From: Bergur Þorgeirsson [bergurth@hi.is]
Sent: 29. nóvember 2011 02:32
To: Stjórnskipunar- og eftirlitsnefnd.
Subject: athugasemd við frumvarp til nýrrar stjórnarskrár.

sendandi: Bergur Þorgeirsson, dags: 29/11/11 , þingmál: nr. 6 meðferð frumvarps stjórnlagaráðs til stjórnskipunarlaga

Ég Bergur Þorgeirsson ríkisborgariborgari þessa lands,

Vil hér með koma á framfæri jákvæðri athugasemd varðandi atriði í tilögum að nýrri stjórnarskrá. Mér líst vel á möguleikanna sem stjórnarskráin býður almenningi til þess að veita þinginnu aðhald. Ég er sammsinnis hv.
þingamanni Þór Saari í þessum efnum. Sem borgari búandi í þessu landi sem mun sennilega þurfa og vonandi vilja búa hér áfram, þá vil ég að þinginu sé veit meiri aðhald og lýðræðið sé stirkt og að lýðræðið verði helst beinara.

virðingarfylst, og með bestu kveðjum

Bergur Þorgeirsson.

Alþingi
Erindi nr. Þ 140/583
komudagur 30.11.2011

BORGARAHREYFINGIN

Til: Stjórnskipunar- og eftirlitsnefndar Alþingis

Frá: Borgarahreyfingunni (BH)

Efni: Umsögn um frumvarp Stjórnlagaráðs (skýrslu forsætisnefndar um tillögur stjórnlagaráðs um breytingar á stjórnarskrá Íslands og við tillögu til þingsályktunar um meðferð tillagna stjórnlagaráðs sem nefndin hefur nú til umfjöllunar).

Háttvirt Stjórnskipunar- og eftirlitsnefnd Alþingis.

Borgarahreyfingin (BH) lýsir yfir stuðningi við frumvarp til nýrrar stjórnarskrár sem samþykkt var af öllum fulltrúum Stjórnlagaráðs. Það er meginniðurstaða aðalfundar BH sl. september, Lýðræðishóps BH og félagsfundar BH 29. nóvember sl.

Mikilvægt er að ferlið framundan verið opið og lýðræðislegt, og að Stjórnlagaráð, sem og þjóðin, verði höfð með í ráðum við allar þær breytingar sem kunna að vera gerðar á frumvarpinu fyrir afgreiðslu Alþingis.

Á félagsfundi BH 29. nóvember sl., var eftirfarandi ályktun frá Lýðræðishópi BH samþykkt:

„Félagsfundur Borgarahreyfingarinnar lýsir yfir ánægju með tillögu Stjórnlagaráðs að frumvarpi til stjórnskipunarlaga sem samþykkt var samhljóða af öllum fulltrúum ráðsins.

Óbreytt væri tillagan mikil framför frá núgildandi stjórnarskrá, t.d. hvað varðar lýðræði, gagnsæi, ábyrgð og mannréttindi. Auk þess yrði það ótvíræður kostur að ekki þyrfti lengur að vísa til hefða og túlkana.

Mikilvægt er að ferlið framundan verði opið og lýðræðislegt, og engar breytingar gerðar á tillögunni án þátttöku Stjórnlagaráðs og með aðkomu almennings. Innan Stjórnlagaráðs er og hefur safnast mikil sérþekking á þessu sviði og er ráðið fullfært um að vinna úr umsögnum um frumvarpið.

Félagsfundurinn styður efnislega þá tillögu um málsmeðferð sem lögð er til í þingskjali nr. 6, en leggur áherslu á að endanleg niðurstaða Stjórnlagaráðs

færi í viðtæka kynningu og að því loknu í "ráðgefandi" þjóðaratkvæðagreiðslu, helst ekki síðar en 1. maí nk.“

BH styður tillögu þingmanna Hreyfingarinnar auk Róberts Marshalls, Þráins Bertelssonar, Guðmundar Steingrímssonar og Davíðs Stefánssonar. Ef Stjórnlaganefnd mun ekki taka þátt í ferlinu í óbreyttri mynd er lagt til að tryggt verði við lausn þess vanda að þjóðarviljinn komi skýrt fram um þá valkosti sem kjósendur muni velja á milli.

Eindreginn stuðningur BH við frumvarp Stjórnlagaráðs sem heildar leiðir af sér að ekki eru gerðar efnislegar athugasemdir við einstakar greinar frumvarpsins.

f.h. Borgarahreyfingarinnar
Friðrik Þór Guðmundsson

MANNRÉTTINDASKRIFSTOFA ÍSLANDS
ICELANDIC HUMAN RIGHTS CENTRE

Alþingi
Nefndasvið
Austurstræti 8-10
150 Reykjavík

Reykjavík, 29. nóvember 2011

Alþingi
Erindi nr. Þ 140/541
komudagur 30.11.2011

Efni: Umsögn Mannréttindaskrifstofu Íslands um tillögu til þingsályktunar um meðferð frumvarps stjórnlagaráðs til stjórnskipunarlaga, 140. löggjafarþing 2011 -2012. Þingskjal nr. 6 – 6. mál.

Mannréttindaskrifstofu Íslands hefur borist ofangreind þingsályktunartillaga til umsagnar. Markmið tillögunar er að frumvarp stjórnlagaráðs til stjórnskipunarlaga fái ítarlega og vandaða meðferð, sem og umsögn þjóðarinnar allrar áður en Alþingi tekur málið til beinnar efnislegrar meðferðar sem frumvarp.

MRSÍ fagnar tillögunni og ítrekar nauðsyn þess að þetta mál fái vandaða yfirferð sérfræðinga áður en að það verði lagt fyrir þjóðina til álitsgjafar. Í yfirferð MRSÍ um frumvarpið og skýringar með því hefur okkur orðið ljóst að meiri vinnu þarf að leggja í frumvarpið og skýringar þess til þess að það nái að standa undir nafni. Því telur MRSÍ að liður b í þingsályktunartillögunni sé mikilvægur og einnig er nauðsynlegt að setja tímaramma á þessa yfirferð til þess að hún dragist ekki úr hófi.

Nú þegar hefur farið fram einhver kynning á frumvarpi stjórnlagaráðs á almennum vettvangi en alltaf má gera betur. MRSÍ er því sammála að frekari kynning ætti að fara fram til allra landsmanna, í samvinnu við fjölmiðla. Gera þarf almenningi ljóst hversu mikilvægt er að stjórnarskrá landsins, sem er grundvallarplagg hvað varðar stjórnskipan þess og vernd mannréttinda, sé vel samin og standi tímans tönn.

MRSÍ telur einnig nauðsynlegt að vel ígrunduð ákvörðun verði tekin um það hvernig á að bera frumvarp stjórnskipunarlaga undir þjóðina og ljóst er að líta verður til þess sem er hagkvæmast, áhrifaríkast og leiðir til mestrar sáttar fyrir þjóðina í heild.

