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New forms of local governance

Governance Committee

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Resolution 389 (2015)	2
Explanatory memorandum	4

Summary

The report surveys new forms of local governance that are emerging across Europe, bringing a new flexibility in methods of governance and enabling local and authorities to improve their efficiency and the quality of their services.

Through new forms of partnerships, contracts and co-production, local governments are changing their relationships with national government, civil society, the private sector and with other local governments to develop more participative and responsive forms of service provision.

In its resolution, the Congress calls on local authorities to work together to develop performance management systems and methods for measuring outcomes, ensure that local control and accountability are maintained when new services are developed and to take care that initiatives to increase citizen participation in local government and local decision making are properly supported and resourced.

¹ L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent Liberal and Democratic Group
ECR: European Conservatives and Reformists Group
NR: Not registered

RESOLUTION 389 (2015)²

1. New forms of local governance are emerging across Europe. While many of these developments are responses to the on-going economic crisis, a new flexibility in methods of governance is also resulting from encouragements by some national governments for local authorities to improve their efficiency.
2. Through new forms of partnerships, contracts and co-production, local governments are changing their relationships with national government, civil society, the private sector and with other local governments, in order to improve the planning and delivery of services.
3. These changes are happening in several different ways: in some countries and they are initiated by legislative initiatives, in others by new government policies (both local and national), while in other countries local authorities are reforming government on an entirely voluntary basis.
4. Territorial authorities are also developing their approaches to performance management and measurement. In some countries they have embraced this approach of their own accord and are shaping their own performance frameworks, while in others, national governments have imposed frameworks onto local authorities.
5. Performance management challenges local authorities to demonstrate how they are improving their services in terms of efficiency, productivity, quality of service and the impact services have upon the lives of citizens. This approach seeks to drive service improvement and accountability to citizens for the delivery of better local public services.
6. Another growing trend in territorial governance is the rise of inter municipal co-operation and co-operation between local authorities and other bodies in delivering services.
7. A key question for local democracy advocates is whether these changes are beneficial for effective decentralised democracy or whether they constitute a threat to it. Local elected representatives need to seize the opportunities and challenges that these developments represent for local governance, while ensuring that the democratic base of their towns and cities is not eroded.
8. The Congress, convinced that greater flexibility in forms of local government can improve the lives of citizens, while reaffirming the principles of the European Charter of Local Self-Government, calls on local authorities and their national associations to:
 - a. share experiences of these new forms of local governance with local governments in Europe, through the Congress and networks of local and regional authorities;
 - b. work together to develop performance management systems for local authorities, so that this tool captures better the complexities of local public service delivery and ultimately supports local politicians to drive better outcomes and wellbeing for their communities;
 - c. take care that external contracts to provide local services aim to genuinely improve services rather than simply being a means of cutting local service expenditure to the detriment of the quality of local services for local citizens;
 - d. ensure that local control and accountability is the prime focus for designing policies aimed at achieving efficiency in public service delivery;
 - e. work together to better develop methods for measuring outcomes and wellbeing for citizens and to share that practice with all local authorities in Council of Europe member states;

² Debated and approved by the Chamber of Local Authorities on 21 October 2015 and adopted by the Congress on 22 October 2015, 3rd sitting (see document CPL/2015(29)4FINAL, explanatory memorandum), rapporteur : Harry MCGUIGAN, United Kingdom (L, SOC)

f. ensure that efforts to increase citizen involvement and participation in local government and local decision making are properly supported and resourced, to enable citizens to get involved in local politics and the voices of the 'hard to reach' sections of the community to be heard;

9. The Congress asks its Governance Committee to encourage the exchange of good practices and to return to this topic in the future, to look at how new forms of governance have developed and examine if, and how, they have strengthened local democracy.

EXPLANATORY MEMORANDUM

1.1. Introduction

1. In recent decades, local authorities in Europe have been evolving, from a formalised, regimented and legalised notion of local government, to a looser concept that focuses on new forms and methods of governance. Local authorities, far from being an isolated tier of government, are increasingly working:

- Vertically, with central government in novel ways, such as central-local contracts;
- Horizontally, with other public authorities operating in the same local areas;
- With private, civil society and voluntary bodies.

2. These wider forms of governance, which frequently have local government at the centre, are taking many shapes, forms and degrees of intensity across Council of Europe member States. The Additional Protocol to the European Charter of Local Self-Government reflects some of these changes, which go beyond the traditional understanding of local governance.

3. There are different perceptions as to the value of these new forms of local government. On the positive side, some see these new partnerships as beneficial because they open-up local authorities, allowing them to pool resources and share know-how with other partners and to allow a wider range of voices from across civil society and the community to influence local decisions.

4. On the other hand, these new partnerships are seen by some as a threat to local political autonomy, with these wider governance structures/partnerships straight-jacketing locally elected representatives, either by upper tiers of government or by unelected private and civil society representatives.

5. A third factor in this discussion is whether these new forms of local governance can be an alternative to:

- municipal consolidation (merging of local authorities);
- centralisation (at national or regional level); or,
- privatisation of local public services

6. These factors are operating in a context where, across Europe, the demand for public services is increasing (not just because of the ongoing economic situation but as a reflection of much longer trends such as population ageing) while available municipal resources remain stable or, more commonly, are decreasing.

7. While there is a growing set of academic literature which describes this vast variety of innovative governance arrangements, contract, networks, partnerships, co-governance and co-production, to date there has been little political debate of what this implies for the future of local authorities and whether member states have experience in this field that could be shared with others. The purpose of this Congress report is to provide an initial opportunity to stimulate that debate.

8. To gather evidence a detailed questionnaire was circulated to Congress members, national delegations and academic experts. The rapporteur is grateful for the abundant evidence received.

1.2. Main findings

9. The picture across Europe on how different forms of local governance operate is complex. This report covers a large set of policies and arrangements, which go well beyond the traditional roles of local authorities as defined by law. These new forms of governance may be accompanied by legislation, but often political or policy initiatives shape much of the institutional situation of each member state of the Council of Europe. This makes it difficult to provide a detailed picture of developments taking place across the European continent.

10. It is clear that across Europe new forms of local governance are developing, including: contracts between central/regional authorities and municipalities; agreements between municipalities and public (and sometimes private) bodies to jointly provide public services; performance management (including outcome-based contracts); citizen participation (community involvement, co-determination, co-production, and participatory budgeting).

