

RAPPORT DE MONITORING

OF THE EUROPEAN CHARTER OF LOCAL AUTONOMY

Country : Finland

Article 2

Constitutional and legal foundation for local self government

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



Finland [Article ratified - Report adopted on 28 March 2017]

The principle of local government is explicitly recognised in the Finnish Constitution. In Section 121, para. 1, it is provided that “Finland is divided into municipalities, whose administration shall be based on the self-government of their residents”, while para. 2 stipulates that municipalities “have the right to levy municipal tax”. Furthermore, Section 14 of the Constitution States that “every Finnish citizen and every foreigner permanently resident in Finland...has the right to vote”. The Supreme Administrative Court assumed that the principle of commensurate resources of municipalities (Art. 9 para. 2 of the Charter) has been acknowledged in Finland, although it has not been explicitly enshrined in the Constitution. Extensive rules on the legal status of municipalities are set out in the Local Government Act (410/2015).

Concerning regions and/or other higher levels of local or regional self-government, Section 121, para. 3, stipulates that “provisions on self-government in administrative areas larger than a municipality are laid down by an Act”, while in Section 14 (“Electoral and participatory rights”) there are no provisions concerning regional elections and citizens’ participation at the regional level. The legal status of autonomous regions has not been configured yet in Finland and the necessary measures for the purpose have not been adopted yet, since there is an ongoing regional reform process.

With regard to municipalities, Finland complies with Article 2. Legislation on the new autonomous regions is pending as the regional reform has not been completed yet. A constitutional amendment that would bring the constitutional status of the regions up to the level of municipalities would nonetheless seem necessary if the Government decides to create genuine self-governing regions.

Article 3.1

Concept of local self government

Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.



Finland [Article ratified - Report adopted on 28 March 2017]

According to Section 14 of the Constitution (para. 3): “Every Finnish citizen and every foreigner permanently resident in Finland who has reached eighteen years of age has the right to vote in municipal elections and municipal referendums, as provided for by an Act. Provisions on the right to participate otherwise in municipal government are laid down by an Act.” The rules on the right to vote in local elections are laid down in Section 20 of the Local Government Act (410/2015), which also grants electoral rights to non-EU citizens resident in Finland for two years and employees of international organisations operating in Finland. Section 21 of this law lays down the rules on voting rights in municipal referenda and in local referenda concerning a sub-area of a municipality. The following sections of the law refer to several means of participating and exerting influence in municipal activities (panels, users’ boards, independent planning by residents, etc.), together with youth participation, councils for the elderly and disability councils. Finland has also been a forerunner in matters of e-participation, with several cases of pilot implementation. With regard to the responsibility of executive organs towards the municipal assembly, it is worth mentioning that various decision-making authorities such as chairpersons, mayors and their deputies may be removed before the end of their term if they do not enjoy the confidence of the council (Section 34 of the Local Government Act).

Extensive provisions on political accountability and citizen participation are not only the product of well-established democratic traditions but also of public concern about democratic standards and respect for democracy. In recent years, much attention has been paid to the state of local democracy in Finland and the challenges it faces. Among the main concerns have been declining electoral turnout and inequality between inhabitants in their chances of participating in and influencing decision-making processes. In municipal elections in particular turnout had already been decreasing since the nineties. These two problems (voter turnout and participatory inequality) were also the main concerns expressed in the government report on democracy policy. In 2014, the government presented parliament with the first government report on democracy policy, and this contained definitions of policy connected with the need to develop democracy and the aims of democracy policy in forthcoming years. These included activities and aims relating to the local level and were taken into account during processes including the reform of the Local Government Act. The implementation of these aims is currently an ongoing process. Many different kinds of activities and aims were established in order to tackle these and other challenges. Activities related, inter alia, to government institutions at different levels of government, NGOs and political parties. Various ministries have already started implementing these activities in co-operation with NGOs and local governments.

The new Local Government Act (410/2015) highlights and introduces new means through which transparency, responsiveness and accountability can be enhanced. In addition, new means and mechanisms of participation were introduced. Act 410/2015 also aimed to strengthen direct democracy at local level by introducing new sections on means of participation and by underlining residents’ participatory rights, along with the local council’s duty to ensure that there are diverse and effective opportunities for participation. It includes sections on youth councils, councils for the



elderly and disability councils, which will be compulsory bodies at local level from the beginning of the term of the next council.

The new Act also highlights citizens' and elected officials' right to information. Municipalities must ensure, for example, that the necessary information about preparatory work concerning matters for consideration by decision-making bodies is distributed via public information networks once the meeting agenda is ready, to satisfy the general need for information. In their online communications, municipalities must ensure that information that should be kept secret is not released via public information networks and that personal privacy is protected when personal data is handled. Elected officials have the right to obtain information from municipal authorities where they consider this information to be essential for their work and it has not yet entered the public domain under sections 6 and 7 of the Local Government Act.

One interesting example is Raasepori, where the municipality uses the kuntalaisaloite.fi national e-service provided by the Finnish Ministry of Justice, enabling the inhabitants to contact the authorities electronically and follow up their enquiries via the municipality's website. The municipality is also very active on social media (Facebook, Twitter, Instagram and Pinterest), which function partly as interactive question and answer channels but also as platforms for spreading information quickly and as marketing tools. The town encourages its employees at the sectoral level to stay in touch with the inhabitants through social media.

With regard to constitutional foundation (Art. 2 ECLSG) and the concept of local government (Art. 3 ECLSG), the Chairperson of the Constitutional Law Committee pointed out during the meeting with the rapporteurs that Section 121 of the Constitution also refers to regional authorities larger than one municipality, but only in one sentence. The government is preparing new legislation which will transfer a significant part of municipalities' decision-making power to larger authorities, which will have directly, openly elected councils, fairly wide jurisdiction and, perhaps in the future, even the right to collect tax from their residents. Therefore, it may be appropriate to consider an amendment to the Constitution, which would describe the duties and powers of the new autonomous regions. Some other parliamentarians also stressed the need to amend the Constitution to give powers to levy taxes to the new tier of local self-government (in accordance also with Art. 4 of the Charter). However, during the consultation process, the Deputy Parliamentary Ombudsman shared with the delegation her view that the interpretation of the relevant Section 121 of the Constitution is not yet established. Therefore, according to the Deputy Ombudsman, it might be too early to analyse the need for possible amendment at this stage. Nonetheless, the rapporteurs consider that it should be preferable to tangibly guarantee the taxation right for the regional level. A constitutional amendment should foster this protection as the wording of Section 121 only purports to provide the municipalities' taxation right.