Virðingarfyllst,

f.h. Mannréttindaskrifstofu Íslands

Margrét Steinarsdóttir

Margrét Steinarsdóttir
framkvæmdastjóri

Túngata 14, 1. hæð – 101 Reykjavik - Iceland
Símar/Phone + 354 552 27 20 – Fax + 354 552 27 21
Netfang/ E-mail: info@mannrettindi.is

Alþingi
Erindi nr. Þ 140/615
komudagur 2.12. 2011

SAMBAND ÍSLENSKRA SVEITARFÉLAGA

Alþingi
b.t. stjórnskipunar- og eftirlitsnefndar
Austurstræti 8 – 10
150 Reykjavík

Reykjavík 30. nóvember 2011

1104019SA
Málalykill: 320

Efni: Umsögn um skýrslu forsætisnefndar Alþingis um tillögur stjórnlagaráðs um breytingar á stjórnarskrá og tillögu til þingsályktunar

6. mál (á bls 3)

Samband íslenskra sveitarfélaga lætur hér í té umsögn sína um ofangreind mál, sbr. fréttatilkynningu frá stjórnskipunar- og eftirlitsnefnd Alþingis dags. 4. nóvember sl.

Skýrsla forsætisnefndar um tillögur stjórnlagaráðs – 3. mál 140. lþ.

Stjórnlagaráð gerir að tillögu sinni að í stjórnarskrá verði fjallað um sveitarfélögin í sérstökum kafla (VII), þar sem í fjórum greinum (105. – 108.) verði ákvæði um sjálfstæði sveitarfélaga, nálægðarreglu, kosningu sveitarstjórna og íbúalýðræði auk samráðsskyldu. Allítarleg greinargerð fylgir þessum ákvæðum þar sem farið er yfir þau markmið sem stjórnlagaráð hafði í huga við tillögugerðina.

Afstaða sambandsins er almennt jákvæð til þessara tillagna stjórnlagaráðs enda felst í tillögunum að inntak sjálfsstjórnarréttar sveitarfélaga verður mun skýrara heldur en leiðir af gildandi ákvæðum í 78. gr. stjórnarskrárinnar, eins og þeim var breytt með stjórnskipunarlögum nr. 97/1995. Þá verður ekki annað séð en að tillögur stjórnlagaráðs um 105. – 108. gr. samræmist ágætlega nýjum sveitarstjórnarlögum sem Alþingi hefur nýlega sett og taka gildi um komandi áramót.

Mikilvægt er þó að skýringargögn í stjórnarskrárvinnunni taki algerlega af skarið um að stjórnarskráin sjálf takmarki ekki sjálfsforræði sveitarfélaga í fjárhagslegum efnum en á slíkum sjónarmiðum örlaði nokkuð í kjölfar breytingarinnar árið 1995.

Sambandið telur að í tillögunum sé tekið ágætt tillit til Evrópusáttmála um sjálfsstjórn sveitarfélaga. Í 4. gr. þess sáttmála er m.a. kveðið á um nálægðar- eða grenndarregluna og í 9. gr. er kveðið á um að tekjustofnar sveitarfélaga skuli vera fullnægjandi og í samræmi við lögbundin verkefni.

Það sem einkum vantar upp á að sáttmálinn geti talist að fullu innleiddur í landsrétt er að sveitarfélög geti borið undir dómstóla meint brot gegn sjálfsstjórnarréttinum, sbr. 11. gr. sáttmálans. Um þetta atriði vísast til skýrslu sérfræðinganefndar Evrópuráðsins – Local democracy in Iceland, frá 2. mars 2010, sem er fylgiskjal með umsögninni. Sambandið óskar eindregið eftir því að þetta atriði verði skoðað í meðförum Alþingis en bendir jafnframt á þann möguleika að sveitarfélög eða samtök þeirra öðlist heimild til að beina málinu til Lögréttu, sbr. 62. gr. frumvarpstillögu stjórnlagaráðs.

Borgartúni 30, pósthólf 8100, 128 Reykjavík, sími 515 4900, fax 515 4903, samband@samband.is, www.samband.is

Til frekari rökstuðnings fyrir framangreindum sjónarmiðum ber að hafa í huga að ýmislegt í löggjafarferlinu getur mögulega farið á svig við sjálfsstjórnarréttinn. Þannig má benda á nýlegar breytingar á sænsku stjórnarskránni, þar sem nýtt ákvæði kveður á um að takmörkun á sjálfsstjórnarrétti sveitarfélaga megi ekki ganga lengra en nauðsynlegt er til að ná því markmiði sem að er stefnt (meðalhófsregla). Þetta ákvæði felur í sér að meta þarf við hverja lagasetningu hvaða áhrif ákvæði frumvarpa hafa á sjálfsstjórnarrétt sveitarfélaga. Ef hægt er að ná markmiði laga eftir mismunandi leiðum á að velja þá leið sem takmarkar sjálfsstjórnarréttinn minnst.

Sambandið fer þess á leit að við meðferð Alþingis á málinu verði tekin afstaða til þess að við tillögu stjórnlaganefndar um 1. mgr. 105. gr. komi viðbót sem efnislega verði á þá lund að metið skuli við lagasetningu hvaða áhrif ákvæði frumvarpa hafi á sjálfsstjórnarrétt sveitarfélaga.

Loks vill sambandið árétta að í 2. mgr. 2. gr. frumvarpstillögunnar er nauðsynlegt að bæta sveitarfélögum inn í upptalningu á handhöfum framkvæmdavalds, í samræmi við stjórnskipulega stöðu þeirra. Upptalningin ætti því að hljóða svo: *Forseti Íslands, ráðherrar og ríkisstjórn, sveitarfélög og önnur stjórnvöld fara með framkvæmdarvaldið.*

Önnur ákvæði í tillögu stjórnlaganefndar

Eðli málsins samkvæmt hafa ýmis önnur ákvæði stjórnarskrár (en þau sem að ofan greinir) þýðingu fyrir sveitarfélögin og hefðu fulltrúar sambandsins mikinn áhuga á því að koma á fund stjórnskipunar- og eftirlitsnefndar til að reifa frekari sjónarmið en fram koma í þessari umsögn. Má t.d. nefna að Samband íslenskra sveitarfélaga er virkur þátttakandi í gerð lagafrumvarpa á vettvangi ráðuneyta auk þess að eiga í miklum samskiptum við Alþingi um meðferð þingmála. Myndu fulltrúar sambandsins því mjög gjarnan eiga skoðanaskipti við nefndina um ákvæði sem varða breytingar á þinglegri meðferð frumvarpa og einnig ákvæði um frumvörp sem lögð eru fram að frumkvæði kjósenda.