11. While a significant part of these developments are often linked with the impacts of the economic crisis, the drive for structural reform is also linked with the efficiency agenda imposed upon local authorities by national governments. Indeed, a 2013 CEMR report on reveals that such an efficiency agenda, linked to either the crisis or the limits of centralised public service provision, is prevalent in most Congress member states.³

12. However, the crisis has only accelerated the adoption of these new forms of governance as many of them were already taking shape either on a voluntary basis or having been imposed by central authorities as a consequence of public finance pressures and the centralisation of public service provision.

13. Equally, there has been a growing call to modernise local public administration to make it more performance-oriented, accountable and open to public scrutiny and citizen participation. This has been driven, either at national or local level, to improve the quality of local services. In other cases it has been a reaction to a privatisation agenda, with decentralisation and performance management often seen as alternatives to this.

14. These changes in the diversity of local government raise fundamental questions about the autonomy of local government in the spirit of the European Charter for Local Self-Governance: on the one hand, more open and transparent local decision making is an indicator of a healthy local democracy. On the other hand, many of these arrangements tie local authorities to other bodies, such as national authorities, other agencies or even private bodies and therefore question their right of self-determination.

15. Taken to the extreme, even citizen participation in municipal decisions between elections can pose challenging questions about the legitimacy of local councillors to take decisions according to their representative mandate. This is truer when only a minority of active citizens engage in political discussions between elections. However, where there is strong citizen engagement this can act to enrich and support the role of local councillors as the key political representatives of their community.

1.3. Methodology

16. The basis of this report is the responses received to the questionnaire that was circulated to the members of the Congress Governance Committee and local and regional authority associations. It also benefits from additional requests of information and a literature review of previous Congress reports, OECD, EU and academic papers carried out by the expert Dr Mark McATEER from the Improvement Service for Scottish local government supported by Serafin PAZOS-VIDAL from the Convention of Scottish Local Authorities.

17. On the basis of these interim findings, a number of questions were put forward to members to stimulate discussions at the Governance Committee meeting and the joint session with the Committee of the Regions CIVEX Commission that took on 17 November 2014. These findings focused mainly around what these new forms of local governance mean for local democracy, and which political recommendations from Congress could be made on these developments. Additional evidence was received subsequently and was duly incorporated to this report.

³ Congress/ CEMR (2013) 'Decentralisation at a crossroads. Territorial reforms in Europe in times of crisis'Davey, K (2011) "Local Government In Critical Times: Policies for Crisis, Recovery and a Sustainable Future".

18. The rapporteur is grateful to the individual members and national delegations to Congress,⁴ national and regional associations of municipalities, academic experts, individual local authorities and regions and hopes their individual contributions are accurately summarised in the report. The report tries to provide a general and as comprehensive picture of the new forms of local governance that exist across Europe as can be ascertained at this point in time.

19. The examples received have been summarised by theme rather than by country to enable comparisons between them. These new forms of local governance have been summarised around four large categories:

- a. Contracts between municipalities and central/regional authorities;
- b. Performance management;
- c. Co-operation between municipalities and other bodies, including civil society and the private sector;
- d. Citizen participation.

2. Detailed evidence

2.1. Contracts with central/regional authorities

20. There is a long tradition of contracts between municipalities and national or regional authorities for the provision of public services. Often this is linked to the willingness of the regional or national government to ensure the uniform provision of services across a country. Consequently additional financial resources often come to local authorities with earmarks or are ring-fenced by national authorities for specific services. Such actions operate as a form of control and reduce local autonomy as defined in the Charter. In some cases, however, these central-local agreements are constructive efforts to address, in a multi-level governance approach, joint solutions to problems shared among several tiers of governance. Such arrangements focus on the provision of public services and thus are more specific than the forms of consultation described in the Congress Report on “The right of local authorities to be consulted by other levels of government” (Britt-Marie LÖVGREN, Sweden) approved in 2012.

21. Contractualisation (between central and local level, or even at sub-local level, particularly in urban areas) is prevalent in France where four million live in Sensitive Urban Zones (ZUS) as a way of attempting to ensure public policy outcomes among notoriously diverse forms and levels of public administration. This approach is also common in Spain (*consorcios*), Italy, Slovenia and Sweden, and it is sometimes driven by the influence of EU funding programmes, or in the case of Sweden due to a large policy of decentralisation and contracting out of local services to private and voluntary bodies.⁵

22. In Germany, central-local, regional/county-local arrangements are formalised in law as concerns both competences and financial redistribution and sanctions. In other countries, instead of contractualisation and partnerships, central-local relations contain provisions for the supervision of local authorities by the central government or upper tiers of government. This has been particularly intensified with the outset of the economic crisis and applies to both centralised countries such as Lithuania where more control has been gathered to the centre in spite of more local powers. In Slovakia, Serbia and Bulgaria more fiscal controls on municipalities and regional governments have occurred. In Spain, due to the economic crisis, new legislation sets restrictions upon councils such as: limiting municipal public debt, eliminating salaries for most councillors, cutting salaries for mayors and the conditional withdrawal of local powers if efficiency criteria are not met. In federal countries such as Austria while the autonomy of local authorities is entrenched in the constitution and secondary law to ensure they cannot be bound by direct instructions from the Federal Government, they are still subject

4 Austrian Association of Cities, Convention of Scottish Local Authorities Swedish Association of Local and Regional Authorities, Local Government Denmark, Piemonte Region, Flemish Association of Cities and Municipalities, German Delegation, Association of Dutch Municipalities, Senateur M. Gilbert ROGER (France), Federacion Espanola de Municipios y Provincias, Federacion Galega de Municipios e Provincias, Asociacion de Municipios Vascos EUDEL, Icelandic Associations of Local Authorities, Local Government Association (England), Russian Congress Delegation, Slovenian Congress Delegation, Swiss Delegation to Congress, Union des Villes et Communes Wallones, City of Reykjavik, Professor Chris HIMSWORTH. This report also benefits from the substantive findings of the COCOPS study and the CEMR *Decentralisation at a Crossroads* survey.

5 Contribution from the Swedish Association of Local and Regional Authorities.

to supervision by the district administrative agencies and the Land Government and Land Governor on behalf of the Federation.