The transfer of responsibility for social welfare and health care to the new regional tier will mean that 60% of municipal duties will be transferred to the regions, according to an Orimattila town councillor. The new regional entities will be subject to state control as there will be growing administrative supervision by central government and the financial resources of the new regional authorities will consist of block state grants. In this respect, the rapporteurs express their concerns that these grants are currently designed to fund only a limited number of competences. They consider that, if the future autonomous regions do not have enough diversified competences, these grants might be considered to be earmarked in practice. Furthermore, the SD (Social-Democrat) parliamentary group stressed that the impact of the reform could vary from one region to another. The smallest autonomous region will have a population of about 70,000 while the largest will have no fewer than 1,600,000 inhabitants. On the whole, the reform may lead to stronger central government and weaker local decision-making. In a small autonomous region the risk of overconcentration at regional level would be relatively small but in the larger regions this danger



would be considerably more pronounced.

Concerning the negative effects of regionalisation on municipalities, the delegation was told by a member of the Parliament who supports the government plans, that the reform would clearly reduce the municipalities' duties and importance. In the future, the municipalities would be acting more as local participatory communities, so there was of course, "a risk of overconcentration at regional level".

On the other hand, as the same person pointed out, some smaller municipalities today are in a financially restricted situation and their budgets are not balanced. This again has led to a situation where many services and municipal duties are taken care of by federations of municipalities. These federations are financed by municipalities, but their decision-making bodies are not chosen by open elections and therefore residents do not have a direct possibility to influence decision-making. Some argued that the present situation, with federations of municipalities governing local affairs, was "undemocratic".

Currently, Finland has a two-tier governance structure including local and national levels. The local level (municipalities) forms the basis of local democracy while parliament ensures that central government is democratic. The regional level lacks any proper representative democracy. Despite the weakness of regional democracy, the regional level plays an important role in health care and regional development. Reforms to health care, social welfare and regional government will introduce representative democracy at the regional level throughout the country (with councils elected via direct elections). Many of the tasks currently arranged by municipalities will be exercised by the regions in the future. In addition, many of the tasks of state regional authorities will be given over to the future self-governed regions. These functions that are related to regional development have not yet been within the range of regional or local democracy. In this sense, local and regional democracy will widen with the reform.

The division of powers between the local/regional level and central government will change drastically because central government will delegate considerable economic power over regional development to the new counties. There will be a new balance, in which the local and regional levels might move closer to each other and co-operate in many tasks. Some government officials claim that eventually the authority of municipalities will be strengthened as central government will have less power in local affairs than it has now in practice. However, during the consultation process, the Association of Finnish Local and Regional Authorities expressed its doubt the perception that the reform will strengthen municipal self-government and decrease central government power over local affairs and it leaves room for interpretation. Another governmental argument is that even though many tasks will be transferred from the municipalities to the regions, there will not be such a drastic change in the level at which tasks are taken care of. This is because tasks are already organised by joint municipal authorities at supra-local level.

The municipalities will still have important service functions in the future. They will also have a role as communities for local participation, democracy, culture and development, retain a general mandate to manage the duties related to municipal self-government as decided by the residents and perform local duties defined by law. In accordance with current statutory principles, municipalities will still be responsible for managing and promoting employment. They will also continue to be responsible for the following tasks: promoting participation and culture, promoting health and well-being, services related to sports, culture and other leisure activities, youth services, local industrial policy, land use, construction and urban planning. However, there will certainly be a shift in the role of municipalities. Regions will have tasks which they can hand over to municipalities by agreement. A very significant sector in which regions will be able to delegate authority to municipalities is labour policy. This will strengthen municipalities' role in managing and promoting employment. In general,



regions and municipalities will need to co-operate.

Some of the Finnish experts warned against attaching too much value to the fact that municipalities are currently responsible for social welfare and health care. It is quite common for people to see themselves as consumers of municipal services rather than as municipal citizens. Therefore most people do not really care who is in charge of these services; they care most about their cost, availability and efficiency. Municipalities' big budgets and large staffs may even restrict their true political discretion since they are under extreme pressure to manage important and costly social services. Furthermore, municipal services are now managed by professionals and the principle according to which "municipalities should be run by elected politicians" has been receding, meaning that in practice, municipal politicians are often obliged simply to follow priorities set by their municipality's professional managers. According to an Orimattila town councillor, the question arising is to "whether the Mayor, as well as the chairpersons of the executive committees in other municipalities should be directly elected, as the Congress recommended in 2002, despite the fact the new Local Government Act (410/2015) does not allow this". In respect of this debate, the Government informed the delegation that an extensive study has recently shown that only a few municipalities in Finland would like a mayor elected through direct elections. No decision has been taken yet concerning the modification of the Local Government Act in the framework of the SOTE-reform to allow directly elected mayors. The new regions may probably simply mean that services will be rationalised, since municipal service provision is very expensive (lack of economies of scale). Therefore it is only efficiency that is being debated, not political or democratic considerations. Regions will pool various services (thus also creating economies of scale), which mainly used to lie in the hands of various regional municipalities associations and, in some cases, single municipalities, and align them under one leadership. However, these are rather routine tasks and regions therefore should also become major decision-makers on economic and cultural development activities. One should never underestimate the risk of bureaucratisation in local government, which should primarily serve as a political institution providing participatory possibilities and democratic legitimacy, not simply just another public service provider.

The rapporteurs conclude that Finland formally complies with Article 3, para. 1, of the Charter as the municipalities do regulate and manage a substantial share of public affairs. At the same time, however, they wish to express their concern about extensive state regulation of municipal affairs, especially in the wider area of social services, which the Government also acknowledged. With regard to paragraph 2 of Article 3 there are two points of concern: First, the fact that various municipal associations fulfil important municipal tasks (especially in the fields of welfare and healthcare) seems to undermine accountability to municipal councils in many cases, while there were also complaints about rising costs for municipalities who "simply pay the bill". Secondly, the wide range of highly demanding services and activities seems to have caused a shift of power towards the professional managers of municipal and intermunicipal authorities. A process of "bureaucratisation" in local government has placed key decision-making processes in the hands of professionals and technocrats whereas elected politicians have been losing control over important policy fields. Therefore, new monitoring instruments and procedures are needed to restore the accountability of professional executives to the elected councils in accordance with Article 3, para. 2, of the Charter. To sum up, the rapporteurs conclude that Finland partially complies with Article 3, para. 2, of the Charter.