Af ákvæðum í frumvarpstillögunni sem snert geta sveitarfélögin og virðast kalla á frekari skoðun má sérstaklega nefna ákvæði 24. gr. um menntun. Telur sambandið eðlilegt að stjórnskipunar- og eftirlitsnefnd láti gera sjálfstæða úttekt á mörgum álitamálum sem upp koma í þessu sambandi og vikið er að í skýringum stjórnlagaráðs við 24. gr. Ekki hefur gefist nægur tími til þess að skoða þau álitamál öll ofan í kjölinn af starfsmönnum sambandsins en í umræðum hefur verið bent á að hafa beri hliðsjón af stjórnarskrám á Norðurlöndum og því hvernig menntunarhugtakið er skilgreint þar og í alþjóðlegum sáttmálum. Sérstaklega leggur sambandið áherslu á að mun skýrara væri að kveða á um að kennsla án endurgjalds skuli standa þeim til boða sem skólaskylda nær til, heldur en „nám", sem er mun víðara hugtak.

Sú skýring stjórnlagaráðs að nýju menntunarákvæði sé ekki ætlað að breyta „ríkjandi réttarástandi menntamála eins og því er lýst í lögum nr. 91/2008, um grunnskóla" þarfnast einnig nánari skoðunar við, einkum með tilliti til þess að óvissa kann að koma upp um það hvort lög um leikskóla falli undir tilgreiningu 1. mgr. 24. gr. þ.e. „réttur til almennrar menntunar". Það hvort leikskólinn teljist til „almennrar menntunar" í skilningi stjórnarskrárinnar er túlkunaratriði sem getur

haft verulega þýðingu. Má þar einkum nefna tvö álitaefni, annars vegar hvort áskilnaður um dvalargjald í leikskóla útiloki einhvern hóp frá „almennri menntun"; hins vegar hvort jafnræðisregla takmarki svigrúm ábyrgðaraðila til þess að ákveða starfstíma leikskóla, m.a. með tilliti til sumarleyfa.

Ákvæði um framfærslurétt í núgildandi stjórnarskrá hefur reynst vandmeðfarið og mikilvægt að huga vel að áhrifum sem breytt framsetning þess getur haft, sbr. tillögu stjórnlagaráðs um 22. gr. Þannig verður að telja umhugsunarvert hvort orðið „fátækt" eigi að koma í stað „örbirgðar". Minnt er á að mælikvarðar um „fátækt" eru mjög fljótandi og verða auðveldlega að pólitísku bitbeini.

Hvað varðar ákvæði 33. og 34. gr. gr. um náttúruvernd og náttúruauðlindir skal tekið fram að á það hefur verið lögð áherslu af hálfu sambandsins að jafnvægi þurfi að ríkja á milli verndar og nýtingar lands og landgæða, með sjálfbærni að leiðarljósi.

Þar sem nýlega voru samþykkt ný sveitarstjórnarlög, þar sem er m.a. að finna ákvæði um almennar atkvæðagreiðslur bendir sambandið á að tryggja ætti samræmi á milli ákvæða 65. og 67. frumvarpstillögunnar og 108. gr. sveitarstjórnarlaga, eftir því sem við á.

Loks bendir sambandið á að í sveitarstjórnarlögum eru ný ákvæði um fjármálareglur og að gerð fjárhagsáætlana sveitarfélaga skuli vera lokið fyrir 15. desember ár hvert. Mikilvægt er að fjárlög ársins hafi verið samþykkt tímanlega til að sveitarstjórnir geti tekið mið af því sem þar er ákveðið. Leggur sambandið til að í 68. gr. frumvarpstillögunnar verði bætt ákvæði um að fjárlög skuli í síðasta lagi hafa verið afgreidd fyrir 15. nóvember ár hvert.

X **Tillaga til þingsályktunar – 6. mál 140. lþ.**

Sambandið telur að það ferli sem þingsályktunartillagan gerir ráð fyrir sé eðlilegt en ljóst er að verulegur kostnaður mun falla til á ýmsum stigum þess. Einkum er hin ráðgefandi þjóðaratkvæðagreiðsla líkleg til þess að vinda upp á sig enda um flókna framkvæmd að ræða, sér í lagi ef ætlunin er að greiða atkvæði um einstakar greinar. Í núverandi efnahagsástandi er vart hægt að réttlæta slíkan kostnað og fyrirhöfn nema breið samstaða sé í þingheimi að afgreiða megi endanlegt frumvarp til stjórnskipunarlaga frá Alþingi í tæka tíð fyrir næstu reglubundnar þingkosningar sem eiga að fara fram í apríl 2013.

Virðingarfyllst
SAMBAND ÍSLENSKRA SVEITARFÉLAGA

Karl Björnsson
framkvæmdastjóri

The Congress
of Local and Regional Authorities

Chamber of Local Authorities

18th SESSION
CPL(18)3
2nd March 2010

Local democracy in Iceland

Institutional Committee
Rapporteur: Esther MAURER, Switzerland (L , SOC[1])

Summary

The report considers the situation of local democracy in Iceland and the effects of the financial crisis on local authorities. It is the first monitoring report since Iceland ratified the European Charter of Local Self-Government in 1991. The overall assessment of the situation shows that the state of local democracy in Iceland is in compliance with the Charter. The national and local authorities in Iceland have made major efforts to deal with a crisis which has had a significant impact on local authorities, without undermining local self-government. These efforts fit in with a willingness to move ahead with the reforms under way, in particular the process of merging municipalities. The recommendation urges the Icelandic authorities to raise the minimum threshold below which the merger of local authorities is compulsory so as to further reduce the number of municipalities, while also granting the city of Reykjavik a special status and setting up a support fund for local authorities particularly hard hit by the crisis. In addition, the Icelandic authorities are urged to introduce appropriate legislation to give local authorities a right of appeal against decisions taken at national level which might infringe principles of local self-government.

[1] L: Chamber of Local Authorities/R: Chamber of Regions
ILDG: Independent and Liberal Democrat Group of the Congress
EPP/CD: Group European People's Party - Christian Democrats of the Congress
SOC: Socialist Group of the Congress
NR: Member not belonging to any political group of the Congress

A. DRAFT RECOMMENDATION[2]

1. The Congress, bearing in mind the proposal of the Chamber of Local Authorities, having regard to:

a. article 2 para. 1b, of Statutory Resolution (2000)1, which provides that one of the functions of the Congress is "to submit proposals to the Committee of Ministers in order to promote local and regional democracy";

b. article 2, paragraph 3 of Statutory Resolution (2000)1, which provides that "The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented";

c. the explanatory memorandum hereafter on the situation of local democracy in Iceland, presented by Ms Esther Maurer.

2. Noting that:

a. Iceland became a member of the Council of Europe on 7 March 1950 and on 25 March 1991 ratified the European Charter of Local Self-Government (CETS No 122, hereafter the Charter), which came into force for Iceland on 1 July 1991;

b. the state of local democracy in Iceland has not been the subject of a report by the Congress since the country ratified the Charter;

c. the Institutional Committee of the Chamber of Local Authorities of the Congress appointed Ms Esther Maurer (Switzerland, L, SOC) as rapporteur to prepare and submit a report on local democracy in Iceland;

d. Ms Maurer made an official visit to Iceland on 15 and 16 June 2009, accompanied by Mr Francesco Merloni (Italy), Consultant, Chair of the Group of Independent Experts.