23. In Scotland, there has been a very significant move from top-down ring-fenced allocations of finance to local council services (in itself a form of central control) towards a more partnership based approach to central-local relations. Single Outcome Agreements have been introduced whereby the Scottish Government and each local council, working with other public sector bodies such as health services, jointly agree a set of outcomes that all partners commit to achieving on a mutual basis on behalf of local communities. As the outcome is shared across partners all are mutually accountable for delivery of the outcomes. Performance against the outcomes are reported using a range of mutually agreed indicators but each local agreement means partners remain free to choose how they will achieve the outcomes set out in their agreement.⁶

24. Other central-local arrangements are mostly of a political nature. The Scottish experience contrasts with Wales where a Partnership Council for Wales between ministers and local authorities to promote joint working and co-operation has been agreed and is enshrined in the Government of Wales Act (1998) which included the development of the Welsh Assembly and government. Nevertheless this has not impeded a drastic reorganisation of Welsh councils being unilaterally proposed by the Welsh government recently.⁷

25. Official partnership structures to coordinate policies between the national and local levels are common in countries governed by administrative law. In Spain, the National Commission on Public Administration is the official body where the national government and local authority representatives discuss policies and legislation concerning municipalities. For individual policies, municipal representatives are also members of 35 Sectorial Conferences between the relevant national ministry and their opposite numbers from each of the 17 autonomous regions. Similarly, in Italy at regional levels (e.g. Lombardy) there exists partnership structures between the region and the local authorities (Conference of municipalities and Assembly of Mayors) to coordinate provision of healthcare services in the region.

26. In Slovenia a vast range of social services is organised through Community Centres for Social Work (CSD). The 66 centres are expected to plan and provide social services for the local community under standards set at national level.

27. The most common form however of such agreements are political ones, particularly in states with a very rigid distribution of competences in law, this contrasts with countries where local authorities often provide services that in law they do not have the formal competence for. An example of this is the "Local Pact" between the Government of Galicia (Spain) and its local authorities that seek central local co-operation using financial incentives (participation in regional budgeting, inter-municipal budgets and transfer of local assets) as a tool to clarify competences between levels of government. It has also led to the establishment of joint committees between regional ministries and the municipal association (FEGAMP).

28. In other countries, where high decentralisation is combined with a very flexible distribution of powers, such central-local arrangements are even more necessary to ensure good public governance. A good example, entrenched in law is the constitutional concordats in Austria, which are arrangements between the federal government, the states and the municipalities (represented by their town and local authority associations) dealing with consultation mechanisms on any provision imposing financial obligations on the other tiers of government, or where one level perceives another level of government to be in breach of EU convergence criteria.

29. Another example, which is institutionalised but is still political in nature, occurs in the Netherlands 'Inter-Governmental Relationships Code' (BZK, 2005). This code encompasses the principle of '*if possible local, if necessary central*' by allowing provinces and municipalities greater policy discretion, sufficient resources (powers, money and information), less central supervision and more formalised consultation on government decisions affecting them. On the other hand it is a political agreement that is being put to test by a further wave of decentralisation in recent years. Similar arrangements exist in Denmark and Norway.

6 <http://www.scotland.gov.uk/Topics/Government/local-government/CP/SOA2012/SOA2012>

7 Welsh Government (2014) 'White Paper - Reforming Local Government'

30. In Switzerland, the subsidiarity principle is framed in the federal constitution, so that the Confederation only assumes tasks that the cantons are not unable to achieve by themselves or where there is need to harmonise provisions across the country. The same principle exists between the cantons and their local authorities, in some cases being enshrined in the cantonal constitutions. Contractual relationships do exist, in Germany, the federal-cantonal-local relations are described in detail in specific legislation and legally binding programme-agreements, for example in policing between cantons and municipalities, or even between the Confederation and metropolitan areas (e.g. Fribourg).⁸

31. Structural reform, even when it is towards greater decentralisation of local authorities, often takes place without sufficient consultation between the local authorities concerned. In Flanders, the sixth reform of the Belgian Federal state resulted in a great transfer of powers to the region. This will have implications for public service provisions. Paradoxically, a previous existing partnership body with local authorities (Vlabest) was abolished and no structural consultation arrangements with local government in the region exist to assess the implications for local authorities.

32. Central-local agreements are increasingly common as a way of simplifying public administration and are often seen as attempts to provide a one stop shop for citizens. This is occurring across a variety of Congress member states. In Norway, this is known as the NAV reform, an ambitious reorganisation of social services that resulted in the merging of national employment and national insurance administrations and the establishment of partnership arrangements with local authority social services so that "one stop shops" were created to make services more user-friendly, holistic and more efficient. It is noteworthy that in spite of being a top-down decision, a clear element of partnership with municipalities was central to the reform with municipalities keeping their social services powers within the new structure.

33. In the Russian Federation, Multi-Functional Centres (MFC) provide state and municipal services, which are separate legal entities created by the state authorities of the Russian Federation and the local authorities. The goal is to minimise bureaucratic procedures in the provision of public and municipal services by providing citizens with a single point of entry and also by streamlining so called 'back office services' in order to improve information exchange among the different administrative bodies involved in providing that service.⁹

34. An obvious alternative to contractualisation, or indeed centralisation, is of course decentralisation of powers to municipalities. This has happened in Albania (for water), Bulgaria, Croatia, Greece, Lithuania, Netherlands (for elements of health and social care) and "The former Yugoslav Republic of Macedonia" (for spatial planning). Many such developments occur without accompanying financial transfers and sometimes they occur as a trade-off for accepting municipal mergers.¹⁰

35. In Poland, discussions are underway to increase the autonomy and flexibility of municipalities to organise public services. However, despite a public petition of 300,000 citizens, this does not seem likely to result in the local public finance law being changed accordingly.