Article 3.2

Concept of local self government

This right shall be exercised by councils or assemblies composed of members freely elected by

secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 3.1.

Article 4.1

Scope of local self government

The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.



Finland [Article ratified - Report adopted on 28 March 2017]

Local governments in Finland are featured with their vast sphere of activities and their place at the heart of the activities of administrative institutions working directly for public well-being. With regard to the exercise of local government responsibilities (para. 2 and 3 of Art. 4 ECLSG), during the visit to Raasepori, the Mayor pointed out that in the field of social services, the town delivers all services independently except for the assistance component of its disability services, which functions as a mixed service. When it comes to services governed by the Social Welfare Act, the town delivers most services independently apart from high-intensity sheltered housing, for which the municipality makes use of services supplied by other organisations or providers. Most social services are local authority tasks, which mean that both the powers and the responsibility lie with the municipality.

The members of the Constitutional Law Committee said that the Left Alliance Party and the Social Democratic Party have concerns regarding the government's plan to open up public social and health care even further to competition, making it possible for multinational companies to provide services in these sectors. The Left Alliance parliamentary group has outlined its views in a statement. The starting point for social and health care reform should be to strengthen primary healthcare. The transition from primary care to specialist care should be smooth, as should be the movement between social and health services. The Left Alliance Group does not accept the government's argument that all public social and health services should be organised as private companies as it believes that this would make healthcare unnecessarily open to competition. Social and health services should instead be provided mainly by the public sector.

Although it is still not clear what the specific choices will be for the legal framework of the future self-governed regions, there is some evidence that these regions will not have a general competence like municipalities do (Article 4 para. 2 ECLSG). A special Finance Act for the regions will be drawn up. According to governmental project, the new regional entities will be able to organise their own services and choose how to provide them (e.g. also through outsourcing and contracting) but they



will not have their own tax revenue (Article 9, paras. 1 and 3). At the Ministry of Finance it was made clear that financial considerations are probably the most important drivers of the reform: Costs for social welfare and health care would increase by 2.4% per year. If 300 municipalities in Finland retained the corresponding responsibilities, these costs would soon rise further, in line with population growth, by 6-7% every year, and the Finnish government would not be able to control the increase.

Concerning the right to be consulted (Article 4, para. 6, Article 5 and Article 9, para. 6, ECLSG), the Chairperson of the Constitutional Law Committee pointed out that, under the Parliament's Rules of Procedure, committees handling government proposals and bills may hear experts' opinions. This usually means that organisations, bodies or institutions that will be affected by the bill are heard by the committee. It would be considered extremely odd if a committee did not hear the municipalities and the AFLRA for example when a bill related to self-government or local democracy. The Constitutional Law Committee would also make a statement on any government proposal affecting municipalities as section Section 121 of the Constitution contains strong guarantees in their respect.

Furthermore, central government and the local authorities maintain close ties with each other in Finland. Up to 75% of parliamentarians are members of municipal councils as well. In some respects, this reflects the fact that municipal democracy and all its aspects are taken into consideration in practice when central government takes decisions on reforms influencing local democracy. The ongoing reform is being prepared in several working groups, which comprise members representing regional and local authorities. There is also widespread discussion about the reform outside these working groups and the regional and local authorities are actively involved in this. Discussion has influenced and will continue to influence the proposals that government has been distributing for comment. The matter is also being discussed by the Committee on Economic Affairs and twice a week, one of the parliamentary committees or working groups consults AFLRA on the subject. The constitution provides that the municipalities have to be heard.

The relevant ministries, namely the Ministry of Finance and the Ministry of Social Affairs and Health, actively inform the general public and stakeholders on the progress of the reforms by various means and through various forums (website, events such as seminars, etc.). Regional and local authorities have already given their official comments on the boundary divisions of the future counties. Consultations on the legislation on health care and social welfare reform and county reform began in August and will end in November 2016. Local and regional authorities are among the largest interest groups which will make comments on the proposed legislation.

To sum up, the rapporteurs conclude that Finland complies with Article 4 of the Charter, while noting with satisfaction that particular attention is given to consultation of local authorities in Finland. Opening public welfare and healthcare to competition does not necessarily constitute an infringement of para. 4 of Article 4 provided that the local authorities are outsourcing service provision in order to reduce costs but maintaining control over priorities and the quality of these services. On the other hand, some of the options being considered as part of the planned regional reform raise concerns about compliance with various paragraphs of Article 4.

A particular point of concern would be the upward transfer of important municipal responsibilities to the regional level even in cases where very large municipalities are fully capable of dealing with them (e.g. Helsinki or other big cities). Paragraph 3 of Article 4 establishes the subsidiarity principle and such responsibilities should preferably be exercised by those authorities which are closest to the citizen, which is precisely the case in some large cities in Finland. Therefore, the rapporteurs are of the view that the possibility of making exceptions for large cities should be considered where the transfer of these tasks to the regional level does not seem necessary and would infringe the principle of subsidiarity and Article 4, para. 3, of the Charter. Furthermore, following the subsidiarity principle

and considering the fact that Finnish municipalities are very different in size and that the range of services actually provided by largest cities is much broader than in small rural municipalities, the rapporteurs consider it justified, given the specific problems that the capital city is facing, that Helsinki be granted a special status.

Article 4.2

Scope of local self government

Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 4.1.

Article 4.3

Scope of local self government

Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 4.1.

Article 4.4

Scope of local self government

Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 4.1.

Article 4.5

Scope of local self government

Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 4.1.

Article 4.6

Scope of local self government

Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 4.1.

Article 5

Protection of local authority boundaries

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



Finland [Article ratified - Report adopted on 28 March 2017]

The former Katainen's government launched a major local government reform in 2011, the aim being to reduce the number of municipalities from 413 to 70. According to an Orimattila town councillor, this reform process failed to take account of the constitutional limitations on local government legislation. The Parliament's Constitutional Law Committee stated (20/2013) that it was impossible to merge municipalities against their will (unless they were unable to perform statutory tasks like providing fundamental welfare services). The Supreme Administrative Court, however, ruled that compulsory merger is possible in the context of a specifically regulated nation-wide structural reform of local governments. In this case, compulsory co-operation between municipalities – and mergers – are possible outcomes (Supreme Administrative Court 2014:195 and 2014:144). Another acceptable reason for involuntary merger is if a municipality is in a hopeless economic situation. In exceptional, economically critical circumstances the State may impose strict economic and administrative restrictions on a particular municipality under specific legislation. Such extreme situations may also result in compulsory mergers of municipalities (Supreme Administrative Court 2014:197). Since 1 July 2013, the Finnish legislation provides for the possibility of mandatory mergers in the event that municipalities encountered major economic problems (Section 18 of the Municipal Structure Act).