3. Underlines the scale of the efforts made and the ability of the national and local authorities to deal with a major financial crisis and its economic and social consequences without undermining local self-government.

4. Welcomes Iceland's signature on 18 November 2009 of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No 207), which it hopes the country will shortly also ratify.

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[2] Preliminary draft recommendation approved by the Institutional Committee of the Chamber of Local Authorities on 15 February 2010

Members of the Committee of the Chamber of Local Authorities:
E. Calota (Chair), R. Aguilar Rivero, J. Almeida Barreto, M. Y. Barcina Angulo, J. Brons, M. Catovic, V. Chilikov, *M. Cohen*, B. Collin-Langen, M. Cools *(alternate)*, A.U. Erzen (*alternate: G. Doganoglu*), *J. Gabriels*, A. Gravells (*alternate: N. Mermagen*), *M. Guégan*, M. Gulevskiy (*alternate: V. Belikov*), *E. Yeritsyan* (*alternate*), *G. Illes*, W. Kelsch, *O. Kidik*, I. Kuiichenko (*alternate: Y. Kartashov*), F. Lec, *Y. Mischeriakov*, *L. O. Molin*, J. Mrazek, A. Muzio (*alternate: F. Pellegrini*), *C. Newbury*, A. Rokofillou, *B. Rope*, K. Bene (*alternate*), J. Wienen *(alternate)*, *D. Zmegac.*

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

Secretariat of the Committee: S. Poirel

5. *Recommends that the Committee of Ministers invite the Icelandic authorities to:*

a. clarify their fundamental legislation on the basis of the subsidiarity principle, making provision for a clear division of responsibilities between central government and local authorities;

b. grant the city of Reykjavik a special status, on the basis of Congress Recommendation 219 (2007), establishing different legal arrangements to take account of the particular situation of the capital compared with other municipalities;

c. pass legislation giving the European Charter of Local Self-Government legal force as a directly applicable source of law in the domestic legal system;

d. stipulate in domestic legislation the cases in which the Minister responsible for local government may exercise supervision over local authorities' performance and set out the related procedures, which must be based on the principle of local authorities being given a due hearing;

e. clarify both the situations in which local authorities may be involved in their national decision-making, by envisaging, for example, the right to consult the local authorities to which the state would be bound, and also the related procedures;

f. raise the minimum threshold below which the merger of local authorities is compulsory and make provision for a combination of criteria based in particular on merger processes being economically and geographically rational and on inhabitants' "municipal identity" being preserved as far as possible before consideration is given to mergers;

g. set up a support fund for local authorities particularly hard hit by the crisis so that they are able to continue delivering certain social services;

h. introduce appropriate legislation to give local authorities a right of appeal against decisions taken at national level which might infringe principles of local self-government enshrined in the Charter.

B. EXPLANATORY MEMORANDUM

I. Introduction

a. Preliminary remarks

1. Under Article 2.3 of Statutory Resolution (2000)1 of the Committee of Ministers of the Council of Europe, the Congress of Local and Regional Authorities (hereafter referred to as the Congress) prepares regular reports on the situation of local and/or regional democracy in all member States and in States wishing to accede to the Council of Europe[3].

2. The state of local democracy in Iceland has not previously been subject to a monitoring visit by the Congress. The Institutional Committee decided to give priority as from 2009 to the last countries which signed and ratified the European Charter of Local Self-Government and have not yet been the subjects of a monitoring report. A visit to Iceland was therefore arranged.

[3] Iceland became a member of the Council of Europe on 7 March 1950. It has ratified the European Charter of Local Self-Government (hereafter referred to as the Charter), which came into force for Iceland on 1 July 1991. It is represented in the Congress of the Council of Europe, where it has 6 seats, 3 in the Chamber of Local Authorities and 3 in the Chamber of Regions.

3. For the current monitoring exercise Esther Maurer (Switzerland, SOC) was appointed local democracy rapporteur. She was assisted in her work by a consultant, Professor Francesco Merloni (Italy), Chair of the Group of Independent Experts on the European Charter of Local Self-Government, and by Mrs Stéphanie Poirel (Congress Secretariat), Secretary a.i. of the Institutional Committee.

4. During its visit to Iceland from 15 to 17 June 2009, the monitoring delegation met a number of representatives of the Icelandic authorities at both local and central (Government and Parliament) levels and of the Icelandic Association of Local Authorities, as well as experts and the mayors of a small, a medium and a large municipality (a detailed programme of the visit is appended to the report).

5. The present report has been based on information received during the visit to Iceland, extracts from relevant legislation and other information and documents supplied by representatives of the Icelandic authorities and by experts.

6. The delegation wishes to express its appreciation to all those it met in Reykjavik and elsewhere in Iceland and to all the other persons who gave it information useful in the preparation of this report. Particular mention should be made of the Minister of Transport, Communications and Municipal Affairs, Members of the Icelandic Parliament, the Mayor of Reykjavik, as well as their colleagues ; the mayors of Borgarbyggð, Árborg and Ölfus ; the Icelandic delegation to the Congress, representatives of the Icelandic Association of Local Authorities ; the Head of the Political Sciences Department of the University of Iceland, the Icelandic expert of the Independent Group of Experts on the European Charter of Local Self-Government.

b. Scope of the monitoring exercise (15 to 17 June 2009)

7. The 2009 visit to examine the state of local democracy in Iceland was made in order to monitor the implementation of the European Charter of Local Self-Government and evaluate the effects of the financial crisis on local authorities in Iceland.

II. Territorial organisation of Iceland

8. Iceland has an area of about 100,000 km² and a population of around 319,000 scattered very unevenly across the country: the conurbation of Reykjavik (the capital itself and the six adjoining municipalities) has a population of over 201,000[4], with fewer than 120,000 people living in the rest of the country. The municipalities are generally very spread out and thinly populated, except in the Reykjavik region.

a. Institutional framework

9. Iceland is one of the oldest and strongest democracies in Europe, a characteristic it owes largely to its local authorities, which in historical terms preceded the nation State. The former parishes date from the 12th century and their right to impose taxation from the 11th century. The institutional system is based on only two tiers of government: the State and the local authorities (municipalities or *sveitarstjórn*)[5].

10. The system's relative simplicity encourages direct relations between the State and the municipalities. However, several administrative responsibilities which in most European countries are held by the municipalities are here a matter for the State. The police come entirely under the State, as does health. In the education sphere, only primary and pre-schools are a municipal responsibility.

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[4] As to 01-01-2009.

[5] A secondary tier (the amt) was established by the first local governments act from 1872, but abolished in 1907, followed by another, intermediate tier (the sýslufélag), which was abolished in 1987.

b. Legal framework of local self-government

6. Local self-government is guaranteed by the Constitution, Article 78 of which establishes the following basic principle: "The municipalities shall manage their affairs independently as laid down by law. The income sources of the municipalities, and the right of the municipalities to decide whether and how to use their sources of income, shall be regulated by law."