36. By contrast another equally if not more marked trend is that of centralising specific previously local competences such as education (Republic of Moldova), local police (Finland, Scotland), fire and rescue (Scotland), water management (Hungary, Ireland). Not all such developments have resulted in services being managed directly by central governments but by creating regional structures or regional tiers of governance. Regionalisation has been both decentralising from the centre (Poland) and also centralising by absorbing previously municipal competences such as in Romania within the new regional Judet.¹¹

37. Finally, a significant trend in the municipal sector in the last three decades has been that of the privatisation and outsourcing of some local services. Evidence about the impact of such changes on public services, the size of the public sector budget and employment has been mixed.¹² Indeed some

8 Contribution from the Swiss delegation

9 Contribution from the Russian delegation

10 In that respect it must be recalled the recent Congress report "Adequate financial resources for local authorities", Rapporteur, Gilbert ROGER (France, L, SOC), Resolution 372 (2014)²

11 On this issue worth noting the recommendations of the Congress Report "The Second-tier local authorities – intermediate governance in Europe" Rapporteur: Emilio VERRENGIA, Italy (L, EPP/CD) Resolution 351 (2012) 2

12 Pollitt, C. (2013). "Back in the OECD... An oblique comment on the World Bank's "Better results from public sector institutions". *International Review of Administrative Sciences*, 79(3): 406-412

have argued that decentralisation may be a better alternative than outsourcing to reduce public sector costs.

38. A few countries are going full circle, with the re-municipalisation of previously privatised services (such as water in Paris, France, or energy in Germany). However, such developments are rare.

2.2. Performance management

39. The introduction of a performance management culture and practices in local public services has been progressively expanding across Europe. Significant differences exist between those countries closer to Anglo-Saxon governance arrangements who were early adopters compared with most of continental Europe (except Scandinavia) where the formality and rigidity of governance arrangements make adoption of such methods more challenging.¹³

40. Even so, performance management approaches are expanding as a tool to improve the quality of public services and to help improve decisions and make municipalities and individual officials more accountable for what they achieve on behalf of citizens. Sometimes this is driven by central government's eagerness to ensure detailed inspection of (broadly uniform) municipal services. In some countries such as in the Netherlands, Sweden and the United Kingdom there are broadly similar performance indicator systems across public bodies.¹⁴ In other cases the adoption of such methods is seen less as a confrontational and more as a partnership approach to improving services in exchange for a less strict central supervision.

41. The Scottish system of Single Outcome Agreements is a particularly comprehensive system of performance management. It is a national system that involves both the national (Scottish) government and all local authorities. It seeks to drive mutual accountability and, crucially, it is the only performance management system based on achieving a wide range of societal outcomes. Outcomes are more difficult to measure than indicators of inputs (how much resources are provided) and outputs (how much public goods have been produced), which are commonly used elsewhere. But the Scottish approach marks an attempt to both improve life outcomes for citizens and measure the performance of public bodies, including local councils, for contributing to achieving those improvements.

42. It is not surprising that outcome-based performance arrangements are not common, compared to input and output approaches. Their use is more common in central government and in national performance budgeting (Denmark, France and the United Kingdom are currently changing their accounting systems and budget programming to focus on outcomes) than at local level.

43. In Norway, where there is a strong political culture of local autonomy, legislation sets out conditions for self-regulation and supervision (though the national government retains powers to ensure legal and fiscal appropriateness of municipal decisions). However this has not been a barrier for national reporting and benchmarking against national standards through a national performance database (KOSTRA). The system contains annual municipal performance information compared with nationwide input and output (but not outcome) indicators to enable comparisons between municipalities and their priorities, productivity and ability to meet local needs.

44. In Denmark, there is a similar approach, the Joint Municipal Management Information System (FLIS). This is a performance information system that is automatically updated on a monthly basis. It is an internal database that provides an overview of a city's own data, with the facility to benchmark this data with other municipalities, regions and against the national average. It is also possible to compare the municipality with other comparable municipalities in order to inform decisions in areas such as procurement.

45. In Finland, the Government has set up SOTKA-Net, again an electronic database with municipal performance indicators aimed at supporting decision-makers, social welfare, and health care services experts with planning, evaluation, and decision-making with respect to local services.

13 Pina, Torres, Royo (2010) 'Is e-government Leading To More Accountable And Transparent Local Governments? An overall view', *Financial Accountability & Management*, 26(1), February 2010, 0267-4424

14 Dan, S. (2014). 'The effects of agency reform in Europe: A review of the evidence'. *Public Policy and Administration*, 29(3): 221-240.

46. In Scotland, the 32 local councils have jointly worked with the Improvement Service to create a benchmarking platform that also acts as the basis through which councils discharge their legal requirement to account to the public for their performance. The approach has developed a range of comparable indicators covering the cost (in many cases unit cost) of council services, service quality standards and public satisfaction with local council services. In addition, councils also exchange learning and practice with one another in order to ensure that the best identifiable service performance techniques and arrangements are shared by all councils.¹⁵

47. In administrative law countries the introduction of a performance management culture is framed by very rigid legal frameworks that are still changing. In Spain, most central-local relations are based on the constitution while national law only provides for indirect reference to performance and efficiency as part of the Municipal Finance Law, performance policies are being developed at local or regional level. Since 2007 a national agency for the evaluation of public policies (AEVAL) has existed which also carries out projects with municipalities. At the local level there is a more diverse picture: the 'Inter-Municipal Comparison Circles' was developed in Barcelona and this is now being adopted elsewhere in regions such as in Galicia. It is a voluntary process and purposely low scale, were a small number of municipalities develop joint output indicators after identifying their comparable strengths and weaknesses. In Sweden, a similar small-scale municipal 'Open Comparison' (OC) model has been set up. However, given the large decentralisation and contracting out of local services to private and voluntary bodies in Sweden there is a growing trend towards the development of homogeneous performance and quality indicators across counties and regions as well as between local authorities particularly around healthcare. The indicators are a combination of quantitative (time to respond to a demand of service) and qualitative (opinion of patients) and also performance pay-related indicators.¹⁶

48. In many other countries, the problem is either the lack of comparable data or the incompatibility of local datasets, which prevent more comprehensive performance frameworks from developing.

49. A similar case, but on a larger scale, can be found in Wallonia (Belgium), where the regional and local governments have developed a municipal strategic cross-cutting programme (PST) to set up a comprehensive system of municipal performance management and evaluation. While this is being developed and waits being enshrined in law, "contrast by goals" (*divergences d'objectifs*) already exist in municipal law. This approach aims to operationalise previously defined political and strategic goals into operational objectives and actions including resources that must be allocated. In Switzerland, another federal state, demonstrates how central-local contracts have progressively been influenced by the *new public management* thinking with an increase of precise objectives and indicators to measure performance of these contracts, even in difficult to measure policies (e.g. environment, integration of migrants).