It is also worth mentioning a particular situation of the obligatory change in municipal boundaries in the Helsinki region when south-west part of Sipoo – Oestersundom was transferred in a compulsory manner from the municipality of Sipoo to the municipality of Helsinki by a Cabinet order in 2006 in spite of the reported large opposition of the local population of Sipoo expressed during the local referendum. The aforementioned decision of the Cabinet was contested before the Supreme Administrative Court. In its decision (2008:1), the Supreme Administrative Court referred explicitly to the Charter and specifically to Article 5 of the Charter (as well as Articles 3 and 4). The decision of the Cabinet was upheld.

There is still some discussion of the possibility of a reform to the system of obligatory mergers and compulsory changes of local authority boundaries. In the light of the visit that they carried on in May 2016, the rapporteurs conclude that Finland complies in general with Article 5 of the Charter and encourage the Finnish authorities to step forward on this reform.

Article 6.1

Appropriate administrative structures and resources for the tasks of local authorities

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



Finland [Article ratified - Report adopted on 28 March 2017]

According to information provided by the AFLRA, about 422 000 persons are employed in the municipal sector (October 2015). The number of municipal staff grew rapidly during the seventies and the eighties, which was a period of expansion in welfare services. The number dropped in the recession years of the early 1990s, but started to rise again in the middle of that decade. It reached its height, however, in 2011, and since then the number of staff has decreased every year. 85% of monthly salaried employees in the municipal sector are employed on full-time contracts. Three-quarters of all employees have permanent jobs and women account for about 80% of municipal staff.

While the average age of employees is 45.7 years, that of permanent staff is 47.8 years. According to the persons interviewed by the rapporteurs, municipal employees enjoy good career prospects, especially in larger municipalities which can easily attract highly skilled staff. Therefore, Finland fully complies with para. 1 of Article 6 of the Charter.

Article 6.2

Appropriate administrative structures and resources for the tasks of local authorities

The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.



Finland [Article ratified - Report adopted on 28 March 2017]

Finnish legislation in general and the Local Government Act in particular grant local authorities organisational discretion, which enables them to determine their own internal administrative structures, and it is intended for the situation to be the same in the future autonomous regions. Therefore, Finland fully complies with para. 2 of Article 6 of the Charter.

It can be concluded that Finland fully complies with Article 6 of the Charter.

Article 7.1

Conditions under which responsibilities at local level are exercised

The conditions of office of local elected representatives shall provide for free exercise of their functions.



Finland [Article ratified - Report adopted on 28 March 2017]

One of the main aims of the new Local Government Act (410/2015) is to promote representative democracy by ensuring good working conditions for elected officials and transparency of decision-making. The Government recognised that “there have been problems with the overload of work and difficulties to combine private life and position of trust”. These reasons led to changes to the Local Government Act in 2015 with some changes that will enter into force after the next local government elections in 2017. If a municipality has decided to have full-time or part-time elected officials, under the new act, full-time elected officials are entitled to leave of absence from their jobs for the duration of the full-time position. In the case of any leave of absence that is required to fill a part-time position, the elected official must agree this with his or her employer. The local council decides on the payment and remuneration of elected officials in general and also sets the monthly pay and remuneration of any full-time and part-time elected officials. Full-time and part-time elected officials have the right to annual leave, sick leave and family leave, as well as occupational health care



services, on the same basis as local government officers. The provisions of the Employment Accidents Act (608/1948) concerning employers and employees apply in the same way in municipalities to both full-time and part-time elected officials. The law also introduces new management models, such as chairperson or standing committee models, with the aim of strengthening political leadership. According to the Government, the new Local Government Act aims also to clarify the position and distribution of work between the municipal manager, the council and the Executive Board. The Ministry told the delegation that it intends to address the problem of bureaucracy burden through the reduction of municipalities' tasks. Attention should be drawn, however, to the fact that full-time and part-time elected politicians are rare in Finnish municipalities, a fact that further strengthens the power and influence of professional executives and municipal bureaucracies. Municipalities are also service providers, but the local government concept of the Charter is based upon the political and democratic essence of self-government, which can be frustrated when in practice decisions are already taken by the heads of municipal bureaucracies.

Local councils decide on the principles underlying financial benefits for elected officials. Municipalities usually have a fee rule. Meeting fees are paid for almost all meetings attended by elected officials. According to information provided by the AFLRA, the average meeting fee is €70 for the members of the council and the executive and about €100 for the chairperson of the council and the executive. Fees are usually larger in the larger municipalities. For example, meeting fees range from an average of €43 in municipalities with fewer than 2000 inhabitants to €197 in municipalities with more than 100 000 inhabitants. A fee for a fixed period (month or year) is paid to the chairpersons of the municipal council and executive more often than to the members. The average yearly fee is about €2,000 for the chairperson of the council, €2,500 for the chairperson of the executive and €864 for the chairpersons of committees. Provision is made for compensation for loss of earnings and for costs incurred in engaging a substitute, while childcare costs are covered, amounting to an average of €23 per hour, but varying from municipality to municipality between €8 and €64. Electronic meeting systems have become more common in municipalities, so web conference interfaces are often also used for meetings between elected officials.

All elected officials' salaries and compensation are taxable. It is also quite common for political parties to charge elected officials a fee called a party tax, provided that they are authorised to do so, and this may apply to all fees, or just for example to meeting fees. The amount of the party tax is set by the party's municipal branch, with the result that there can be quite large differences between municipalities and political parties in this respect. Most commonly it is 10% but it can range from 5% to 80% of the fee. Usually, party tax is charged on gross incomes but because of the very high percentages involved, it has sometimes been charged on net incomes. There can be an upper limit on the amount of party tax that can be charged, such as €90-100 a year. Municipal branches of the political parties can charge different party taxes. On average, the highest tax is charged by the Greens (about 19%) and the lowest by the Swedish Party of Finland (about 12%).

With regard to the legal framework, it can be concluded that Finland fully complies with Article 7 of the Charter.

Article 7.2

Conditions under which responsibilities at local level are exercised

They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 7.1.

Article 7.3

Conditions under which responsibilities at local level are exercised

Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 7.1.

