive central grants, some of which are of a general nature while others are earmarked for specific uses. To the latter category belong the grants that compensate for transfer of certain responsibilities (Article 13 of the Law on Local Finances) such as management of schools and museums (transferred second half of 2005). The grants in 2007 will be large to offset the transfer of school staff to the municipalities.

b) Specifically local resources and local taxes

62. As local taxes *per se* whose rate they can decide to some degree (in accordance with the definitions given in Article 2 of the July 2004 Law on Local Finances and Article 9 of the European Charter of Local Self-Government), municipalities do have taxes on wealth (here the municipalities can decide to vary the rate by from 0.5 to 1%), gifts and bequests and property transfers. During the first year of these new rules, no municipality seems to have made use of its power to increase the rate of local taxes above the statutory minimum.

63. Municipalities also have other resources such as utility charges and administrative fees, charges for linking building land to basic services, fines and “voluntary taxes” agreed in referendums.

64. Information about the actual size of these resources remains imprecise because the Macedonian authorities have not supplied documentation containing figures. The municipalities’ contribution to GDP appears to be around 3% and their share of total public resources around 8%. These figures point to an imbalance between national and municipal resources. The yield from municipalities’ taxes and charges seems to be as follows:

- property tax: 1,260 million Macedonian dinars<sup>8</sup>
- small-business tax: 5 million dinars
- 3% of VAT: 813 million dinars
- 3% of income tax: 200 million dinars
- charges for services: 1,140 million dinars
- allocations from central government: 1,300 million dinars
- the government of “the former Yugoslav Republic of Macedonia” indicates that the overall resources of local authorities represented 5.5 billion dinars in 2005 and 7.2 billion dinars in 2006.

65. These figures in fact mask large disparities between municipalities in that the bulk of resources is concentrated in the Skopje region and a few other large local authorities.

66. It should also be noted that the above figures take no account of any municipally owned public enterprises, which have their own budgets but may have the benefit of installations provided by the municipality and may perform certain work for the municipality.

67. The financial situation needs to be substantially further improved if local self-government is to operate properly. The government has reform projects, though whether these are equal to the needs is open to question. Mention has been made of a property-tax reform, for example (see below).

68. The government also refers to setting in motion the second phase of financial decentralisation as provided for in Article 46 of the Law on Local Finances. Article 46 provides for additional general allocations in culture, social welfare, child welfare, education and health, but only those municipalities which meet the requirements laid down in Article 46 (rigorous management, low debt, qualified staff and regular reports on results to the central authorities) qualify for this second phase. Municipalities are so placed that very few of them will qualify for second-phase finance. Further measures to improve local finances thus seem necessary.

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<sup>8</sup> 1 million Macedonian dinars = 17,000€.

69. Without adequate information on the sums which make up the various categories of resources, it is not possible to give a very detailed opinion on how adequate they are in relation to the needs of Macedonia's local authorities and how consistent they are with the principles set out in Article 9 of the European Charter of Local Self-Government. There have undeniably been improvements. Budgets for 2005 were almost double those of previous years. But the position earlier was particularly problematic. Revenues from VAT and income tax have significantly boosted municipal resources, but this source of funding probably needs to be increased still further.

70. It is important, moreover, that the conditions for distributing these resources (share in VAT and income tax) amongst the municipalities are defined not by the government alone but in consultation with local authorities, which is not entirely the case at present. Article 15 of the Law on Local Finances does make provision for a committee to oversee development of the system of funding for municipalities, and the Association of Units of Local Self-Government (ZELS) does have some institutional involvement in these matters. But many municipalities complain that the share-out of resources is not sufficiently transparent. It would seem, too, that the municipal sector is short of local finance experts able to negotiate effectively on these questions and explain them to municipal officials.

71. A proper system of local taxation (tax on property, tax on gifts and bequests, etc) can only be developed if municipalities have the right information about properties in each municipality. They need an up-to-date property register so that this kind of tax can be collected efficiently and fairly. Records of property ownership are still a central-government function, however, and are not regularly updated. In addition, in most municipalities the transfer of property-tax administration in 2006 was very badly handled as central government was late in providing municipalities with the files on persons liable for property tax and failed to provide them in appropriate form. International bodies like USAID had to step in to provide municipalities with software for issuing tax notices.