50. In the Netherlands, while recent decentralisation has resulted in less general supervision of municipalities, its Council of State has shown that levels of supervision increased indirectly and overall regulatory pressure has not reduced. This often occurs via strict definitions of the powers that are being decentralised. Even so, a national Code for Good Public Governance has been set up by the national government to frame the quality of local public services. Its focus is more on efficiency and less on wider issues of democratic accountability.

51. In Austria, the federal government is encouraging municipalities to join performance measurement programmes to improve the overall quality of local services across the country. One such scheme is the 'Family Friendly Municipality' (*Familienfreundliche Gemeinde*) which is a certification scheme, where each municipality who wishes to participate defines a baseline according to its own local situation and needs and agrees to commit to a series of (soft and hard) improvement targets on a three-year timescale. As a result it receives a quality certificate that can then be renewed.

52. In Portugal, the introduction of a uniform performance framework for national civil servants (SIADAP) led this multiannual output-based framework which was extended in 2009 to local authority employee teams.

53. Similarly in Italy, the introduction of performance management approaches was a response to major political changes in the 1990s that required more accountability in municipal public life, however, reforms have been slow and patchy. Nevertheless, there are many local examples often linked to the

¹⁵ <http://www.improvementservice.org.uk/local-government-benchmarking-framework.html>

¹⁶ Submission of the Swedish delegation.

contractualisation and sharing of public services, for instance in Lombardy, the 'Regional Conference of Local Transport' is where the region, local authorities and transport operators define and collect the performance and quality criteria and comparable indicators of local transport services. Furthermore, such contractualisation foresees penalties for underperformance of the criteria stipulated in the previously agreed service contract between the region, the municipalities and the operators.

54. In many countries, the national association of municipalities undertakes voluntary consultancy and improvement support for municipalities, often via dedicated agencies or guidance (for example KING in the Netherlands, the Improvement Service in Scotland, and LG Improvement in England).

55. The introduction of a performance management culture at local level is also due to external factors, indeed the prospect of EU accession and/or international development aid has certainly been a driver behind the introduction of such approaches in many Eastern and Southern European member states, with varying degrees such as Bosnia, Croatia, and Serbia.

56. Romania, for example, has been decentralising services since 2010, when it decided to decentralise most of its public hospital network and education services, with a growing emphasis on performance management.

57. However the ongoing economic crisis has provided a decisive, if not always welcome, stimulus for the introduction of such approaches (in Albania, Ireland, Republic of Moldova, Switzerland, "The former Yugoslav Republic of Macedonia" and Ukraine). However, this is often more a by-product of cost-cutting programmes than a purposeful policy initiative to improve standards.¹⁷

58. Equally, the introduction of a more managerial approach to local governance does not necessarily provide an automatic or immediate shift of roles of local political leaders. In Central, Eastern and South-Eastern Europe, the role of elected member has shifted from a more hands-on approach to service management (i.e. running the Council) to that of a more narrow political role where local politicians only set the broad political and policy direction (e.g. Balkan Countries). This has happened at different speeds with for instance Estonia being more ambitious, Romania more gradualist or Hungary having proceeded at different speeds at different stages of its national reform programme.

59. The ongoing economic crisis has certainly had an impact in the adoption of performance management at local levels. However, paradoxically the need to cut and reduce costs does give a new window of opportunity to introduce performance measurement and quality improvement techniques. There is a growing awareness that such management techniques are not per se the panacea and to be successful they need to be applied as part of a wider set of measures such as joining-up services, integrating services, and better coordination of different public bodies and voluntary and private entities operating locally.

2.3. Co-operation between municipalities and other bodies, including civil society and private bodies

60. Local authorities increasingly do not take all decisions or provide all public services on their own. This is often due to the fact that the scale of some municipalities is out of sync with the size needed to efficiently provide some services. Partnership arrangements are often established to access expertise and resources from other public and sometimes private bodies. In some cases this links to issues of citizen participation (which are discussed in the next section of this report), on the basis that decreasing public resources and the limits of central "one size fits all" public services may also require increased co-production of public services with civil society and private bodies.

61. The most common approach to mutual co-operation is among municipalities themselves. This is known as inter-municipal co-operation, inter-municipal consortia, *intercomunale*. Such approaches are very common in countries with a large number of municipalities (for example in France, Germany, Switzerland and Spain) where municipal authorities join up to provide services. As there is a growing literature detailing such developments, this report will only provide a short overview focusing on the more innovative or recent developments across member countries.

¹⁷ Curry (2014) 'Trends for the Future of Public Sector Reform: A Critical Review of Future Looking Research in Public Administration' *Coordinating for Cohesion in the Public Sector of the Future*.

62. In Iceland, given the small scale of its municipalities, the 2008 crisis could well have resulted in the forced merger of municipalities. However, the new Municipal Law set out new provisions to set-up municipal collaboration as an alternative to municipal mergers. A similar approach is being adopted in Finland upon realisation that forced mergers as proposed in 2011 would be against the Constitution and indeed against the Congress Charter. Instead, it was decided that pooling municipal social services at regional level would be a better alternative to achieve economies of scale while preserving local autonomy. In Sweden, a similar reform towards a regional scale has been taking place since 2009 and which has proceeded on a voluntary and consequently asymmetrical basis.

63. Inter-municipal co-operation can take many forms; it can be enshrined in law or take the form of a private legal entity. For instance, in Wallonia, the law distinguishes between “association de project” which are small scale, ad hoc co-operation projects run by municipalities which operate under public law from the much larger and all purpose “*intercommunalité*” which operates under private law. Recent reforms in France require all their municipalities to join inter-municipal bodies (*Établissement Public de Coopération Intercommunale*) to ensure minimum provision of services across all the country. Previously the vast majority of the French communes were already part of inter-communal bodies which had the power to raise their own taxes (“*fiscalité propre*”).