Article 8.1

Administrative supervision of local authorities' activities

Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.



Finland [Article ratified - Report adopted on 28 March 2017]

Financial supervision is primarily the task of the municipalities themselves, in accordance with the relevant provisions in the Local Government Act. However, there is growing concern about the increasing body of state norms interfering with the details of municipal activities. According to A. Ryyänen, Orimattila town councillor, "the tendency for some years has been increasing state control of administrative norms". Supervision of the legality of municipal activities is mainly exercised by the administrative courts in individual cases. Any municipal resident has standing in cases concerning the exercise of the general competence of the municipality. Appeals against the decisions of a municipal body (often as the result of an application for a revised decision) are made by submitting an appeal against a municipal authority decision to the (Regional) Administrative Court (of municipal appeal). Such an appeal may be made on the grounds that: 1) the decision was not taken in accordance with proper procedure; 2) the body exceeded its powers; or 3) the decision was otherwise unlawful. All natural and legal persons resident in the municipality are entitled to appeal (*actio popularis*), together with any individually affected parties. In most cases Administrative Courts may uphold the decision or repeal it, but not directly amend it. Further appeals may be lodged with the Supreme Administrative Court. Regional level authorities control municipalities formally only through the supervision of legality which is performed by Regional State Administrative



Agencies. Economically and functionally, the regional level does not control municipalities in any way. State regional authorities control and allocate state resources in their own area. These are of significance to municipalities as well and the relationship between the two is more like a partnership than a hierarchy. Municipalities have to adjust their policies, like those on infrastructure for example, to state policy, and vice versa. Efforts are made to arrive at decisions through negotiations working towards a mutual understanding or sometimes even a more formal agreement.

In exceptionally critical circumstances the State may take a municipality into economic and administrative “guardianship”, under specific legislation. Such extreme situations may also result in the compulsory merger of municipalities (Supreme Administrative Court 2014: 197). In the context of a specifically regulated nation-wide structural reform of local governments and entities, compulsory co-operation between municipalities – and mergers – are possible outcomes (Supreme Administrative Court 2014:195 and 2014:144).

Two important institutions in both the human rights and the local government rights fields are the Ombudsman and the Chancellor of Justice. The formal and actual independence of the Chancellor of Justice is guaranteed by his/her constitutional position and long history (since 1809). Municipalities can file complaints with the Chancellor of Justice. The Chancellor of Justice also checks the lawfulness of decisions made by the government and the President of the Republic prior to their implementation. Such decisions may relate to government bills and decrees and may also concern matters connected with municipalities such as decisions on municipal mergers. The Chancellor of Justice receives a considerable number of complaints from citizens concerning municipal administration. Most often they are related to maladministration or social, health care and educational services. There are no regional or local ombudsmen in Finland and it seems that there is no prospect of establishing such institutions. There are, however, patients’ ombudsmen and social ombudsmen with duties which partly resemble one another in their respective fields of operation. In Recommendation 311 (2011) the Congress drew particular attention to the need to increase funding so as to optimise the operation of the institution of Ombudsman and strengthen his/her role at local level.

The tasks of the Parliamentary Ombudsman are defined in the Constitution (sections 110 and 111) and in the Parliamentary Ombudsman Act. The Ombudsman has the task of exercising oversight to ensure that authorities and officials observe the law and discharge their duties. In addition to authorities and officials, the scope of the Ombudsman's oversight extends to other parties performing tasks of a public nature. The Ombudsman pays special attention to the implementation of fundamental and human rights. The Eduskunta, the parliament of Finland, has also requested that particular attention be paid to the implementation of children's rights. The Ombudsman mainly supervises lawfulness by examining the complaints he/she receives. He/she can also intervene to address perceived shortcomings on his/her own initiative. The Ombudsman also inspects offices and institutions, especially prisons, military garrisons and other closed institutions like hospitals and homes for the elderly.

The amount of complaints submitted to the Parliamentary Ombudsman and the Chancellor of Justice varies every year but the statistics show that they have increased considerably in recent years. By contrast, there has been a slight decrease in the number of investigations made by the Parliamentary Ombudsman or the Chancellor of Justice on his own initiative. In 2011 the Ombudsman received more than 4,100 new complaints and issued decisions on nearly 4,400 complaints and matters that he had investigated on his own initiative. In 2015 the Ombudsman received more than 4,700 new complaints and about one third of them, nearly 1 600, were related to procedures of municipalities. The largest group of complaints concerned social welfare services, about 800, and about 500 concerned health care services, while about 150 concerned general administration and the decision-making power of municipalities. In 2011 the Chancellor of Justice

received more than 1,400 new complaints and issued decisions on nearly 1,700 complaints and matters, while in 2015 he received more than 1,800 new complaints and issued decisions on nearly 2,000 complaints and matters.

In view of the aforementioned legal and administrative practice, the rapporteurs conclude that Finland fully complies with Article 8 of the Charter.

Article 8.2

Administrative supervision of local authorities' activities

Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 8.1.

Article 8.3

Administrative supervision of local authorities' activities

Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 8.1.

Article 9.1

Financial resources of local authorities

Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.



Finland [Article ratified - Report adopted on 28 March 2017]

Municipalities have real control of their finances and they can control their revenue base (taxation and fees) and debts with considerable freedom. The state grant system guarantees each municipality a calculated share of the overall grant without subsequent state control, risk of reimbursement or earmarking.

The municipalities in Finland have the right to collect municipal tax. Each year, the municipal council sets the income tax rate, which, for instance, is 22% in the town of Raasepori at the moment. Furthermore, the municipality collects 0.37-1.35% of real property tax depending on the nature of the real property, and a share of the corporate tax mainly corresponding to the portion of the corporate tax paid by local corporate taxpayers. In the case of Raasepori, for instance, these taxes, taken altogether, constitute 57% of the municipality's income. Moreover, the municipalities have the right to collect dog licence fees but a very few municipalities actually do so.

The Finnish Tax Administration deals with taxation on behalf of the municipalities. The municipalities pay a part of the government's tax-related expenses. The municipality is not entitled to collect any separate local taxes.

The current legislation describes the financial equilibrium quite clearly. If the yearly municipal financial account registers a cumulative deficit, the municipality must prepare a balancing plan for 4 years to bring it back into surplus. Municipalities are also very well aware of the economic indicators that show the need for an assessment procedure and can adjust their activities to prevent it from happening. The accounts must be in balance or in surplus. A deficit in a municipality's balance sheet must be eliminated within no more than four years from the start of the year following adoption of the financial statements. In its financial plan, the municipality must decide on specific measures to eliminate the deficit during the stated period.