72. For these various reasons the yield from municipal taxes remains very unsatisfactory. It is planned to improve the position by improving the property tax: in future it should be levied on all property used for economic activity and not just, as at present, on office accommodation. Improving the yield from local taxes of this kind is crucial to putting the municipal tax situation on a healthy footing.

73. As already noted, there has also been much criticism of the grants given to fund the cost of delegated responsibilities. The municipalities argue that these grants are not really enough to cover the full cost of delegated responsibilities, but the state disagrees, claiming that the amount of these grants has been significantly increased. The methods used to calculate and distribute these grants should ideally be more transparent.

74. To sum up, municipal resources, despite significant improvement, remain too low in relation to the principles laid down on the Charter.

75. In addition, a large proportion of state grants still consist in earmarked finance or subsidies allocated on a case-by-case basis for projects proposed by the municipalities. Article 9 of the Charter requires that earmarking be reduced as far as possible and replaced by non-earmarked forms of finance. The proportion of finance taking the form of block grants is likely to rise in the years ahead (from 2007, for example, there will be a block grant to cover school supplies and the wages of staff in the education system, museums and libraries).

76. Equally it is important for municipalities to set up the administrative machinery for handling their new financial responsibilities efficiently. According to OSCE information only 25% of them have introduced accounting officers and independent internal-auditor posts as the law requires. It will not be possible to move on to the second phase of financial decentralisation until most municipalities have finance departments composed of two or more qualified staff. Lack of technical and financial resources is no excuse for inefficiency: municipalities are allowed to pool their resources in setting up finance services but only 5% of them have taken advantage of this possibility.

77. There was some criticism of the borrowing restrictions on municipalities. The matter is governed by Articles 18 to 21 of the Law on Local Finances, under which long-term loans are subject to permission from the Ministry of Finance. The requirements for permission are not specified. The ministry should set out clear, realistic requirements for borrowing permission so that municipalities do not have to contend

with a discretionary case-by-case authorisation system contrary to the Charter of Local Self-Government (Article 9.8).

## **VI. The question of municipal debt**

78. This is a serious issue for many municipalities, some of which are on the brink of bankruptcy.

79. Municipal debt was thought to total about €50 million at the end of 2006. It consists chiefly of arrears owed to building firms or utility companies (electricity, transport), monies committed for expropriation operations and accumulated interest on borrowings. During 2006 the situation improved in a number of municipalities: debt was halved, mainly by means of renegotiation and repayments. In 2006 the debt was estimated by the Government to be 1.4 billion dinars.

80. Not all municipalities are equally indebted, which seems to show that part of the debt is due to management errors. One should add that the initial wealth of the municipalities varied greatly depending on whether they were “old” municipalities or new ones created in 1996. However, the general nature of indebtedness shows that it is also partly the result of a rather long period during which municipalities were under-funded. Some municipalities also complain of having to compensate persons who were expropriated before the change of regime even though the property now belongs to the state, not the municipality.

81. Central government thus bears part of the responsibility for the level of municipal debt. It can also reasonably be expected to bear part of the cost and effort needed to remedy the situation. The fairly widespread view is that it has done little to help municipalities overcome their debt.

82. Successive governments have been aware that stabilisation measures are needed and a debt clearance plan was announced in 2006. Under this, the government would meet part of the debt if the municipalities obtained certain concessions from creditor enterprises in respect of arrears interest. But this plan does not as yet seem to have been adopted or put into operation. Municipalities will not be able to benefit from decentralisation if the burden of debt on them is too great. At the same time, they will have to demonstrate more rigorous financial management in the future.

83. Article 39ff of the Law on Local Finances of July 2004 set out special provisions for municipalities experiencing “financial distress”. These provisions require municipalities to implement a plan to clear their arrears and they include a procedure for rebalancing local finances, but they make no mention of specific aids which municipalities might use such as debt rescheduling.

## **VII. Staffing of municipalities**

84. This is a problem for the smooth running of local authorities in many respects.

85. Congress Recommendation 82 (2000) noted that conditions of employment did not offer staff adequate guarantees and that they were often recruited for political reasons or through personal contacts.

86. The delegation of responsibilities meant that numerous officials were transferred from departments of central government to the municipalities. On top of these transfers, there are staff relocated from municipalities which ceased to exist after the territorial reorganisation of 2004. Municipalities thus find themselves in charge of staff who are not necessarily ideal for their needs. Some of them have inherited huge numbers of unsuitable staff.

87. In addition, new mayors voted in the latest elections in spring 2005 have also caused some tensions among municipal staff, since they are often critical of their predecessors’ staffing choices. In some cases, people have been hired and fired on the basis of political or personal contacts rather than possession of the requisite skills<sup>9</sup>.

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<sup>9</sup> GRECO’s December 2004 second evaluation round report notes that the public administration provides a low level of services and staff are unprofessional. According to the report, corruption has for a long period of time been considered a serious problem in public administration. The authorities themselves have described public administration as non-transparent, politicised and subject to a large degree of built-in nepotism. The report therefore

88. On top of these difficulties, there is the fact that some of these municipalities are of mixed ethnicity. Article 59 of the Law on Local Self-Government (2002) requires that the staffing of a municipality should properly reflect the ethnic makeup of the various communities within it.

89. A policy of staff management based on principles of professional competence and political neutrality is thus essential to lend credibility to local management and improve the working of the municipalities.

90. The 2000 Law on the Civil Service, amended in 2005, should in future provide the frame of reference for the employment of municipal staff who were previously recruited under fixed-term contracts. Article 3 states that the law is applicable *mutatis mutandis* to municipal employees, too. This is borne out by Article 58 of the Law on Local Self-Government (which states, however, that technical and accessory functions may be performed by officials recruited under private law). But this principle seems so far to be applied only in part, with some appointments circumventing the procedures laid down by the law. In future, staff are to be recruited through the Civil Service Agency. For new appointments, the municipalities must send job vacancy details to the agency, which will look for candidates and give the municipality a shortlist of three candidates for the post to be filled. The final choice is made by the municipality, by a committee of the municipal council. This system seems to be well thought-out and, although relatively cumbersome, should improve things if it works well.

91. Close attention is rightly being paid to training for public-sector, particularly local-authority staff. International institutions have invested heavily in this area, in particular UNDP, the European Agency for Reconstruction and the Council of Europe. A trilateral board (the local-self-government ministry, the public-service agency and ZELS) is co-ordinating the work. This organisational approach seems appropriate and is to be encouraged.

### **VIII. Property ownership of the municipalities**

92. When the new system of municipalities was set up, virtually all public property passed into state ownership.

93. The municipalities have since acquired a number of buildings but most land and, above all, most buildings are owned by the state.

94. As a result, the municipalities cannot pursue an active policy when it comes to new buildings. The uncertainty over property ownership is likely to discourage investors.

95. The question of municipal property ownership is of basic importance for satisfactory development of local self-government. An ambitious programme is needed to divide the ownership of public property between the state and the municipalities. This is linked to revision of the rules on public ownership of certain types of property and to introducing a system of reliable, up-to-date property registers. However, it would seem unjustified to make land-registry reform a prerequisite for adopting a policy of transfer of property to the municipalities.

96. The monitoring committee has not had an opportunity to look into public-ownership law. A system in which the municipalities had actual ownership of the land and buildings they needed but use of them was subject to specific conditions and procedures might facilitate transfer.

### **IX. Disputes and legal remedies**

97. Administrative appeals proper are dealt with by administrative boards set up within departments and ministries and may be submitted to the Supreme Court in the final instance. There are apparently

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contains several general recommendations on measures to be taken to prevent corruption within government and concerning transparency, supervision and rules governing the conduct of public officials, as well as a specific recommendation concerning the local level. Transparency International ranks the country 105th out of 163 countries with a corruption perception index of 2.7/10 (index of 6.11.2006).

problems with this system at the Supreme Court because of the backlog of administrative cases where decisions by the Court are pending. Proposals have been made (as part of the general reform of the judicial system) with a view to setting up specialised administrative courts, which would deal solely with administrative files and appeals. In its December 2004 report, GRECO recommended that consideration be given to the introduction of specialised courts – or departments within existing courts – dealing solely with administrative law and complaints. The rapporteur believes that this could also help build up case-law on disputes regarding local democracy and perhaps depoliticise certain rivalries based solely on ethnic or partisan considerations. Many disputes between municipalities and ministerial departments could be cleared up if they could be submitted to a body which both sides regarded as impartial and competent. Dispute-settlement machinery of that kind, averting escalating mutual recrimination, is in line with present standards of good governance in Europe and is insufficiently used in “the former Yugoslav Republic of Macedonia”.

#### **X. Local democracy and representation of the various communities**

98. The various persons the rapporteur spoke to during the first visit thought that coexistence of the various ethnic communities was well managed and did not cause the municipalities any specific operating difficulties.

99. Most municipal officials were patently keen to defuse any disputes here.

100. The committees for inter-community relations were reorganised as part of a revision of the Law on Local Self-Government. Committees of this kind exist compulsorily in municipalities where minorities account for 20% or more of the population (ie in 20 municipalities). They have been set up in 32 municipalities altogether. The Albanian community is in the majority in 20 of the 84 municipalities. The overwhelming impression is that the committees often exist only on paper.

101. It is clear, however, that this issue remains a concern and lies at the root of some of the municipalities’ operating difficulties.

102. One has the impression that a creeping trend of division along ethnic lines is under way. Some municipalities are finding it hard to achieve the consensus successfully forged between Macedonians and Albanians at national level.

103. This is apparent from a number of dismissals of local officials, which seem to be motivated by ethnicity.

#### **XI. Inter-municipal relations**

104. Despite the reorganisation of 2004, there are still a large number of small municipalities (16 with a population of less than 5 000). As indicated earlier, there are also wide disparities between municipalities in terms of their resources. This being so, inter-municipal co-operation can be an appropriate way of strengthening local democracy.

105. Inter-municipal co-operation is especially useful in “the former Yugoslav Republic of Macedonia” because there is no intermediate level between the state and municipalities. This question of an intermediate level might be important in future in the context of a regional development policy (see below).

106. The Law on Local Self-Government makes provision for inter-municipal co-operation, which has been the subject of legislative reform (Articles 14 and 61). So there are no legal obstacles to it as such. The legal arrangements should be improved, however. In particular, the Law on Local Self-Government cites other legislative provisions regarding the organisation of inter-municipal co-operation. But these provisions have not yet been adopted. So co-operation can only be arranged on the basis of agreements. The law states that co-operation may take the form of shared funds, public services or common administrative bodies. A more specific statutory framework might therefore be beneficial.

107. Overall, there is still very little inter-municipal co-operation and municipal representatives do not realise the benefits it offers. Most of the forms of intermunicipal co-operation are loose and unorganised. Genuinely joint provision of services is still too rare. This is due to traditions of particularise rooted in

history. So the obstacles are partly cultural. They could be better overcome by providing more information in this area and through financial and technical incentives. These might include legislation making available mechanisms that were ready and easy to use. The government intends drafting legislation in this area in the first half of 2007.

## **XII. Trend towards a regional tier**

108. There is no law on regional policy. Regional matters are handled exclusively by decentralised administrative departments of central government. There is virtually no co-ordination between these decentralised departments and local authorities. One question for the future might be how to organise this intermediate level better in order to provide an appropriate framework for an active policy of regional development. That also seems to be the new government's position, and it is preparing draft legislation for Parliament to consider in 2007. The plan is that the eight statistical territorial units designated for NUTS level 3 in EU legislation will become planning and development regions. What part the municipalities will play in that planning level is uncertain. Even if the aim is to set up a new tier of administration, the municipalities could usefully be given a role in it in their capacity as local planning and development authorities. Some people have reservations about this, fearing that such a regional framework might jeopardise the unity of the Macedonian state. Continued normalisation might allay these fears.

## **XIII. Sub-municipal structures**

109. Within the municipalities there are 1,570 small towns or villages with no self-government bodies of their own although they are mentioned in Article 114 of the Municipal Self-Government Act<sup>10</sup>. These local entities are now much weaker than in the socialist era and deserve better support from the municipalities. Many people feel strong allegiance to this level, and municipalities could delegate certain matters to it.

## **XIV. Overall assessment and recommendations**

110. The measures taken by the authorities of "the former Yugoslav Republic of Macedonia" since 2001, and more particularly 2005, represent a significant change and marked progress towards better local democracy. As they stand at present, however, they can be seen only as a first step which must be taken further.

111. Initial results can be regarded as encouraging. On the whole local authorities are coping satisfactorily with their new responsibilities and standards of local service have improved.

112. The partial nature of the measures taken can legitimately be justified by the need to move forward in stages. The position of the municipalities after the reform of 1995 was such that they were not capable of taking on a large number of new responsibilities under the 2002 and 2004 laws straight away. The process is one of gradual transfer.

113. For the moment, the extra responsibilities transferred to the municipalities are still relatively modest and the municipalities will need to have additional resources assigned to them.

114. In law, the same ambiguity as that existing prior to 2000 still remains: the Law on Local Self-Government formally gives local authorities great powers and responsibilities. For a true picture of these powers and responsibilities, however, one has to refer to numerous special laws which set out the rules in detail. It is also necessary to verify the technical capabilities and financial resources available to municipalities. From the discussions with some people during the visits it emerged that these special laws often restrict the powers conferred in the general legislation and that available resources are not adequate to full performance of functions transferred.

115. Moreover, the moves towards decentralisation have been accompanied by the creation of new arrangements for scrutinising finances and local staff management. In the current climate these scrutiny arrangements are justified and in fact necessary. But vigilance is required to ensure that these

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<sup>10</sup> Article 84 of the act provides for holding village-council elections simultaneously with the municipal elections.

arrangements do not indirectly lead to re-centralisation. These scrutiny arrangements should thus be continuously assessed to make sure that they do not recreate a situation in which local managers are once again controlled by central bodies.

116. The situation regarding local democracy remains fragile, especially in the following areas:

- i. Management of municipal staff: the redrawing of the map of municipalities and the transfer of responsibilities has brought transfers of staff to the municipalities whom the municipalities did not themselves choose. Staffing needs to be reviewed in a number of municipalities. More generally, the skills and professionalism of municipal staff need to be further strengthened. The difficulties here seem to stem not so much from ethnicity as from traditions of mutual back-scratching and a problem of how to put in place a real expertise in local management. It is important to inculcate a new “culture” whereby questions are addressed not from a partisan perspective but with a view to public efficiency and quality of service to the public. It is essential for people in political office to set an example in combating corruption. It would be useful here for local authority staff to have conditions of service that facilitate unbiased, professional work. There must be no slowing of the drive to provide training for local public servants and improve their technical abilities. A large number of initiatives are under way in various quarters and need to be properly co-ordinated.
- ii. It is no bad thing for municipalities’ financial resources to be strengthened gradually, with proper monitoring and audit procedures. However, the share of local taxes *per se* (or the share of VAT and income tax) should be increased without delay whilst at the same time state grants should be reduced. Care must also be taken that the system of financial scrutiny by the central authorities does not turn into a new form of control. The position regarding municipalities’ tax resources and allocations from central government needs to be transparent.

It is essential for the “connexity principle” to be clearly adopted – that is, for all transfers of responsibilities to the local authorities to be accompanied by transfer of resources equal to those which central government allocated to the activities in question. Compliance with that principle should be supervised by a committee of independent experts.

Collection of property-based local taxes depends substantially on good property records. It might be advisable to entrust the dual task of updating property registration and collecting the relevant taxes to a single authority answerable both to central government and the municipalities. Local taxes could conceivably also be collected by central government on the municipalities’ behalf.

Additional measures must be taken to lay down reasonable but transparent and objective requirements for municipal borrowing.

Overall it is necessary for municipalities’ share of total public resources to continue increasing towards levels comparable to those found in other European countries of comparable size. It should be pointed out that on average, in central and eastern Europe, local authorities’ share of total public expenditure is 16%, or 8% of gross domestic product.

- iii. Municipalities must hold a reasonable proportion of public property within their boundaries. The state must allow transfer to the municipalities of all buildings used for the performance of local public functions, together with a proportion of land needed for pursuing a municipal development policy. This property transfer can be accompanied by various conditions and obligations regarding use of the buildings or land. A total overhaul of the land registry is not a prerequisite for beginning the transfer.
- iv. Special measures are necessary to take account of the very great wealth and development disparities between municipalities. There may be a case for having two distinct development strategies, one for the urban regions and the other for rural and deprived areas. The moves to set up a regional tier could incorporate that approach. Care must be taken, however, that municipalities are significantly involved in that tier. Institutionally, the regional tier might involve a form of partnership between central government and a region’s municipalities.



- v. Establishing a new balance of power within municipal institutions is another important factor. Some mayors tend to be a little authoritarian in the exercise of their powers. Decentralisation will strengthen mayoral powers still further. Any “presidential” tendencies by mayors in their management of certain municipalities will have to be countered, and greater powers of scrutiny will have to be given to the municipal council and the public (the Law on Local Self-Government does make provision for such powers but they need to be more effective). Internal audit bodies have been set up in local authorities. These are answerable to the mayor. Members of the municipal council might perhaps play a greater part in the audit process. That said, mayors are highly motivated and they work hard. They are for the most part keen to establish good relations between the ethnic communities and they are now resolved to improve the quality of the financial management of municipalities.
- vi. Generally speaking, there is a need to develop instruments of internal scrutiny for the municipalities. Decentralisation must be accompanied by greater rigour in management and in measures against corruption or favouritism. To that end, there is also a need for objective procedures in local public procurement.
- vii. Co-operation between municipalities and central government could usefully be improved still further. It seems to work well in the case of the Association of Units of Local Self-Government (ZELS), whose role is confirmed by Article 81 of the Law on Local Self-Government. In March 2003, the Minister for Local Self-Government and the President of ZELS signed a memorandum of understanding on co-operation in which they agreed on concerted action in the context of decentralisation. The memorandum guarantees that ZELS will have a say in drafting legislation of relevance to local authorities, in assessing local authorities’ financial requirements and in a range of other matters designed to improve the working of local authorities. ZELS takes part in discussions on the share-out of financial resources, with a seat on the relevant Finance Ministry committee. But ZELS does not always seem to have the necessary expertise to hold its own in decision-making concerning local democracy. Further legal and financial measures are therefore needed to strengthen the ZELS role.

The conciliation bodies for settling disagreements between ministerial departments and local authorities need to operate more effectively. One example is the boards provided for in Articles 15 and 46 of the Local Taxation Act, whose authority the ministry seems not to fully recognise. The boards need to be a mechanism for seeking consensus.

- viii. Concerning the powers and responsibilities of municipalities, attention must be paid to reinforcing their operating capabilities. So far, it is chiefly management responsibilities which have been delegated (management of schools, museums, etc). Still to be reinforced are those powers which will enable municipalities to devise and implement a true policy of local development. In order for this to be done, the question of the ownership of public land will have to be settled, as indicated earlier.
- ix. Despite the reform of 2004, insufficient account is still taken of the situation of small rural municipalities. One answer might be to develop innovative methods of inter-municipal co-operation or methods for supporting these municipalities through an intermediate “regional” level.

The municipalities must be careful to make full use the powers transferred to them. For that purpose they must continue strengthening their administrative services and recruiting qualified staff, mainly specialists in town-planning law, schools inspectors and financial administrators. If they have difficulty in setting up qualified services in these areas they should set up intermunicipal ones.

In general, intermunicipal co-operation is not performing its potential role. Although the relevant legislation is not a hindrance legislative and financial measures could be introduced to encourage such co-operation.

However, the central authorities must avoid taking authoritarian measures to merge municipalities or impose intermunicipal co-operation. At the very least measures of that kind, even legislative

ones, would have to be preceded by consultation with the municipalities concerned, in accordance with Article 5 of the European Charter of Local Self-Government.

- x. While the Ministry of Local Self-Government is developing relations of trust with local authorities, notably through ZELS, relations with other ministries (transport and building, education, finance) are much more fraught. These specialist ministries are still reluctant to accept decentralisation and often suspect the municipalities of maladministration. It would therefore seem important for a single ministerial authority to direct and supervise the decentralisation process so as to ensure that all ministerial departments abide by the policy. This co-ordination and oversight function would be best performed by the Ministry of Local Self-Government, with backing from the prime minister.
- xi. Greater attention could be paid to the bodies for settling disputes between municipalities and central-government departments. It would be in the interests of all parties if disputes could be examined by a body they regarded as neutral, impartial and technically competent. The body could be a specialist administrative court or a non-judicial mediation board. The latter might be easier to set up as it would allow procedural flexibility and given the many issues surrounding reinstatement of the judiciary. Such an institution might help to establish a more firmly grounded culture among public office-holders of compliance with rules and procedure and of objective discussion based on documentary evidence.

117. These observations constitute an initial assessment of a reform process which has been properly under way for only two years. Further verification could confirm or correct the findings set out above.

**Programme of the 1st visit of the Rapporteur of the Congress of the Council of Europe  
to “the former Yugoslav Republic of Macedonia”  
(30-31 January 2006)**

**29 January 2006**

Arrival of the delegation in Skopje

Working dinner and briefing with **Mr Michel RIVOLLIER**, Resident Expert of the Council of Europe in Skopje

**30 January 2006**

Working meetings with:

**Mr Andrej PETROV**, President of the Association of the Units of Local-Self Government (ZELS)

**Mr Koce TRAJANOVSKI**, Vice-President

**Ms Dusica PERISIC**, Secretary General

**Mr Rizvan SULEJMANI**, Minister of Local Authorities

**Prof. Gordana SILJANOVSKA DAVKOVA**, Vice-President of the Group of Independent Experts on the European Charter of Local Self-Government of the Congress of the Council of Europe

**Mr Trifun KOSTOVSKI**, Mayor of Skopje

**Ms Svetlana GELEVA**, State Secretary for Multilateral Co-operation, Ministry of Foreign Affairs

**Mr Michel EDDY**, Director of the Bureau on Democracy and Local Self-Government, USAID

**Mr William J. ALTHAUS**, Project Director, USAID

**Ms Vesna DZUNTESKA-BISHEVA**, Deputy Representative of the UNDP, Co-operation Programmes Unit

**Mr Erwan FOUERE**, Special Representative and Head of the delegation of the European Union

**Mr Nafi SARACINI**, Councillor - Civil Society

**31 January 2006**

Departure for Struga

Working meetings with:

**Mr Ramiz MERKO**, Mayor of Struga

Departure for Gostivar

**Mr Nevzat BEJTA**, Mayor of Gostivar, Vice-President of the Association of the Units of Local-Self Government (ZELS)

Departure for Tetovo

**Prof. Murtezan ISMAILI**, past Mayor of Tetovo, Director of Doctorate Studies at the European University of South-East Europe

Departure for Skopje

**Mr Ace KOCEVSKI**, Mayor of Veles

**Mr Vlado TOLESKI**, Mayor of Kicevo

Programme of the 2<sup>nd</sup> visit of the Rapporteur of the Congress of the Council of Europe  
to “the former Yugoslav Republic of Macedonia”  
(20-22 February 2007)

20 February 2007

Arrival of the delegation in Skopje

Assistance by **Gjorgji JOVANOVSKI**, Director of the Information Office of the Council of Europe in Skopje

Working meetings with:

**Ms Mirjana LOZANOVSKA**, ALD Ohrid

**H. E. Bernard VALERO**, Ambassador of France in Skopje

21 February 2007

Working meetings with:

**Mr Saso STEVKOV**, Counsellor to the Prime-Minister

**Mr Zoran KONJANOVSKI**, Minister of Local Self-Government

**Ms Elena PETKANOVSKA**, Government Expert, Ministry of Local Self-Government

**Mr Ramiz MERKO**, Mayor of Struga

Bureau on Democracy and Local Self-Government Office (USAID) in Skopje:

**Mr Michael EDDY**, USAID Director

**Mr Wiliam ALLTHOUSE**, Chief of Party for the project “Make Decentralization work”

**Ms Liljana RIISTOVSKA**, Local Expert

**Mr Trifun KOSTOVSKI**, Mayor of Skopje

**Mr Erwan FOUERE**, Special Representative of the European Union and Head of the Delegation of the European Commission

**Professor Gordana SILJANOVSKA**, Faculty of Law, Vice-President of the Group of Independent Experts on the European Charter of Local Self-government

22 February 2007

Working meetings with:

Association of the Units of Local-Self Government (ZELS):

**Mr Andrej PETROV**, President, Mayor of Karposh municipality, Skopje

**Mr Nevzat BEJTA**, Vice-President, Mayor of Gostivar

**Mr Ace KOCESKI**, Mayor of Veles

**Ms Dusica PERISIC**, Executive Director of ZELS

UNDP Office in Skopje

**Ms Snezana DIMOVSKA**, HR Specialist, UNDP

**Mr Ilmiasan DAUTI**, Institutional development Specialist, UNDP

**H. E. Ralf Andreas BRETH**, German Ambassador in Skopje

Ministry of Finance:

**Ms Snezana KOSTADINOVA**, State Secretary

**Ms Marija KOSTOVA**, Deputy Head of the Department for budgeting

**Extract from the Constitution of “the former Yugoslav Republic of Macedonia”**

**Article 114**

The right of citizens to local self-government is guaranteed.