64. In Germany, inter-municipal co-operation is prevalent and defined by law or public-public contract; “*Zweckverband*”. This is regarded as the most effective way of supporting municipal co-operation. It has created new public bodies with their own staff and they have municipal tasks (competences) transferred to them “*Hoheitsbefugnisse*”. In Land of Rheinland-Pfalz this has resulted in an original two-tier municipal federation “*Verbandsgemeinden*”. Other softer forms of co-operation exist in the Eastern Länder (*Amt, Verwaltungsgemeinschaft*) as an alternative to full merger, particularly in political and socially heterogeneous urban-rural environments.

65. Similar structures also exist in Switzerland, and are overseen by cantonal constitutions and law (or sometimes with financial support from the Confederation) including the transfer of powers and budgets¹⁸ to these shared entities. Sharing is becoming more common in areas such as sport centres, water management, cultural installations and transports. This is particularly the case in metropolitan areas and sometimes goes beyond national borders, such as the RMT region which covers North West Switzerland, Baden and Alsatian municipalities. However as in other countries, the development of inter-municipal structures raises issues of the degree of democratic accountability of these new bodies by the constituting local authorities.

66. Inter-municipal co-operation is a growing phenomenon, especially in urban areas where traditional inter-communal consortia jointly provide services such as transport (this is common in France, Italy and Spain). There are also more multi-purpose and institutionalised arrangements such as the new ‘Métropoles’ being developed in France or the “City-Region” model being developed within the Hannover Region created by Law (*‘Kommunalverband besonderer Art’*).

67. The city region agenda is being replicated, but on a less statutory basis, elsewhere in Germany and now also in England and Scotland where ‘City Deals’ are being struck such as in the Greater Glasgow area of Scotland (Glasgow City Deal) or in Greater Manchester in England (Greater Manchester City Deal). However classic inter-municipal shared service provisions also exist such as the Home Link for joint social housing provision between the municipalities of the Cambridge area. In the East of Scotland road maintenance services are provided on joint basis by Tayside Contracts on behalf of Dundee City Council, Perth and Kinross Council and Angus Council.

68. Metropolisation is a growing trend and sometimes driven on a compulsory basis. In Turkey the 2012 Metropolitan Municipality Law created 14 more metropolitan areas on top of the existing 16 and abolished previous provincial structures. These metropolises are a two-tier structure, where the upper tier is made up of the metropolitan capital city, while the lower tier consists of district capitals and other municipalities. A similar trend is evident in Poland where 65 cities exercise the powers previously held by the upper tier level (*powiat*) or sometimes as a result of bottom-up initiatives such as the Upper Silesian metropolitan union.

18 Submission of the Swiss delegation.

69. In Eastern European countries, metropolisation is a growing phenomenon in terms of bringing together the municipalities across the national capital (Croatia, Hungary, Czech Republic and Slovakia). Paradoxically the increase in size does not necessarily increase the efficiency of the councils or their political power in comparison to the national government, mainly as a result of capital city areas often being divided into districts.

70. In Spain, the principle of local autonomy is strongly protected by the Constitution and municipal legislation so inter-municipal arrangements operate on a voluntary basis and there are many of them. Inter-municipal bodies exist under public law to share services (*Mancomunidades*), to jointly provide services with the regional or central governments or with private bodies (*Consortios*) or exist as networks based in private law (the national or regional associations of municipalities) or in some cases without a legal basis (e.g. the Spanish smart cities network). For example, in the Basque Country (Spain) which is a very small geographical area, there are a large number of (mostly voluntary) co-operation structures, such as single purpose networks (*Udalsarea* sustainability network) and multipurpose networks with the private sector (*Bilbao Metropoli 30*), and more formalised partnership developments such as Rural Development Agencies, to support the co-production of public goods (*Industrialdeak, Txingudi*) across these inter-municipal consortia.

71. In similarly sized Slovenia there is dense set of inter-municipal co-operation structures mainly purpose specific (CEROD for waste, *Dolenjske lekarnе* for joint procurement of medical devices among participating municipalities, sharing of library resources) and with different degrees of control and municipal involvement. Given the small scale of many municipalities and the need to modernise public services, shared services have evolved such as in the inter-municipal inspectorate of the Koroska region, to enable the participating municipalities to share the financial burden, personnel and hardware of the service.

72. Municipalities also co-operate and jointly shape or even deliver services with other public bodies operating in their area in order to avoid duplication or contradictory implementation approaches to public policy. For example, in Scotland, the Local Government Scotland (2003) Act requires that each Local Authority establish a Community Planning Partnership (CPP) with other public bodies such as Health Boards, the Enterprise Networks, Police, Fire and Regional Transport Partnerships. In so doing the CPPs are the key delivery vehicle for the Single Outcome Agreements, as described above.

73. In other cases integration has resulted in centralisation. In Hungary, the 2010 Structural Reform eliminated the regional administration and established the county levels via Government Offices, which both increased the control from central government but integrated otherwise diverse sets of services and agencies operating in the area. The reforms have resulted in the provision of one-stop-shops “Government Windows” where citizens can deal with more than 30 different administrative procedures in a single office. This contrasts with integration approaches which have been carried out more in partnership with local governments as in Norway and the Russian Federation.

74. Other cases of integration are more mixed, involving both centralisation and decentralisation, such as in Rotterdam’s (Netherlands) “Integral Approach to public safety” whereby the central government has increased top-down steering through contracts with municipalities but where local mayors are responsible for directing and coordinating a multi-faceted approach to crime and safety.

75. Other approaches are more tenuous, such as in Slovakia following an ambitious programme of both privatisation and decentralisation to municipalities of public services. Here the law ensures that each area must have a “minimum network” of providers whereby health bodies, public or private need to coordinate with one another to ensure that a minimum standard is ensured.

76. Integration or joining-up of services is an emerging trend as can be observed for instance in Flanders with the Integrated Youth Care reform where support to troubled young people is now provided on a cross-agency, joined up on a vertical and horizontal basis.

77. Similar developments, defined in law but more ad hoc in nature exist in parts of Germany, such as the Hessen Law on Inter-Municipal Co-operation (KGG). This introduces scope for co-operation between municipalities with private bodies, clubs, societies, companies and public limited companies.

78. In Slovenia, the Centres for Social Work (CSD) have as a core element the planning of social services at local level and the coordination of the local public and private bodies involved in their provision.

79. In England, Local Economic Partnerships (which are voluntary, non-statutory bodies) between municipalities and private sector organisations are being formed with a key focus on economic development and as an alternative to full merging of municipalities. Other forms of local coordination exist already such as for instance the Cambridgeshire Children's Trust and Area Partnership bringing together the local public and voluntary partners involved in those services.

80. Similar arrangements exist in Germany such as *Berlin 2030* where the Berlin Senate brings together elected members, civil servants, experts, partners from research, industry and civil society, in order to coordinate responsibilities on economic development. A similar approach exists in Denmark where there are five Regional Growth Forums (one per region) made up of government, municipal authorities and private organisations to decide on the strategic development of each region.

81. The evolution of these arrangements is very determined by domestic political changes. For instance in Flanders the recent government has proposed to merge the para-municipal social services (OMCW) with the local authorities to simplify the delivery landscape. At the same time it is allowing private companies to join the inter-municipal partnerships.

82. Whereas in the Netherlands, there is an exclusive allocation of tasks and powers to provinces relating to economic development. Practice is less clear and a variety of arrangements exist between municipal authorities and the business community to shape local economic policy.

83. In England the Localism agenda launched in 2010 represented a reform of local government. This was partly driven by the United Kingdom government's response to the severe fiscal context. The development is also driven by a strong efficiency focus, which included promoting the co-production of public services with private and civic partners rather than simply empowering Local Authorities. English councils have responded to this with an alternative narrative that seeks to manage expenditure cuts by the voluntary sharing services and by calling for the legal empowerment of Councils (in compliance with the Charter) and an alternative vision of municipal co-operation around "Rewiring Public Services". This involved 'whole place' budgets, which are intended to include most key local public services whose expenditure could be better aligned across an area to improve public service delivery according to local needs and circumstances.

84. Co-operation between municipalities can be a useful instrument to prevent the centralisation of services and retain some degree of local democratic accountability. However, there appears to be a growing trend towards centralisation and the amalgamation of municipalities. In some countries (United Kingdom, Germany, Belgium, Scandinavia) this is part of a longstanding trend based on an assumption that larger organisations are more efficient in providing services. The ongoing economic crisis has accelerated and expanded this trend, with serious implications for local accountability, and local identity in the terms set out in the Charter.

85. Equally in recent years Denmark, Greece, Ireland, Luxembourg have seen the number of municipalities drastically reduced,¹⁹ the 2010 reform in Greece *Kalittrakis* is the most dramatic example due to the radical reduction of municipalities (from 1,034 to 325) in order to save €1,5bn as a result of the euro crisis. This involved a 50% reduction of local employees, and a 75% reduction of municipal companies. In Ireland, local councils have been abolished and their powers transferred to the existing upper tier, the Counties. Smaller municipalities and community, village or parish councils have been particularly affected by this trend in Portugal and Turkey where the abolition of village councils of fewer than 2,000 inhabitants has taken place.

86. Other mergers have been less drastic and as a result of incentives given to the merging Councils (Eastern Germany), Switzerland and Ukraine. However inter-municipal co-operation is also used as an alternative to centralisation. The role of the central government in this process is very diverse, in some cases (Austria, Cyprus and Italy) some inter-municipal co-operation of some services is compulsory and intended to generate economies of scale. Other national governments (Finland, France, Hungary) are providing incentives for inter-municipal co-operation and sharing of services as a trade-off for not abolishing smaller Councils altogether. An even softer approach to merge efficiency and local identity is being attempted in the Czech Republic and Spain whereby the municipal tier of government can retain powers if they are able to demonstrate that they provide them efficiently.

19 Ireland: Councils reduced from 114 to 31; Greece (2011): Councils from 1 034 to 325 and the elimination of 54 provinces to be replaced by 13 larger regions; Denmark (2007): 271 Councils to 98 ; Luxembourg will cut its Councils from 116 to 71.

2.4. Citizen participation

87. Individual citizens or civic groups are increasingly getting involved in municipal decisions. This is often a result of a growing trend to make local decisions more open, participatory and accountable in line with the 2009 Protocol agreed by Congress. E-government and e-governance, network governance and stakeholder engagement are seen as increasingly important in transforming governance arrangements. However, in some cases this may also be a reaction to a context where the public sector either does not have the resources to provide services or the services it provides do not fit an increasingly heterogeneous and individualised society. Equally, these innovations raise issues concerning accountability, transparency and trust.

88. Countries with organised corporatist models and small scale municipalities do have a long tradition of citizen participation (all Administrative Law countries such as France, Germany, Spain, Belgium, and Netherlands) mostly as stakeholders and consultees but in some cases towards genuine partnership. Switzerland is as direct democracy has a long tradition where citizens can raise municipal petitions and call for referendums. In Germany, a growing number of binding local referenda has resulted in the privatisation of municipal utilities (*Stadtwerke*) being rejected.

89. In the Netherlands, the 2009 Protocol was ratified in law in 2012, ensuring conformity with a significant range of existing public participation, consultation and information requirements at municipal level. Developments still tend to be mostly ad hoc where stakeholders in initiatives such as 'Citizens In Action' which has taken place in over 100 municipalities operate on a voluntary-non statutory basis in decision making. In other countries such as Belgium (e.g. Wallonia) citizen participation ('para-local') is seen as part of a wider local performance management agenda to improve citizen accountability. This contributes to the area's strategic planning and the co-production of public goods, municipalities partner with associative networks (ASBLs) to run public facilities (for example swimming pools or sport centres) on behalf of the municipality. A similar practice exists in Switzerland, where sometimes voluntary bodies can be contractually delegated tasks from the local authority or the other tiers of government (e.g. health promotion, support for refugees, adult education).

90. In Iceland, the 2008 financial crisis acted as a driver for more citizen participation and the new municipal law contains an entire chapter (Chapter X) on Consultation with Residents. This includes a long list of detailed rights in areas such as consultation, public information, citizen's meetings but also resident's referenda and citizen driven initiatives. One such case is the recently set up Governance and Democracy Committee of the City of Reykjavik.

91. In Germany, where the municipal law of each of the 16 Lander (*'Gemeindevorordnungen'*) includes provisions on participatory democracy (civil participation (Bürgerbegehren, Bürgerentscheid) petitions and referenda are binding on councils). There are also voluntary arrangements which include citizens (e.g. hearings in local wards *'Wahlkreise'* of local politicians). In addition to the formalised forms of participation, voluntary partnerships between municipal and civic and private bodies exist. The *Starke Kommunen* project in Rheinland Pfalz brings together the local and regional levels of governance with private and civic society.