Municipalities have the power to change tax rates, take out loans, add fees, and control cost development through benchmarking, etc. Municipal financial departments usually have considerable expertise and they regularly make use of externally developed cost-control techniques and services. In optimal circumstances, civil servants and local politicians have a good mutual understanding of their responsibility to keep expenditure on a well-balanced course. This is a challenging task in circumstances where the public demands more and better services and measures targeting quality levels and the range of services available are unpopular.

With regard to the upcoming reform, according to the parliamentary Green party group, the municipalities are mainly concerned about their funding, the details of which are still undecided. The municipalities could lose more than half their functions and funding. It remains to be seen whether the remaining funding will be adequate to cover the necessary services, building and maintaining the infrastructure linked to them and managing debt already accrued. Municipalities are also concerned about the continuity of the chain of service when the municipality provides a certain part of a service and the region the rest. For example, employment services are linked to social services, etc. It is possible that regions will contract out some of their functions such as employment services to larger municipalities if these municipalities have established well-functioning practices. It is preferable to maintain flexibility in the division of labour. If the ongoing reform proceeds as planned, the self-government of regional bodies will be more restricted than that of the current municipalities, and their finances will be more tightly controlled.

The balance between responsibilities and finance (the commensurability principle, Article 9, para. 2, of the Charter) has been a much debated question in Finland for many years. The Constitutional Law



Committee of the Parliament has stated: “When imposing legal obligations (on local authorities) it must be ensured that they have actual capacity to fulfil their duties” (25/1994). The Constitutional Committee often refers to this statement when evaluating the financial capability of local authorities to perform new functions. Furthermore, in Prime Minister Sipilä’s Government Programme of 2015 it is said that “The Government will not assign municipalities any new duties or obligations during the term of the government. If cuts are made in central government transfers to local government, the Government will reduce municipalities’ duties to the same extent”. During the visit, the Mayor of Raasepori pointed out that in the past it had happened that the State had delegated new tasks to municipalities but failed to compensate them adequately for carrying them out. During the consultation process, the Government expressed its intention to solve this problem. The current Government has promised to review and reduce municipal duties through the so called Reform 2: Cutting local government costs by removing tasks and obligations. A Rapid Response Query on the subject was also addressed to the Council of Europe Centre of Expertise for Local Government Reform in February 2016. Several of Finland’s national governments have made statements in government programmes at various times in which they attempted to make their stance on this issue as clear as possible, but it has sometimes been challenging to strike the right balance between the provision of funds to cover the costs of some new duties and the tendency for sectoral ministries to add substantial numbers of tasks while failing to investigate sufficiently what their impact will be on municipal finances. The AFLRA has made its opinion quite clear on this subject and has helped to establish clear guidelines on how funding of new duties should be arranged.

The government programme for local government finances contains a special section looking into the adequacy of funding in various municipalities. The analysis tool (Programme for Local Government Finances) has been developed over the last few years and is currently orientated towards various municipal size categories (by population) and the financial burden is expressed in terms of the need to raise local income taxes. The Ministry of the Environment and the Ministry of Transport and Communications are now involved in the preparation of this programme, in cooperation with the Ministry of Social and Health Care and the Ministry of Education and Culture, in order to provide a better guarantee that any legislation they prepare will take due account of local government and local financing. As the programme stands, there are obvious challenges concerning the balance between finances and duties. The programme highlights the groups of municipalities that must be especially careful over the next few years.

In the revised Local Government Act, financial issues are mainly dealt with in Part VI, from Sections 110 to 125. The emphasis in this part of the Act is on tighter control of local finance. Local councils are expected to assume a key role in managing municipalities and to exert greater control over the whole local authority as a corporate entity, including monitoring of municipal companies. The new legislation underlines the role of financial planning in striking a better economic balance, controlling debt and assessing the risks run by the municipality.

For municipalities facing particular economic challenges there has been a so-called assessment procedure that entered into force in 2007 (see Section 118 from the LGA). This procedure has focused on operational matters and helped municipalities to balance their finances through concrete measures and good co-operation with the State. In this way, Finland has also followed Recommendation 311 (2011) when dealing with this problem. According to the Finnish Ministry of Finance during the consultation process, a municipality must begin the procedure with regard to indicators related to indebtedness, the municipal income rate, the balance of budget and accumulated deficit. Section 118 of the LGA provides that the procedure can be started in case of excessive municipal budget deficit for more than four years or in the event that two successive annual financial statements of a municipality show some indicators as a deficit per resident of a certain amount, a relatively high local rate for the income tax or an accumulated deficit of local authority corporations. All indicators are defined by the law, and the Finnish authorities stressed that



the new legislation of 2015 introduced some minor simplifications in the indicators as well as taking account of indicators covering the whole local authority corporation. Another major change is that joint municipal authorities will be included in the procedure in addition to single municipalities (see Section 119). Joint municipal authorities are assessed by one designated auditor and his/her report is sent to all the municipalities in the joint body rather than to a special working group consisting of ministry and municipality members as is the case when a single municipality is being assessed.

The updated state grant system has been in use since the beginning of 2015. The new system has made financing more open and transparent by reducing the number of factors entering into the calculation and refining cost factors to better reflect actual changes in costs in municipalities. The new system brought in some changes in state grants in the remotest areas, helping them to fill some gaps in financing and thus better guaranteeing basic services for citizens.

Through the new Local Government Act, the new programme for local government finances was introduced (Section 12). The aim of the programme is to evaluate the current situation of local government finances and to calculate possible changes over the next few years. The programme is part of a Public Sector Finances programme (based on and introduced under EU legislation) and it is intended to provide a picture of local government finances as a whole and an indication of the level of development in different-sized municipalities. The programme is not aimed at a specific municipality, but it provides a general economic framework for them to assess their current situation and how their finances may evolve in the future. The programme is linked to the state budget and restricted by an expenditure limit set by the government. This is a fixed framework for the term of government, whose goal is to strike a better balance between services and finances (in local authorities). The government has set key goals to reduce the burden of municipalities' duties while at the same time achieving cost savings in social and health care services.