7. The Constitution lays down the principle of the existence of municipalities and leaves the determination of responsibilities to the law, without directly defining criteria or principles for the division of responsibilities between State and municipalities (the principle of subsidiarity is not formally included in the Constitution).

8. Once responsibilities have been allocated, the Constitution establishes the principle of the right of direct management without interference from central government.
The chief laws defining the legal arrangements governing local authorities, in pursuance of the principles of the Constitution are:

i. Local Government Act (Law No 45 of 1998, amended in 1998, 2003, 2004, 2005 and 2006);
ii. Local Government Elections Act (Law No 5 of 1998, subsequently amended);
iii. Local Government Financing Act (Law No 4 of 1995, subsequently amended).

9. The basic act, the Local government Act, (Law No 45 of 1998) comprises 105 articles (as well as five transitional provisions) divided into 11 sections. The act mostly consists of statements of principles, but also contains some more detailed provisions.

10. The basic act does not define any minimum level of responsibilities which should fall within the exclusive responsibility of the municipalities, in the form either of principles or criteria to be observed or of a list of responsibilities. Allocation of the different responsibilities between State and local authorities is governed by the ordinary legislation adopted by the *Althingi* (the Icelandic Parliament).

11. While the solution adopted by the Icelandic act respects the principle of lawfulness contained in Article 4, paragraph 1 of the Charter, it does not allow an evaluation of the actual observance of the principle of subsidiarity (Article 4, paragraph 3) or that of exclusivity (Article 4, paragraph 4). The Icelandic Association of Local Authorities has never complained about the allocation of responsibilities, but it would perhaps be a good idea for the basic legislation to offer better safeguards.

12. Besides the absence of provisions concerning responsibilities, the basic act rests on the principle of uniformity for the regulation of other fundamental aspects of the legal arrangements governing local authorities.

13. Sections II (municipal councils and council meetings), III (rights and obligations of municipal councillors) and IV (committees and boards) lay down common rules for definition of the policy-making bodies of municipalities and their basic functioning.
The same uniformity is used for the rules on local finance and accounting (municipal finances, i.e. budget, bookkeeping, auditing, Section VI). Special rules apply to State monitoring of municipal finances and of municipalities in financial difficulties (Chapter VII).

14. Conversely, the greatest variety is found in the internal organisation of Icelandic municipalities. Section V (municipal administration and employees) allows municipalities to choose their own organisation, starting with the possibility of appointing, or choosing not to appoint, a "municipal administrator" (mayor). If appointed from outside the council, the mayor is the head of administration and attends council meetings without the right to vote. If no mayor is appointed, the functions of head of administration fall to the leader of the municipal council. Every municipality is therefore free to decide on the internal organisation of its departments and to lay down the responsibilities of the head of administration, the executive board (if the municipal council decides to have such a body) and municipal officials.

15. This general freedom, which complies with the principle of Article 6, paragraph 1 of the Charter, could, however, be limited by sectoral legislation, which can allocate responsibilities and impose organisational constraints (e.g. a requirement for specific departments and services to be created) on the exercise of the assigned responsibilities.

c. Financial independence of local authorities

16. The Icelandic system of funding local authorities is based largely on the receipt of independent income through taxes earmarked for them (land tax and income tax), with the possibility of determining the percentage which is their due (up to a certain limit). The independent levying of tax is accompanied and corrected, in the interests of solidarity, by the national Equalisation Fund, which is transferred in the form of non-earmarked grants. Expenditure also enjoys a very extensive degree of independence.

17. The system therefore possesses all the features demanded by the Charter of Local Self-Government (Article 9).

18. An equally positive view may be taken of the provisions of Chapter VII of the basic act relating to the monitoring of municipal finances and to municipal authorities in financial difficulties. The instruments for dealing with crisis situations are always devised in a spirit of co-operation, and not with the aim of hierarchical supervision of municipalities by the State.

III. Adoption of the European Charter of Local Self-Government by the Icelandic legal system

19. From the viewpoint of international law, Iceland is a dualist country, in that it does not automatically give legal force to international treaties, as a source of law, in its domestic legal system.

20. Under international law Iceland is consequently required to observe the Charter which it signed in 1985 and ratified in 1991 without expressing any reservations, but has not considered it necessary to pass laws to give the Charter legal force as an immediately applicable source of law.

21. Because of this situation, the Charter is not very well known, particularly to local authorities, and is seldom used by Icelandic municipal authorities (or by their national association) in negotiations with central government.

22. At national level, both Parliament and Government say that they are well aware of the obligations deriving from ratification of the Charter, with which they believe current legislation to be fully consistent.

IV. The main current reform processes

a. Finding an acceptable size for municipalities

23. Iceland appears to be the country which attaches the greatest importance to policies for the expansion of grass-roots local authorities. As already mentioned (see above), the situation of Icelandic municipalities differs widely in terms of both population and area. The population data are significant in this respect: only nine municipalities (out of a total of 77) have more than 5,000 residents, and the population of another 44 is below 1,000.

24. The serious handicap affecting the smallest municipalities, which are considered incapable of offering their citizens, by themselves, the majority of basic activities and public services, has led to a broad consensus between the political parties at national level and the local authorities themselves (and their national association) on the objective of expanding municipalities through a policy of merging existing municipalities: Icelandic law does not overlook - and even encourages – inter-municipal co-operation (jointly owned agencies, federations of municipalities), but merger is regarded as the major instrument.

25. In principle, mergers are voluntary. The applicable procedure is defined in Articles 90 and 91 of the basic act. The merger proposal is submitted to a referendum open to all residents of the municipalities concerned. A particular majority is required for the population of a municipality to reject a merger proposal.

26. A merger is compulsory only for municipalities with a population of fewer than 50, which is the minimum defined in Article 6 of the basic act. The procedure complies fully with the criteria for local self-government, and therefore conforms to the principle of Article 5 of the Charter.

27. The merger policy has produced remarkable results: the number of municipalities has fallen from 204 in 1990 to 77 today. People interviewed during the visit said that this reduction was still not satisfactory. In itself, the merger policy is not incompatible with the Charter because it respects the limits set in Article 5 (which requires the population concerned to be consulted, possibly by means of a referendum).

28. Iceland's experience is of great interest to all Council of Europe member States, especially those that have so far ruled out the use of general merger policies as a solution to problems caused by the inadequate size of their grass-roots local authorities. The size of their local authorities does not allow them to carry out the increasing duties of local self-government resulting from the devolution process.

29. The first point of interest is that this policy is dictated primarily by a concern for efficiency. The whole of Iceland's administrative sector homes in on the fact that excessively small local authorities are very weak and cannot even provide the most basic services by themselves. They rely on their bigger neighbouring municipalities for service provision to their inhabitants and they are also heavily dependent financially on the Municipal Equalisation Fund. Expanding them generally makes it possible, particularly for the smallest municipalities, to improve the quality of local administration through the resulting synergies, economies of scale and enlarged responsibilities compared with the advantages usually accruing through co-operative solutions. A new municipality with a smaller number of councillors, departments and services, is more efficient and responsible than all the previous municipalities, even if they had been working together.

30. The second is that the expansion of municipalities is regarded as a basic tool for further devolution of State responsibilities to municipalities: only municipalities possessing strong administrative structures and (financial and skilled human) resources will be able to cope with, and aspire to, a greater number of responsibilities currently dealt with at national level.

31. The great debate taking place in Iceland about the merger of municipalities particularly concerns that policy's potential drawbacks, such as the fact that citizens - particularly those of the smallest municipalities furthest away from the new municipal centre - live a long way from certain services, the loss of municipal identity and the impression of a relative loss of political influence over decision-making processes in the merged communities, and the greater marginalisation than before the merger of some parts of municipal territory.

32. Certain other drawbacks may also result from a decision to carry out only voluntary mergers. Such a choice is theoreticaiiy more compliant with the principie of respect for the wishes of the popuiations concerned set out in Article 5 of the Charter. Some cases of resistance to a rational merger have been observed: for example, a municipality slightly exceeds the threshold of 50 residents and rejects the proposed merger; another municipality finds itself completely surrounded by the territory of another (following a merger) and remains opposed to merger with that surrounding municipaiity, leading to an incomprehensible geographical discontinuity (and problems for effective service provision).

33. in Iceland, the strictly political seems to play a minor role when municipalities have to take decisions about participation in planned mergers, whiie other aspects (e.g. cultural rivalry) may jeopardise mergers which would be both effective and useful.

34. Bearing in mind that the merger policy complies fully with Icelandic legislation, we can simply suggest the introduction of certain useful corrections such as raising the 50-resident threshold or linking the voluntary nature of mergers with their rationality, for example encouraging only mergers that create rational municipalities, or altering the quorum needed for referendums to be valid (Article 91 of the basic act) where mergers are rational.

35. Yet another possibility would be to confer a more active role as far as co-operation is concerned on the bodies responsible for conducting the merger process (national Ministry and joint committee of the municipalities concerned), inter alia through use of a more efficient system of merger premiums.

b. Iceland's response to the economic crisis

36. The serious economic crisis which has severely affected Iceland in general has also had repercussions for local authorities. The broad financial autonomy that they enjoy is therefore both an advantage and a drawback.

37. On the one hand, municipalities can act with greater speed and efficiency on the local economy and on social service provision, which constitutes the first line of defence against the most serious effects of the recession. On the other hand, the drastic reduction in personal incomes is leading to a fall in tax receipts, affecting municipalities' capacity to meet their service obligations.

38. At a time of economic crisis, citizens have greater need of public services, particularly social services, which for the most part are the responsibility of local authorities. The financial aid has increased by 68% between the years 2008 and 2009 in Reykjavik city. In some municipalities the increase has been over 100% and even up to 160%. In addition, municipalities are required to reimburse citizens who, after leasing a building plot and paying for building rights and building fees, are entitled to return these assets in exchange for the sums paid.

39. In the course of its interviews the delegation noted that most local authorities had been hard hit by the crisis, but found that considerable confidence prevailed among national and local officials that the crisis could be rapidly overcome. If it turns out that the "financial bubble" has been profitable for years in some municipalities, it is common that fishermen who already knew the crisis in the fishing industry a few years ago, now face difficulties additional of another nature.

40. All leading players in the Icelandic administrative system - Parliament, the Ministry, the national association and the various municipalities - showed themselves fully aware of the risks to local self-government posed by an economic crisis: risk of a loss of confidence by citizens in local institutions, risk of centralisation of decision-making or, worse still, risk of financial and budgetary management of the municipalities being placed under State control[6].

[6] One municipaiity is now in this situation.

41. The same parties expressed determination to deal with the crisis, increasing the opportunities for intergovernmental co-operation. The fundamental message is that pre-crisis policies will be continued, starting with the reduction in the number of local authorities; Iceland thus intends to continue the merger policy.

42. Another significant response to the economic crisis which was observed by the delegation is *bipartisan* co-operation on certain necessary action. This is a novelty in Iceland, where - despite the proportional representation system - a clear polarisation traditionally exists between majority and opposition. While still scarcely discernible at national level, more signs of this new attitude can be seen at local level: for example, because of the crisis and the policy decisions needing to be made, Borgarbyggð municipality has decided to introduce joint management of municipal bodies (council and council committees)[7]. The mayor of Reykjavik moreover does the same thing when she took office.

43. Mention should also be made of action intended to produce a drastic cut in public expenditure, including expenditure at local level, where administrative machinery is of modest scale and already seems to have been pared to the bone. The delegation was made aware of several cases where committees had been set up to identify, with the active help of the staff, costs which could be cut, or even eliminated.

44. A significant example is the policy – a temporary but relatively large-scale one - of wage cuts. This is directed at payments for overtime and is being implemented on a shared and progressive basis (bigger reductions on higher salaries). This policy is being applied everywhere, but was observed in operation in the largest municipality in the country, Reykjavik. On the other hand, local authorities are endeavouring to maintain (or, where appropriate, increase) expenditure on the social services which fall within their responsibility. The conditions that have been asked to reduce government spending helped to give confidence to citizens and employees of public services.

45. Overall the economic crisis in Iceland seems to have awakened feelings of social solidarity and co-operativeness among the various administrative bodies, noteworthy as a groundbreaking experiment or as recommended good practice for other countries required to deal with a crisis on a similar scale involving the same social consequences, showing how to overcome situations of great difficulty, especially in financial terms, without reducing the independence of local authorities or their capacity to find for themselves differentiated solutions matching their citizens' needs.

V. Points for special attention

46. Although the Congress delegation gave most of its attention to the policies on mergers and on tackling the economic crisis, certain other points also deserve to be examined in greater detail.

a. Uniform legal arrangements by local authorities

47. As already mentioned (see above), the fundamental legislation on local authorities draws to a great extent on the principle of uniformity. All municipalities possess the same legal status, without any significant differences. All parties interviewed by the delegation - representing Parliament, the Ministry, the national association - confirmed their commitment to the uniformity principle.

[7] Regrettably the consenus policy in Borgarbyggð collapsed recently over budget cuts to primary schools.

48. A specific purpose is served by this principle: for central government, a uniform allocation of responsibilities makes possible a clearer division of administrative tasks and systems (differences can otherwise lead to diversified central administration, present for certain municipalities and absent for others). For local authorities, uniformity simplifies the quest for internal unity (within the national association) and the unified demands relating to the responsibilities to be transferred and the financial resources needed.

49. The European Charter of Local Self-Government confines itself (Article 4, paragraph 1) to requiring local authorities' powers and responsibilities to be in accordance with the law, favouring neither uniform nor differentiated arrangements.

50. There is a need to examine whether, in the case of Iceland, characterised by great differences in types of municipality, there would not be justification for a degree of openness to differentiation of the legal arrangements, in order to improve the supervision of local self-government. The delegation was able to examine the two extreme cases, namely those of the capital Reykjavik and of the smallest municipalities.

51. The municipality of Reykjavik is governed by the same legal arrangements as other Icelandic municipalities, with no differentiation in either the responsibilities assigned or resources. The financing system takes no account of the additional costs which the city may have to bear owing to the presence of national bodies (Parliament and central government) and external entities (embassies and diplomatic offices).

52. The Charter does not directly cover the situation of capital cities and simply establishes the principle of the existence of local authorities in every part of a country's territory. In capitals, there must be a local authority exercising the statutory rights and supervisory duties of local authorities.

53. The Congress has taken an interest in the status of capital cities, stating in Recommendation 219 (2007) that it:

"5. Considers it justified, in view of specific problems which capital cities face, that they are rewarded with a special constitutional or legal status, such as granting the municipality of the capital city regional or provincial status or giving it the power to enact specific regulations;"

"recommends that member States [...]
iii. involve the municipal government of the capital city, which is in the process of being granted a special status, in the decision-making process, guaranteeing the possibility of prior consultation, according to Article 4.6 of the European Charter of Local Self-Government (as should be the case with every new legislation with an impact on the capital city); [...]
vi. provide the capital cities with sufficient capacity to raise their revenues in order to run their administration, fulfilling their functions as national capitals; ".

54. The Council of Europe is therefore in favour of capital cities being granted a special status, as regards either the allocation of responsibilities or the financing of their special duties and responsibilities as capital cities.

55. If this were done for the city of Reykjavik, the result could be differentiated arrangements in respect of:

i. the city's responsibilities and financial arrangements;
ii. the setting up of special institutions among the municipalities of the urban area of Reykjavik;
iii. the setting up of devoived institutions (and institutions involving citizen participation) specific to the municipality of Reykjavik, like those in most of Europe's capital cities.

56. Iceland's fundamental policy for dealing with the problems stemming from the small size of municipalities is to expand them through mergers.

57. Looking beyond any debate about this policy, we should examine the possibility of adopting a differentiated legal system in cases where, once the merger process has been applied to its fullest extent, municipalities are still too small to exercise appropriately the responsibilities uniformly assigned to all of Iceland's local authorities.

58. Such differentiation might concern, for example:

i. certain responsibilities which might be assigned, not to each municipality individually as before, but to (compulsory) forms of inter-municipal association and co-operation or, if necessary, be maintained at national level (in the case of small municipalities);

ii. special financial arrangements;

iii. a special scheme entailing administrative support from the State (without adverse effects on local self-government: this administrative support would not involve any unjustified form of control).

59. An examination should be made of whether, whilst uniform legal arrangements are retained as the traditional model for the supervision of local self-government, municipal independence might not, in certain specific cases, be better guaranteed through recognition of the existence of different situations.

b. State control of local authorities

60. The basic legislation does not provide for general and systematic controls of the acts of local authorities. Here Iceland consequently seems far in advance of other European countries, in most of which local authorities are usually subject to such controls.

61. However, there should be further clarification of the meaning of Article 102 of the basic act (Local Government Act - Law No 45 of 1998) whereby "The Ministry shall monitor municipal councils' performance of their duties as provided in this Act and in other lawful directives".

62. The matter is a sensitive one because the consequences of neglect of duties would be fairly serious: the Ministry issues a "reprimand" and calls on the council to rectify matters, and may eventually, if necessary, suspend payments from the Equalisation Fund or, even worse, apply for "daily penalties" to be imposed.

63. The national association has given an assurance that the quality of its relations with the Government has precluded all action by the Ministry pursuant to Article 102. However, this provision is fairly general and theoretically enables central government to interfere in any way that it wishes with the autonomy of Icelandic municipalities.

64. It would also be appropriate to determine more precisely how the government becomes aware of failures by the municipalities, i.e. are data collected systematically or only in the most serious and obvious cases of failure to discharge responsibilities. Only financial data are collected systematically. In a typical case the Ministry would become aware of a failure through a complaint to the Ministry from an inhabitant or a minority councillor.

65. In addition, the article does not specify whether the Ministry's power relates to local authorities' own or their delegated responsibilities.

c. Participation rights

66. The Article 4, paragraph 6 of the Charter provides that "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".

67. Article 100 of the basic act provides for "formal collaboration with organisations of municipalities, by means of a collaborative agreement between the State and municipalities". The same article provides that the "government shall act in close consultation with the Association of Local Authorities".

68. Article 101 furthermore guarantees the setting up of a "consultative committee" for advance examination for preventive purposes of any "major changes [...] proposed to division of responsibilities or financial relations between the State and municipalities".

69. It therefore appears not only that Icelandic legislation is fully compliant with the Charter.

70. The Icelandic example deserves to be reported as a good practice: Iceland's legislation expressly contains the principles which should be imposed on all signatory countries by the Charter. However, it would perhaps be a good idea to specify participation rights more precisely, for example giving a more detailed definition of the procedures to be followed.

d. Decentralised State structures

71. All forms of intermediate authority between the State and the municipalities have been abolished in Iceland in order to ensure improved local self-government. However, the country retains certain structures covering a larger area than that of municipalities.

72. Firstly, there are a number of operational districts which vary in size according to the functions discharged. The biggest are the 26 districts managed by commissioners responsible for collecting taxes and some other state administrative tasks. There are also 15 police districts. A government proposal to reduce them to 6 has been presented. These districts are decentralised State structures which have no power of supervision over municipalities.

73. Secondly, regional committees exist as provided for by Article 86 of the basic act, namely regional federations of municipalities established by municipalities on a voluntary basis and approved by the Ministry.

e. Judicial supervision of local authorities

74. Article 11 of the Charter provides that "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".

75. The Icelandic Constitution makes no provision for a constitutional court to review the lawfulness (the conformity with the Constitution) of domestic legislation. This situation deprives local authorities of all means of defence against any legislation contrary to the constitutional principle of local self-government.

76. As regards the Charter, the failure to adopt it as a source of domestic law prevents any form of monitoring of the compliance with the Charter of both the law and government decisions.

77. Local authorities' only remedy lies in an application to the ordinary courts. Such applications are not regulated by legislation. It is therefore uncertain whether a municipality can apply to the courts for non-application of a law which is contrary to the principles of local self-government.

78. In the event of a dispute between the State and local authorities, Article 103 of the basic act seems indirectly to allow the possibility of a right of recourse to a remedy. The provision in question gives the Ministry the power to resolve the dispute but "this does not affect the rights of the parties to take further legal action in such cases". The ordinary courts are therefore able in principle to resolve such disputes.

79. According to persons interviewed by the delegation, this right is never used, on account of the good relations between the State and local authorities (particularly with the national association). Nevertheless, more precise rules about a "special" right of recourse to a remedy available to municipalities or their citizens would undoubtedly strengthen the position of local authorities, even if the instruments used were those of co-operation, negotiation and active participation.

VI. Current or planned reforms

80. The delegation took note of the desire of national players (Parliament, the Ministry) to move actively ahead with the merger process. It is planned to reduce the number of municipalities to fewer than 40 within a fairly short period (five years, perhaps even less). This policy seems reinforced by the economic crisis: the merger process is designed as an instrument to increase the capacity of municipal autonomy.

81. A desire to perform a complete overhaul of the basic legislation on local authorities was also observed. Such an overhaul, in the context of the visit to monitor application of the Charter, does not seem to be absolutely necessary. The current rules are appropriate and require only minor amendments. However, an overhaul would make Icelandic legislation more coherent as a whole[8].

VII. General conclusions

82. During its monitoring visit to Iceland, the delegation noted the high quality of local self-government in that country, which is home to a deep-rooted democratic tradition. The decision to eliminate all intermediate tiers between the State and the local authorities has led to a considerable and useful simplification of the administrative system as a whole.

83. However, the existence of a highly diversified grass-roots tier (the municipalities) frequently composed of weak local authorities (large difficult-to-manage areas with small populations) entails an allocation of responsibilities in which central government plays an important part.

84. The two tiers of government, which are interlinked by a strong network of co-operative instruments and bodies, seem to be aware of this situation; they appear to share the aim of considerable devolution of powers to local level, although a precondition for this is an increase in the size of municipalities through the encouragement of mergers, always on a strictly voluntary basis.

85. The very serious economic crisis which has hit the country and which, according to forecasts, will probably last for several more years, has not produced a desire for authority to be centralised. On the contrary, the aim of structural reform of municipalities is not only being maintained, but even becoming stronger (reduction in the number of municipalities from 78 to fewer than 40 over the next five years), and forms of intergovernmental co-operation are being confirmed and consolidated.

86. The quality of legislation and the actual situation of local self-government deserve a positive assessment. We shall simply make a few suggestions with a view to supplementing and improving Icelandic legislation:

i. clearer introduction of the subsidiarity principle in respect of the division of responsibilities, in the form either of a general principle or of a list of responsibilities conferred on municipalities;

[8] A ministerial committee, with local representatives, has been appointed to reform the basic legislation.

ii. more direct adoption of the Charter of Local Self-Government as a source of law in the domestic legal system, if possible with the courts being given power to apply it directly;

iii. as regards the process of merging municipalities: on the one hand, increase in the minimum population threshold of 50 so as to prevent compulsory mergers and, on the other hand, a search for solutions that strike a baiance between voluntariness and rationaiity. In particular, it must be stressed that if there is a willingness to pursue the policy of mergers of municipalities, which, in itself, is not contrary to the Charter, it can carry risks caused by a dominant concern of efficiency. These risks, aiready reported (see paragraph 36), concern, where the merger is very advanced, the potential loss of communal identity and the possible marginalization of some parts of the municipality (the areas furthest from the center the town);

iv. possible introduction of differentiated legal systems in order to take account of the special situation of the capital city and of the smallest municipalities (those which are still too small even after a merger);

v. a more precise definition of situations and procedures connected with the supervision by the Ministry of the performance of local authorities;

vi. a more precise definition of situations and procedures connected with municipalities' right of participation in decisions taken at national level;

vii. a more precise definition of situations and procedures connected with the right of recourse to a remedy for local authorities (and their citizens) in respect of decisions taken at national level whlch could prove to be contrary to the principle of local self-government.

Programme of the visit of the Congress of Local and Regional Authorities in Iceland

(Reykjavik, 15-16 June 2009)

Congress delegation:

Rapporteur and Head of Delegation:

Mrs Esther MAURER	Switzerland, Chamber of Local Authorities, City councillor of Zurich Head of the Police Department Member of the Committee on Social Cohesion Member of the Institutional Committee,

Expert:

Prof. Francesco MERLONI	President of the Group of independent experts on the European Charter of local self-government

Congress Secretariat:

Mrs Stéphanie POIREL	Secretary a.i. of the Institutional Committee

Monday 15 June 2009

09:15-10:30 **Meeting with Mr Björn Vaiur Gíslason, President of the Parliamentary Committee on Transport, Communications and Municipal Affairs**

11:30-12:30 **Meeting with Mr Kristjan Möller, Minister of Transport, Communications and Municipal Affairs**

13:00-14:50 **Meeting with Mr Kristinsson, Head of the Political Sciences Department of the University of iceland**

15:00-16:30 **Meeting with Mrs Hanna Birna Kristjandottir, Mayor of Reykjavik**

18:30-19:30 **Meeting with the Icelandic Association of Local Authorities, and with the Head of the Iceandic Delegation to the Congress**

Tuesday 16 June 2009

10:00-11:00 **Meeting with Mr. Páll Brynjarsson, Mayor of Borgarbyggð**

14:30-15:30 **Meeting with Ms. Ragnheiður Hergeirsdóttir, Mayor of Árborg**

16:00-17:00 **Meeting with Mr. Ólafur Áki Ragnarsson, Mayor of Ölfus**

Departure of the delegation from Reykjavik: 17/06/09

Alþingi
Erindi nr. Þ 140/577
komudagur 30.11.2011

Umsögn um þingskjal nr. 6, tillögu til þingsályktunar um meðferð frumvarps Stjórnlagaráðs til stjórnskipunarlaga.

Ég vil nota tækifærið og lýsa hrifningu minni á starfsháttum Stjórnlagaráðs og þeirri einróma niðurstöðu sem náðist innan knapps tímaramma. Tillaga ráðsins er ekki á byrjunarreit heldur hefur Alþingi að mínu mati fengið vel heppnað verk í hendur.

Vinna ráðsins grundvallaðist á hugmyndum þjóðfundar og tillögum sérfræðinga, en trúlega hefur hið umfangsmikla og opna samráð sem Stjórnlagaráð hafði við almenning í landinu gert gæfumuninn og leitt af sér niðurstöður sem mikill meirihluti þjóðarinnar ætti að geta sætt sig við.

Ég vil efnislega lýsa stuðningi við þá málsmeðferð sem lögð er til í þingskjali nr. 6. Sérstaka áherslu vil ég leggja á aðkomu og fulla þátttöku Stjórnlagaráðs við mögulegar breytingar sem kunna að vera gerðar á skjalinu eins og það var samþykkt af ráðinu 27. júlí sl. Að því loknu væri sómi af því að kynna tillöguna fyrir almenningi og þýðingu hennar fyrir land og þjóð. Að loknu kynningarferli og umræðum ætti að leggja tillögurnar í dóm þjóðarinnar með beinum og millliliðalausum hætti.

Reykjavík, 30. nóvember 2011.

Sigurður Hreinn Sigurðsson.

Kt. 201062-5009.

From: Viktoría Áskelsdóttir [dory@internet.is]
Sent: 30. nóvember 2011 09:56
To: Stjórnskipunar- og eftirlitsnefnd.
Subject: stjórnarskrá

6. mál

Heil og sæl.
Eg óska eftir að fá að gera athugasemd við skýrslu forsætisnefndar um tillögur stjórnlagaráðs um breytingar á stjórnarskrá Íslands og við tillögu til þingsályktunar um meðferð tillagna stjórnlagaráðs sem nefndin hefur nú til umfjöllun.

kveðja

Viktoría Áskelsdóttir
2507573449