92. In the Russian Federation, the Federal Law outlines a broad range of opportunities that may be available for citizens in terms of consultation, hearings, local referendums, citizens legislative initiative or co-production (citizens associations delivering public goods). Interestingly individual local or regional authorities also have their own voluntary schemes (e.g. Khanti-Mansi Okrug) providing a process for citizens, civil and private groups to engage in regulatory impact assessment of local policies and legislation.

93. Such arrangements also exist as a consequence of the scale of some municipalities and as a coordination instrument between the public and private bodies. For example, in Wales Local Service Boards (LSBs) exist where the leaders of local public and third sector organisations come together to take collective action to ensure public services are effective and citizen focused.

94. A further developing theme for many municipalities is the development of participatory budgeting exercises. In these exercises part of a municipal budget is targeted to support initiatives resulting from discussion and contributions from citizens. For example, in Spain there is an extensive Spanish network to support participatory budget activities (operated on a voluntary, bottom up approach) of

local authorities. Similar voluntary initiatives exist in other countries such as France, England, Scotland (at neighbourhood level), Italy, Netherlands, Poland, Portugal and Finland.

95. A particular salient example comes from Iceland, with the successful private-led *Better Reykjavik* an online consultative venue where citizens are given the chance to present their ideas on issues regarding services and operations of the City of Reykjavik, which formally commits to addressing issues raised by citizens. This has now expanded as *Better Iceland*.²⁰

96. However citizen participation is about more than just improving public service delivery. There are growing examples where it is designed as an alternative to public service provision. One example of this occurred with the announcement by the Dutch Government of the end of the “classic welfare state” towards a more ‘participation’ society where citizens are expected to co-produce public services²¹. In reality, this is the latest iteration of a longstanding Dutch trend to support approaches, as defined in the 2007 Social Support Act (WMO) that requires municipalities to choose between in-kind assistance to citizens or offer a personalised budget that individual citizens can decide how to use to purchase services they require. This is similar to the Self-Directed Support that is being introduced in the social care sector in Scotland. An element of citizen choice is foreseen in the services provided by the local Centres for Social Work in Slovenia.

97. In Sweden similar attempts over the last two decades have been tried regarding the provision of local services such as schools, with the concept of individual choice and the provision of public services by private and voluntary bodies as core elements of reform. In a similar vein the “Big Society” agenda in England²² aimed to introduce more direct involvement of citizens in public services. However, to date most examples of this approach have been local communities reacting to the impending closure of a local service (e.g. libraries taken over by volunteers) rather than the development of new or innovative citizen delivered local services.

98. In Lithuania, the legal framework guarantees citizen participation in decision making. Citizen communities defined by individual pieces of legislation such as the Law Territorial Planning or the Law on Public Assembly have driven this approach. In practice most civic participation takes place around social affairs where civic groups and charities have a crucial role in providing social services.

99. In Lombardy (Italy) in addition to the partnership structures to coordinate health services the regional law defines the roles of the non-profit and private entities in the provision of care and social services under contract with the regional health service. Legislation defines such voluntary associations as integral to the social and health care delivery landscape and operating, as in Switzerland under the subsidiarity principle.

100. Citizen empowerment can also be a way of making use of unused municipal resources. For example in the Scottish Community Empowerment Bill currently being scrutinised in the Scottish Parliament, community groups are being given the “right to buy” or to use unused municipal land, public allotments, and buildings. The Act also contains a battery of initiatives to empower Communities in local decision making. In some ways this can be seen as a partial implementation of the Charter which to date has not been transposed in either the United Kingdom or Scottish law.

101. Many Northern European countries are developing citizen-engagement and community empowerment policies as a way to compensate or alleviate the fact that over decades where the development of large scale councils and uniform services has occurred, which has driven municipal organisations further away from local communities. By contrast in many southern member states the introduction of such schemes has not been necessary because of the small scale of their existing municipalities or the existence of community councils within the municipality (eg. Italian *frazione*). While it has a decisive impact the limited ability to provide local services, their small size enables the local council to match the local community it serves and thus increase the legitimacy of the local authority in the eyes of its citizens.

102. As a result of the economic crisis the trend in many countries has been to move away from those community based municipalities. In Spain the remaining parish community councils within municipalities are set to be abolished. In Turkey villages of fewer than 2,000 inhabitants will cease to

20 Contribution from Reykjavik

21 2013 King of the Netherlands Annual Speech to Parliament 2013

22 Cabinet Office (2013) ‘Building the Big Society’

have municipal status ²³ and in Portugal local municipalities face compulsory mergers. In Hungary while all local communities have the right to self-government but the law also sets minimum duties for these local councils without the accompanying financial resources. However rather than being forced to entirely merge they can form a common council with a neighbouring community.

103. Finally, on E-government, while it is traditionally seen as a tool to improve the quality and efficiency of public services, it can also be an important aid to increase the transparency, accountability and participation in municipal decisions. Comparative evidence shows that in most countries, particularly those relatively more prosperous such as United Kingdom, Sweden, Denmark, the Netherlands and Finland; have in most cases developed tools of e-governance. However in most cases this is still in an information stage, with information about the local authority, with varying degrees of scope and detail, being made available via the web. Whereas tools to enable citizens to engage with the local authorities through the internet are still relatively rare in most countries.

3. Conclusion

104. The examples examined in this report demonstrate how local governments are using new forms of governance in their relationships with central government, other local and regional governments, civil society, and the private sector in the planning and delivery of services. Performance management and measurement frameworks are increasingly being used as governance tools to demonstrate how the authorities are improving their services in terms of efficiency, productivity, quality of service and their ability to measure the impact services have upon the lives of citizens.

105. The key question for advocates of greater local democracy is whether these changes are beneficial to effective local democracy or whether they represent a threat to it. This report has aimed to set out the opportunities and challenges that these developments pose for local democratic governance and locally elected politicians. The rapporteur is convinced that the new forms of governance outlined in this report have great potential for improving local government and developed and, examine if, and implemented with due respect for the principles of the European Charter of Local Self Government, will serve to strengthen local democracy.

23 CEMR (2013) op. cit.