According to the Left Alliance Party the new regional authorities should have the right to collect taxes and hence have the best possible control over the funding and management of their responsibilities. The SD (Social Democrat) parliamentarians have also argued that if the new regional level is not given the right to collect taxes or to take out loans for investments, it is questionable whether this kind of reform can be called "regional" because in practice it will function in practice as a part of state government and the only aspect of self-government will be the election of regional councils. However, according to the legal advisor at the AFLRA, there is an outstanding question as to whether the regions are allowed by the constitution to levy taxes. Article 9, para. 3, of the ECLSG provides for the right to levy taxes but this right is denied to regions based on the argument that the Constitution does expressly allow this only for municipalities. During the consultation process, the Finnish Government acknowledged that, according to the draft legislative proposal, "the new regional level will have a sound base for financing" It will receive state grants on a calculatory base [...] The regions could also freely define and set the level of user fees and charges". Therefore, "the taxation right of the new regions can only be analysed in the next phase of the reform". However, the rapporteurs wish to draw the attention of the Finnish authorities to the need of tangible guarantees in tax matters for genuine regional democracy. Both the Charter and the Reference Framework for Regional Democracy require that, in the implementation of their own competences, regional authorities shall be able to rely in particular on resources of their own of which they shall be able to dispose freely. These instruments also provide that the financial systems, on which resources available to regional authorities are based, shall be of a sufficiently diversified and buoyant nature.

From a public finance viewpoint, and in order to be successful, social welfare and health care reform requires clearer steering by the government. Above all, it requires all the stakeholders to take joint responsibility. This is the view of the rapporteurs appointed by the Ministry of Social Affairs and Health. While people's well-being and health need to be improved, it is also important to be aware of the limits of available financial resources. Proponents of the reform say that change is needed



because of the growing need for services among the ageing population, the changing range of illnesses, wider possibilities for treatment and greater public expectations, which, when taken together, create strong pressure for mounting costs. Slow economic growth and a high total tax rate by international standards are an incentive to find new ways to curb rising costs. Lastly, there are major inequalities between different areas and groups.

The trend is towards an older age structure. Because of this, extra staff and infrastructure capacity is needed because of high retirement rates among staff, especially in many remote municipalities. Municipal services could be more efficiently set up in the larger areas, with tighter control on investments and duties, yet at the same time a better guarantee of public services for more vulnerable, risk-prone remote areas.

Because of tight public finances now and in the future, proper control must be exercised over cost development and investments in all parts of the country, preventing overlapping investments and channelling resources to the right measures. One of the key challenges is to find a capable workforce with essential economic and administrative skills and to prevent the unnecessary loss of good workers. Small municipalities are not always the likely winners – they are increasingly challenged by the shortage of capable staff, leading to increased workloads and compromises on the quality of the expertise provided in some cases. By curbing duties, improving organisation, developing planning and digitalising services, it is possible to make savings. The savings target for the healthcare and social welfare reform package is €3 billion by the year 2029. The projected annual growth in healthcare and social welfare costs has to be cut from 2.4% to 0.9% between 2019 and 2029. If the reform fails, it will leave many remote municipalities with the big challenge of balancing their budgets with limited means.

Moreover, the economic crisis has reduced the municipal tax base and increased unemployment and social security costs. The debt to GDP ratio has risen rapidly since 2008.

Finnish public finances have been running a deficit since the end of the last decade. The budgetary position is set to improve slowly in the years ahead, but still it threatens to remain in deficit. General government debt to GDP ratio has increased for several consecutive years, and there is no significant turnaround in sight. To achieve long-term sustainability in general government finances, the budgetary position would have to recover to show a surplus of around 2% of GDP by the end of the decade. The economic crisis has also had an impact on municipalities. High unemployment rates and structural unemployment have increased municipal expenditure and had an adverse effect on tax revenues. Central government has also cut its transfers to local government as part of the measures to strengthen central government finances. In addition to the economic crisis, the municipalities are burdened by the effects of the ageing population, which increases the demand for services. However, so far municipalities have been able to consolidate their finances and fulfil their tasks and services. The central government has also tried to limit the impact on municipalities by temporarily increasing local authorities' share of corporate income tax. This temporary increase will end in 2016, however. Furthermore, according to the current government programme, central government transfers to local government will not be cut further without enabling a similar cut in local government expenditures by reducing municipalities' duties and obligations.

With the upcoming regional reform, it is currently planned to introduce some legislative restrictions, especially on investments. This is mainly the result of municipalities' current actions. They have generally kept their finances reasonably under control, but there have been some cases of excessive investments in the social and health care sectors (hospital projects). These restrictions are necessary to prevent legal measures which may undermine the whole basis of public finances.

On the whole, Finnish local authorities have shown good understanding of the effects of the

economic crisis at state level, including the increased burden on the national debt. The municipal sector has also understood its important role in keeping local investments and the economy as a whole going. It has been able to invest a great deal in municipal infrastructure, roads, other transport networks and hospitals and some renovation of other buildings. Lower demand has allowed better investment deals to be negotiated in many cases and the price of loans has also been very reasonable. There have been some exceptions, but most investments have been controlled and cost-effective. In addition to controlling investments, the municipalities have taken a very cautious approach in recent years, aiming to exercise better control over their finances, with positive results in many cases. Because finances are tight, the State has made some cuts to state grants, but it has partly offset this by giving municipalities a temporarily larger share of corporate tax (increasing from 5 to 10% between 2009 and 2015).

The rapporteurs conclude that at present, Finland fully complies with Article 9 of the Charter. As in most countries, there are some concerns regarding the commensurability principle (paragraph 2 of Article 9) as additional tasks have been transferred to municipalities and complaints have been made about the lack of corresponding financial resources. However, it is obvious that considerable efforts have been made to introduce appropriate criteria and procedures to provide for financial resources that are commensurate with municipal responsibilities, and progress has been made in this respect. The Finnish authorities have also tried to deal with the problem of over-indebted municipalities, which was highlighted in the Congress's previous monitoring report and in the related Recommendation. New rules and procedures have been introduced to tackle the problem of indebtedness. The current financial situation of Finnish municipalities appears satisfactory from the Charter standpoint. With respect to the SOTE-reform, the Finnish Government acknowledged during the consultation process that regions will be "free to set all sorts of charges and fees for services they provide, within the limits of legislation". Moreover, it stated that regions will have "free control to use resources and hire personnel to manage the services or resources", that the state grants to the regions will not be calculated on a discretionary basis and that "there will be no earmarked transfers to regions". Nevertheless, the ongoing regional reform has given rise to some concerns as, under government plans, the new autonomous regions will be denied tax-levying rights (at least during the initial stage of their existence) and this would unlikely satisfy the requirements of paragraphs 1 and 3 of Article 9, and of the Reference Framework for Local Democracy. Furthermore, the rapporteurs express their concerns with regard to the financial system for the new SOTE regions that may fail to be of a sufficiently diversified and buoyant nature, while state grants and financial transfers to the new regions would be mostly used for a limited number of specific services and projects, leaving a narrow margin of discretion to the regions' elected councils. Insofar as the regional competences for funding would remain limited, this might contravene de facto paragraph 7 of Article 9 of the Charter.