Municipalities are units of local self-government.

Within municipalities forms of neighbourhood self-government may be established.

Municipalities are financed from their own sources of income determined by law as well as by funds from the Republic.

Local self-government is regulated by a law adopted by a two-thirds majority of the total number of Representatives.

**Article 115**

In units of local self-government, citizens directly and through representatives participate in decision-making on issues of local relevance particularly in the fields of urban planning, communal activities, culture, sport, social security and child care, preschool education, primary education, basic health care and other fields determined by law.

The municipality is autonomous in the execution of its constitutionally and legally determined spheres of competence; supervision of the legality of its work is carried out by the Republic.

The carrying out of specified matters can by law be entrusted to the municipality by the Republic.

**Extract from the Law on Local Self Government  
of “the former Yugoslav Republic of Macedonia”**

Article 22  
(List of Competencies)

(1) Municipalities shall be competent for the performance of the following activities:

1. Urban and rural planning - urban planning and issuing of technical documentation for construction and issuing of construction permits; regulation and maintenance of construction land;
2. Protection of the environment, nature and space regulation - measures for protection and prevention of water, atmosphere and land pollution, protection of nature, protection against noise and ionizing radiation;
3. Local economic development – local economic development planning; determining of development and structural priorities; running of local economic policy; support of the development of small and medium size enterprises and entrepreneurship at local level and in that context, participation in the establishment and development of local network of institutions and agencies; promotion of partnership;
4. Communal activities - potable water supply; technological water supply; drainage and purification of waste waters; public illumination; drainage and treatment of precipitation; maintenance of public hygiene; collection, transport and treatment of communal solid and technological waste; regulation and organization of public local transportation of passengers; supply with natural gas and heating energy; maintenance of graves, cemeteries, crematoria and provision of burial services; construction, maintenance, reconstruction and protection of local roads, streets and other infrastructure facilities; regulation of traffic regime; construction and maintenance of street traffic signalization; construction and maintenance of public parking spaces; removal of improperly parked vehicles; removal of damaged vehicles from public spaces; construction and maintenance of markets; chimney sweeping; maintenance and use of parks, green spaces, park-forests and recreational spaces; regulation, maintenance and use of river beds in urbanized parts, determining of names of streets, squares, bridges and other infrastructure facilities, etc.;
5. Culture - preserving of cultural heritage; celebration of events and persons of importance for the culture and history of the municipality;
6. Sport and recreation - development of general sport and recreational activities of the citizens; organization of sport events; maintenance and construction of sport facilities of public interest for the municipality, support sport associations;
7. Social welfare and child protection – kindergartens and homes for the elderly (ownership, financing, investments and maintenance); exercising of social care for disabled persons, children without parents and parental care, children with educational and social problems, children with special needs, children from single-parent families, deserted children, persons exposed to social risk, persons with drug and alcohol addiction problems; raising of citizens’ awareness, housing of persons put to social risk, sheltering and education of pre-school children;. Performance of these competencies shall be in accordance with the National Program for Development of Social Care;
8. Education – establishing, and financing, and administering of primary and secondary schools, in cooperation with the central government, in accordance with law; organizing of transportation of students and their accommodation in dormitories;
9. Healthcare – governance of the network of public health organizations and primary care buildings to include representation of local government in all the boards of all publicly owned healthcare organizations; health improvement; preventive activities; protection of health of workers and protection at work; health oversight over the environment; oversight over the contagious diseases; assistance to patients with special needs (mental health, child abuse, etc.); and other areas that will be determined by law;

10. Execution of preparations and undertaking of activities for protection and rescuing of citizens and goods at their territory against war destructions, natural and other disasters as well as against the consequences caused by them in the state of war;

11. Firefighting activities performed by the territorial firefighting brigades;

12. Supervision over the performance of activities from under municipal competency;

13. Other activities determined by law.

(2) Competencies referred to in paragraph 1 of this Article shall be performed in accordance with the standards and procedures determined by law.

(3) It shall be determined by law which of the activities of the municipality are mandatory.