Article 9.2

Financial resources of local authorities

Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.3

Financial resources of local authorities

Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.4

Financial resources of local authorities

The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.5

Financial resources of local authorities

The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.6

Financial resources of local authorities

Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.7

Financial resources of local authorities

As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 9.8

Financial resources of local authorities

For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 9.1.

Article 10.1

Local authorities' right to associate

Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.



Finland [Article ratified - Report adopted on 28 March 2017]

The freedom of association of local authorities is guaranteed by Article 13 of the Constitution. Intermunicipal co-operation is very common in many different service sectors and many municipalities have had good experiences with it. However, as indicated above, there are problems related to democracy (indirect accountability) when forms of co-operation and specific arrangements are increased in certain service sectors. Furthermore, co-operation of this type does not seem to address the need for economic stabilisation and the potential need to develop the municipality as a whole (instead of fragmented co-operation in various service sectors). These are the problems that the current government seems to be willing to address by creating the new directly-elected level of government.

As regards local authorities' right to associate, the Association of Finnish Local and Regional Authorities (AFLRA), embodies the implementation of the principle laid down in Article 10. This Association includes both local and regional authorities and constitutes a strong organisation promoting the interests of local government and an important, respected partner for all central public institutions in Finland.

In conclusion, the rapporteurs are of the opinion that Finland fully complies with all the paragraphs of Article 10 of the Charter.

Article 10.2

Local authorities' right to associate

The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognised in each State.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 10.1.

Article 10.3

Local authorities' right to associate

Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.



Finland [Article ratified - Report adopted on 28 March 2017]

Consult reply indicated at article 10.1.

Article 11

Legal protection of local selfgovernment

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



Finland [Article ratified - Report adopted on 28 March 2017]

As already mentioned, Finland has no constitutional court, but civil and administrative courts have the power to review the constitutionality of legislation enacted by parliament if this legislation is to be applied in an actual case. If they find that a statute or a provision thereof is in clear conflict with the Constitution, the courts may decide not to apply the suspect legal provision in that specific case, but they do not have the power to set aside the said provision. On the other hand, a municipality can challenge any administrative decision through an administrative appeal. According to information provided by the Supreme Administrative Court of Finland, municipal appeals mostly deal in practice with various internal disagreements or individual claims. Disputes between municipalities also occur, e.g. with regard to various costs or intermunicipal co-operation. As a rule, however, municipal self-government rarely focuses primarily on appeals or court rulings. If a municipal decision has been repealed by the (Regional) Administrative Court, only the municipality may appeal against the court's decision. At the Supreme Administrative Court, about 150-200 cases per year are categorised as "municipal law cases" (out of a total of 4,000).

The rapporteurs conclude that Finnish local authorities have the right of recourse to a judicial remedy in order to secure their rights and therefore Finland fully complies with Article 11 of the Charter.

Article 12.3

Undertakings

Any Party may, at any later time, notify the Secretary General that it considers itself bound by any paragraphs of this Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification, acceptance or approval of the Party so notifying, and shall have the same effect as from the first day of the month following the expiration of a period of three months after the date of the receipt of the notification by the Secretary General.

Article 12.2

Undertakings

Each Contracting State, when depositing its instrument of ratification, acceptance or approval, shall notify to the Secretary General of the Council of Europe of the paragraphs selected in accordance with the provisions of paragraph 1 of this article.

Article 12.1

Undertakings

Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following paragraphs:

- Article 2,
- Article 3, paragraphs 1 and 2,
- Article 4, paragraphs 1, 2 and 4,
- Article 5,
- Article 7, paragraph 1,
- Article 8, paragraph 2,
- Article 9, paragraphs 1, 2 and 3,
- Article 10, paragraph 1,
- Article 11.

Article 13

Authorities to which the Charter applies

The principles of local self-government contained in the present Charter apply to all the categories of local authorities existing within the territory of the Party. However, each Party may, when depositing its instrument of ratification, acceptance or approval, specify the categories of local or regional authorities to which it intends to confine the scope of the Charter or which it intends to exclude from its scope. It may also include further categories of local or regional authorities within the scope of the Charter by subsequent notification to the Secretary General of the Council of Europe.

Article 14

Provision of information

Each Party shall forward to the Secretary General of the Council of Europe all relevant information concerning legislative provisions and other measures taken by it for the purposes of complying with the terms of this Charter.

Article 15.3

Signature, ratification and entry into force

In respect of any member State which subsequently expresses its consent to be bound by it, the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 15.2

Signature, ratification and entry into force

This Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Charter in accordance with the provisions of the preceding paragraph.

Article 15.1

Signature, ratification and entry into force



This Charter shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 16.1

Territorial clause

Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Charter shall apply.

Article 16.2

Territorial clause

Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Charter to any other territory specified in the declaration. In respect of such territory the Charter shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.

Article 16.3

Territorial clause

Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

Article 17.1

Denunciation

Any Party may denounce this Charter at any time after the expiration of a period of five years from



the date on which the Charter entered into force for it. Six months' notice shall be given to the Secretary General of the Council of Europe. Such denunciation shall not affect the validity of the Charter in respect of the other Parties provided that at all times there are not less than four such Parties.

Article 17.2 Denunciation

Any Party may, in accordance with the provisions set out in the preceding paragraph, denounce any paragraph of Part I of the Charter accepted by it provided that the Party remains bound by the number and type of paragraphs stipulated in Article 12, paragraph 1. Any Party which, upon denouncing a paragraph, no longer meets the requirements of Article 12, paragraph 1, shall be considered as also having denounced the Charter itself.

Article 18 Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe of:

a any signature;

b the deposit of any instrument of ratification, acceptance or approval;

c any date of entry into force of this Charter in accordance with Article 15;

d any notification received in application of the provisions of Article 12, paragraphs 2 and 3;

e any notification received in application of the provisions of Article 13;

f any other act, notification or communication relating to this Charter.

In witness whereof the undersigned, being duly authorised thereto, have signed this Charter.

Done at Strasbourg, this 15th day of October 1985, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe.