

28th SESSION
Strasbourg, 24-26 March 2015

Original English

CG/2015(28)8FINAL
26 March 2015

Local and regional democracy in Greece

Monitoring Committee

Rapporteurs¹ : Artur TORRES PEREIRA, Portugal (L, EPP/CCE)
Gudrun MOSLER-TÖRNSTRÖM, Austria (R, SOC)

Recommendation 372 (2015)	2
Explanatory memorandum	5

Summary

This is the third report concerning the monitoring of local and regional democracy in Greece since the country ratified the Charter in 1989. The report notes the progress made by Greece since the last recommendation in 2008, in particular through the adoption of the “New Architecture for Self-Governance and Decentralisation – Kallikratis Program” that represents an important step towards a more decentralised territorial system, namely as regards the status of prefectures and the status of the 13 administrative regions that were regional branches of central government. In this context, the report underlines the importance of the Kallikratis reform which increased local competences, transparency and accountability of local authorities as well as the involvement of local and regional associations in the preparation of the Kallikratis reform.

The report stresses the necessity to extend the scope of the Charter to the second tier of local government (regions), by amending the existing legislation. The Government is invited to revise the legislation in order to confer statutory powers for local authorities and to ensure adequate concomitant financial resources to the transfer of competences to local authorities which they may dispose freely within the framework of their powers. The Congress also recommends that the existing regulations for insular and mountainous municipalities be urgently implemented and a special status be conferred on these areas, especially as concerns finances; that a special status be conferred on the municipality of Athens as capital city and that special provisions for metropolitan municipalities of Athens and Thessaloniki be introduced and implemented in practice. Finally, it invites the Government to sign and ratify, in the near future, the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207)

1. L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent Liberal and Democratic Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

RECOMMENDATION 372 (2015)²

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

a. Article 2, paragraph 1.b. of Statutory Resolution CM/Res(2011)2 relating to the Congress, which provides that one of the aims of the Congress shall be “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

b. Article 2, paragraph 3 of Statutory Resolution CM/Res(2011)2 relating to the Congress, stipulating that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

c. Resolution 307 (2010) REV2 on procedures for monitoring the obligations and commitments entered into by the Council of Europe member States in respect of their ratification of the European Charter of Local Self-Government;

d. Resolution 299 (2010) of the Congress on Follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 16-17 November 2009), which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy in its monitoring activities, as well as the reply made by the Committee of Ministers to Congress Recommendation 282 (2010)(CM/CONG(2011)Rec 282final, encouraging the governments of member states to take account of the above mentioned Reference Framework;

e. Recommendation 219 (2007) of the Congress on the status of capital cities;

f. The attached explanatory memorandum on local and regional democracy in Greece.

2. The Congress recalls that:

a. Greece signed the European Charter of Local Self-Government (ETS No. 122, hereafter “the Charter” on 15 October 1985 and ratified it on 6 September 1989. The Charter entered into force in Greece on 1 January 1990. Pursuant to Article 12, paragraph 2 of the Charter, Greece declared itself not to be bound by Article 5, Article 7 paragraph 2, Article 8 paragraph 2, and Article 10 paragraph 2 of the Charter;

b. Article 2 of the Law 1850/1989 states that the European Charter of Local Self-Government applies only to the first tier of local government;

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

d. the Monitoring Committee decided to monitor the state of local and regional self-government in Greece and its compliance with the European Charter of Local Self-Government. It instructed Artur TORRES PEREIRA, Portugal (L, EPP/CCE) and Gudrun MOSLER-TÖRNSTRÖM, Austria (R, SOC), to prepare and submit to the Congress, as rapporteurs, the report on local and regional democracy in Greece;³

e. The Congress delegation carried out two monitoring visits to Greece from 16 to 17 September 2014 (in Athens) and from 18 to 20 November 2014 (in Paros, Naxos, Lagadas, Thessaloniki and Athens). During those two visits, the Congress delegation met representatives of the associations of local and regional authorities, mayors and municipal and regional councillors, representatives of the government, ministries and other institutions.

2. Debated and adopted by the Congress on 25 March 2015, 2nd sitting (see Document [CG/2015\(28\)8FINAL](#) explanatory memorandum), co-rapporteurs: Artur TORRES PEREIRA, Portugal (L, EPP/CCE) and Gudrun MOSLER-TÖRNSTRÖM, Austria (R, SOC).

3. In their work, the rapporteurs were assisted by Professor Tania Groppi, consultant, member of the Group of Independent Experts on the European Charter of Local Self-Government and the Congress secretariat.

3. The Congress wishes to thank the Permanent Representation of Greece to the Council of Europe, the national authorities at all territorial levels as well as all the interlocutors met during these visits for their availability and the information they kindly provided to the delegation.

4. The Congress notes with satisfaction:

a. the progress made in Greece since the last recommendation in 2008, in particular through the adoption of the “New Architecture for Self-Governance and Decentralisation – Kallikratis Program” which represents an important step towards a more decentralised territorial system, namely as regards the status of *prefectures* and the status of the 13 administrative regions that were regional branches of central government;

b. the increasing of local competences, transparency and accountability of local authorities;

c. the adoption of a new system of supervision of legality which diminishes the role of the Secretary General of the State administration;

d. that *ex-ante* control over local budgets has been put in place as a purely interim measure to remedy the flaws that are recognised in the structure of local budgets;

e. the involvement of local and regional associations in the preparation of the Kallikratis reform.

5. The Congress expresses its concern that:

a. at the moment of the ratification of the Charter, a provision was inserted in the Law 1850/1989 (Article 2), which restricted the scope of the Charter to the first tier of local self-governance;

b. the role of, and indeed the necessity for, the seven new State authorities is unclear as regards their competences and responsibilities as well as the competences between these State administrations and regions and municipalities;

c. local authorities do not have the ability to “regulate” local affairs, as they lack statutory powers;

d. institutionalised co-ordination and consultation processes among the State, regions and municipalities are lacking;

e. there are no adequate concomitant financial resources for the transfer of competences to local authorities, which depend mostly on state transfers ;

f. the fiscal autonomy of local authorities is weak;

g. there is no effective implementation in practice of the new system of supervision of legality and that excessive bureaucracy and length of procedures, exaggerate the shift from the supervision of legality towards a supervision of expediency;

h. although regulation specific to insular and mountainous municipalities is in place, it is not implemented in practice; moreover these areas would benefit from a special status, especially as concerns finances;

i. there is no special status for the municipality of Athens as capital city in addition to an absence of legislation for the metropolitan municipalities of Athens and Thessaloniki;

j. legislation for regional metropolitan areas is not implemented, as far as institutions, competences, finances, and relationship with the State are concerned.

6. In the light of this, the Congress requests that the Committee of Ministers invite the Greek authorities to take account of the following suggestions:

- a. to extend the scope of the Charter to the second tier of local government (regions) by amending the existing legislation (Article 2 of Law 1850/1989);
- b. to review the role, the competences and the responsibilities among the seven State administrations, regions and municipalities and to review the necessity of retaining these seven State administrations;
- c. to review the legislation in order to confer statutory powers on local authorities;
- d. to improve the consultation processes among the State, regions and municipalities for all matters which concern them directly;
- e. to ensure adequate concomitant financial resources for the transfer of competences to local authorities which they may dispose of freely within the framework of their powers;
- f. to diversify the financial system of sources of local authorities' revenue by developing the foundations of greater financial autonomy through the levying of local revenues;
- g. to boost the fiscal autonomy of local authorities, with the aim of ensuring the sustainability of the financial situation of local authorities;
- h. to ensure a state supervision (including financial supervision) of local authorities in proportion to the importance of the public interest;
- i. to urgently implement in practice the existing provisions for insular and mountainous municipalities and to confer a special status for these areas, especially as concerns finances;
- j. to confer a special status for the municipality of Athens as capital city and to introduce special provisions for the metropolitan municipalities of Athens and Thessaloniki and to implement them in practice;
- k. to implement the already existing provisions on metropolitan regions;
- l. to consider reviewing certain declarations made at the time of ratification; for instance, the withdrawal of the declaration made in connection with Article 5 and Article 8, para. 2 of the Charter which, *de facto*, is applied;
- m. to consider signing and ratifying 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).

7. The Congress invites the Committee of Ministers of the Council of Europe to take into consideration the present recommendation on local and regional democracy in Greece, as well as the explanatory memorandum, in its own monitoring procedures and other activities related to this member State.

EXPLANATORY MEMORANDUM

Table of contents:

1.	Introduction: aim and scope of visit, terms of reference	6
2.	Historical, political and constitutional context	6
2.1	Economic situation and impact on local self-government	6
2.2	Internal political situation and elections	11
2.3	Previous reports and recommendations.....	12
3.	Honouring of obligations and commitments	12
3.1	Level at which the Charter is incorporated	12
3.2	Constitutional and legislative developments	13
3.3	Local authorities: territorial structures and powers	14
3.3.1	Territorial structures	14
3.3.2	Basic organisation	17
3.3.3	Competences.....	18
3.3.4	Financial resources	20
3.3.5	State supervision of local government	23
3.3.6	The status of mountainous and insular municipalities	24
3.3.7	The status of the Metropolitan Regions and of the Capital City	25
4.	Article-by-article analysis of the situation of local democracy in the light of the European Charter of Local Self-Government	26
4.1	Article 2 and 3 – Principle and concept of local self-government.....	26
4.2	Article 4 – Scope of local self-government	31
4.3	Article 5 – Protection of local authority boundaries	33
4.4	Article 6 – Appropriate administrative structures and resources for the tasks of local authorities	33
4.5	Article 7 – Conditions under which responsibilities at local level are exercised.....	35
4.6	Article 8 – Administrative supervision of local authorities' activities	35
4.7	Article 9 – Financial resources of local authorities	38
4.8	Article 10 – Local authorities' right to associate	41
4.9	Article 11 – Legal protection of local self-government	43
4.10	Article 12: Undertakings – reservations formulated by States, if any	44
4.11	On the possible signature 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)	45
5.	Regional democracy	45
6.	Conclusions	47
	Appendix 1 - Programmes of the Congress monitoring visits in Greece	51
	Appendix 2 - Information on human rights and local authorities	56

1. Introduction: aim and scope of visit, terms of reference

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

2. The Hellenic Republic (Ελληνική Δημοκρατία, hereafter "Greece") joined the Council of Europe on 9 August 1949, as its 11th member state. It signed and ratified the European Charter of Local Self-Government (CETS no. 122, hereinafter "the Charter") on 15 October 1985 and on 6 September 1989 respectively. The Charter entered into force in respect of that country on 1 January 1990. Pursuant to Article 12, paragraph 2 of the Charter, Greece declared itself not to be bound by Articles 5, 7 paragraph 2, 8 paragraph 2, and 10 paragraph 2 of the Charter. These provisions deal with the prior consultation of the local communities in case of changes in local authority boundaries (Article 5); the financial compensation for the expenses incurred in the exercise of the functions of local elected representatives (Article 7, para 2); the limitation of administrative supervision to the legality (Article 8, para 2); the entitlement of local authorities to belong to national and international association of local authorities (Article 10, para 2). Moreover, Article 2 of the domestic Law 1850/1989 establishes that "The implementation field of the Charter is restricted to local self-government entities of the first tier".⁴

3. Greece has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) nor the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

4. The previous recommendation on local and regional democracy in Greece was adopted by the Congress in 2002 (Recommendation 109 (2002)). In 2008, the Congress adopted the Recommendation 247 on regional democracy in Greece. The Monitoring Committee appointed Mr Artur TORRES PEREIRA (Portugal, L, EPP/CCE) and Ms Gudrun MOSLER-TÖRNSTRÖM (Austria, R, SOC) as rapporteurs and charged them with drawing and submitting to the Congress a report on local and regional democracy in Greece.

5. Two visits were made by a Congress delegation to Greece from 16 to 17 September 2014 (in Athens) and from 18 to 20 November 2014 in Paros, Naxos, Lagadas, Thessaloniki and Athens), to examine the situation of local and regional democracy in the light of the Charter.

6. During those two visits, the Congress delegation met representatives of authorities' at all territorial levels, as well as representatives of the associations of local and regional authorities, mayors and municipal and regional councillors, representatives of the government, ministries and other institutions. The detailed programmes of the visits are appended to the present report.

7. The rapporteurs wish to thank the permanent representation of Greece to the Council of Europe as well as all the interlocutors met during these visits for their availability and the information they kindly provided to the delegation.

2. Historical, political and constitutional context

2.1 Economic situation and impact on local self-government

8. The delegation wishes to underline that it carried out the monitoring visits to Greece in an extremely difficult period for this country which is deeply affected by the financial crisis that has stricken the Euro zone since 2008, as part of the wider global economic and financial crisis and which rapidly evolved into a sovereign debt crisis. (See *infra*).⁵

4. See Law 1850/9-10.5.1989 (ΦΕΚ 114 Α') "Κύρωση του Ευρωπαϊκού Χάρτη της Τοπικής Αυτονομίας", respectively Articles 1 and 2. See also Council of State, Decision 3440/1998, according to which "By virtue of Article 2 of the Law 1850/1989, ratifying the European Charter of Local Self-Governance, the second level local authorities are excluded from the scope of the Charter."

5. See, for the information contained in the following paragraphs, Bank of Greece, The Chronicle of the Great Crisis (2008-2013), Centre for Culture, Research and Documentation, Bank of Greece, Athens, September 2014, <http://www.bankofgreece.gr/BogEkdoseis/The%20Chronicle%20Of%20The%20Great%20Crisis.pdf>; A.-I. Marketou, A. Marketou, Constitutional Change Through Euro Crisis Law: Greece, EUI, 2014, <http://eurocrisislaw.eui.eu/country/greece/topic/political-context/>

9. As early as 2008, weaknesses in the Greek economy made it evident that the country's economic and financial survival required the implementation of a multiannual programme for reducing the fiscal deficit, controlling debt dynamics and carrying out extensive structural reforms.⁶ Despite this background, the situation was underestimated at least until October 2009.⁷ Following a general election on 4 October, a new government, presided by the PASOK leader George Papandreu, was established. On 22 October 2009, the Greek authorities announced that the 2009 budget deficit was more than double its projection. The 2008 deficit was also revised significantly upwards, compared with previous estimates.

10. In early 2010 it became clear that it was no longer possible to cover deficits with financing from the markets. On 23 April 2010 the Greek government requested financial support from the euro area countries and the IMF,⁸ and in the following month the Memorandum of Understanding – composed of three more specific documents: the Memorandum of economic and financial policies (MEFP), the Technical Memorandum of Understanding (TMU) and the Memorandum of Understanding on Specific Economic Policy Conditionality – was signed.⁹ The MoUs are multi-year policy programs with the final aim for Greece to regain market access and at the same time introduce several legal and institutional reforms for the Greek state/administration. Austerity and other measures are attached as conditionality of the international loan agreements and their implementation is monitored by international observers on a regular basis.

11. The disbursements of financial assistance to Greece – approved by both the Eurogroup and the IMF's Executive Board – are subject to quarterly reviews of conditionality for the duration of the arrangement. The European Commission, the ECB and the IMF staff (the “Troika”) conduct joint review missions to Greece in order to monitor compliance with the terms and conditions of the Programme. In addition to monitoring implementation, the European Commission, in cooperation with the Greek government, launched in 2011 a second body in order to support Greece in the implementation of the adjustment program. The Task Force for Greece (TFGR) is charged with supporting the country in the fields of structural reforms and boosting development with the provision of technical assistance.¹⁰

12. The MEFP and its accompanying provisions were incorporated in Law 3845/2010 (“Measures for the implementation of the support mechanism for the Greek economy by the euro area Member States and the International Monetary Fund”), and provided the guidelines for the economic policy that had to be followed throughout the duration of the loan agreement.

13. As far as local government is concerned, the MEFP established that “a reorganization of sub-central government will be implemented to reduce the number of local administrations and elected/appointed officials”.¹¹ The attached Memorandum of understanding provided that “Parliament adopts legislation reforming public administration at the local level, notably by merging municipalities, prefectures and regions with the aim of reducing operating costs and the wages bill.”¹² Against this background, the important reform called “Kallikratis programme”¹³ was approved by the Parliament on 30 May 2010.

6. See e.g. the speech of the Governor of the Bank of Greece delivered at an event held by the Foundation for Economic and Industrial Research (IOBE) on 15.12.2008: Bank of Greece, p. 41 ff.

7. See e.g. the optimistic forecast contained in the Updated Stability and Growth Programme 2008-2011, submitted to the European Commission on 30.1.2009, according to which in 2009, growth would continue at a rate of 1.1%, which would pick up to 1.6% in 2010 and to 1.9% in 2011. The government deficit as a percentage of GDP, which stood at 3.7% in 2008, would remain at the same level in 2009 and fall to 3.6% of GDP in 2010 and even further in 2011 (to 2.6%). See the press release of the Ministry of Economy and Finance dated 30.1.2009, quoted in Bank of Greece, p.34.

8. Following a request made by the Greek government on 23.4.2010, the Finance Ministers of the euro area countries reached on 2.5.2010 an agreement on the support package for Greece, which was officially announced by the euro area Heads of State or Government on 7.5.2010. The official IMF decision to grant a 3-year loan of €30 billion to Greece was made on 9.5.2010. The total amount of the first bailout was € 110 billion.

9. The memorandum, as well as any other document related to the EU financial support to Greece, may be found on the page http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/index_en.htm

10. *Questions and Answers on the Task Force for Greece*, MEMO/11/599, Brussels, 13 September 2011, p. 1. http://europa.eu/rapid/press-release_MEMO-11-599_en.htm. The TFGR has been endorsed by the European Council during its meeting on 23/24 June and 21 July 2011.

11. See MEFP, p.48 ss. The document refers to “Kallikratis savings” for 2011, for 500 million of euros, 500 million for 2012 and 500 million for 2013.

12. See MEFP, p.60.

13. Law 3852/2010 (ΦΕΚ 87/Β/7.6.2010) “Νέα Αρχιτεκτονική της Αυτοδιοίκησης και της Αποκεντρωμένης Διοίκησης – Πρόγραμμα Καλλικράτης”, “New Architecture for Self-Governance and Decentralisation – Kallikratis Program”, see *infra*, para 3.2

14. Already since February 2011, the review report by the Troika had identified revenue shortfalls and expenditure overruns in entities outside central government and had pointed out the need for additional cuts in central government outlays in order for the “performance criteria” to be met. The Troika’s joint statement following completion of the third review stressed that major reforms needed to be planned and implemented, so as to build up the necessary critical mass that would ensure the sustainability of public finances and economic recovery.¹⁴

15. These interventions were included in the Medium-Term Fiscal Strategy Framework (MTFS) 2012-2015,¹⁵ having as main objectives the achievement of primary surpluses, an acceleration of privatisations and the development of the State’s assets, to control debt dynamics. The measures were passed by the Greek Parliament in June (Law 3985/1.7.2011) along with the first “implementing” legislation (Law 3986/1.7.2011).¹⁶

16. As far as the local government reform is concerned, the MTFS 2012-2015 states that “despite this reform, in the baseline scenario the consolidated local government balance is projected to be negative (deficit) over the whole period 2011-2015, because of the restructuring process itself as well the stocks of arrears (approx. 900 mn euros) and debt (approx. 2.0 bn euros) that have accumulated before the implementation of Kallikratis program.”¹⁷

17. In the second half of 2011, it became evident that a new rescue package was necessary. A precondition for the completion of the debt restructuring was a new agreement on the necessary interventions in the economy. The new arrangements were reflected in the Memorandum of Economic and Financial Policies and the Memorandum of Understanding on Specific Economic Policy Conditionality, adopted by Parliament on 12 February 2012 (Law 4046/2012). The new agreement was accompanied by a new financial support package amounting to €130 billion. Together with the remainder of the first programme, total undisbursed assistance at the time was close to €167 billion.¹⁸

18. The 2012 Memorandum of Understanding contains several provisions on local government. Among them there is the “Reduction by 10 percent in the remuneration of elected and related staff at local level and reduction in the number of deputy mayors and associated staff in 2013 with the aim of saving at least EUR 9 million in 2012 and 28 million in 2013 onwards” and the “Reduction in operational expenditure by local government with the aim of saving at least EUR 50 million”.¹⁹ The Government proposes also an Action Plan to establish CPB (Central Purchasing Bodies) at regional/local level, at least one per administrative region, in the framework of the establishment of a single public procurement authority.

19. The Second Economic Adjustment Programme experienced some delays in the implementation, mainly due to the political crisis that led to new elections on 6 May 2012, then repeated on 17 June.²⁰ The formation of a new coalition government in June 2012 put an end to the confidence climate deterioration. But, following the long delays, the programme was moving off targets, mainly as regards government revenues. Very long delays were also recorded in the implementation of reforms and privatizations. High uncertainty, non-implementation of the programme and deposit outflows (until end-June) deepened economic recession, aggravating the shortfall in government revenue as well as the problem of unemployment.

20. From end-October onwards, developments were rapid. On 31 October 2012 the 2013 Budget as well as the updated MTFS 2013-2016 were submitted to Parliament, which on 7 November 2012 passed Law 4093/2012 (“Approval of the Medium Term Fiscal Strategy Plan 2013-2016 – Urgent implementation measures of Law 4046/2012 and the Medium Term Fiscal Strategy Framework 2013-2016”).

14. Bank of Greece, p. 88.

15. <http://www.minfin.gr/content-api/binaryChannel/minfin/datastore/8d/78/0e/8d780e3337a1e1cb20d1a1707686d7399be4913a/application/pdf/MTFS.pdf>

16. Medium-Term Fiscal Strategy Framework (MTFS) 2012-2015, p. 91 ff.

17. MTFS 2012-2015, p. 69 ff.

18. European Commission, The second Economic Adjustment Programme for Greece, March 2012, http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp94_en.pdf

19. Second Adjustment, p. 124.

20. See infra, para 2.2.

21. The 2013 Budget was adopted on 11 November 2012, incorporating a large part of the arrangements included in the MTFS 2013-2016. On 17 November 2012, the Council of Ministers adopted an act (which was converted into Law on 18 November) aiming at strengthening the Budget execution and enhancing the sound fiscal management. This act introduces: an internal stability pact for local government based on a balanced budget constraint and includes corrective and sanctioning mechanisms as automatic cuts in expenditures to be applied as a rule when targets are expected to be missed.

22. The first review of the Second Economic Adjustment Programme, in December 2012,²¹ pointed out that “the monitoring of commitments in the investment budget remains extremely limited, especially in the local governments, and based on a different IT interface than the one used for the monitoring of the ordinary budget”.

23. The year 2013 was a landmark for fiscal consolidation in Greece, as, for the first time since 2002, a primary surplus was achieved at general government level.²² In the course of 2013, several measures aimed at increasing tax revenue have been adopted, such as the tax system reform and the new Unified Property Tax. In addition, better expenditure control was ensured through a strengthening of fiscal rules and mechanisms for monitoring the proper execution of the approved budgets across all levels of general government.

24. The second review in May 2013²³ points out that “For local governments, the pre-existing balanced budget rule was strengthened through an ex-ante assessment of the budgets submitted by the local governments, to evaluate the credibility of the revenue projections and consequently of the expenditure projections. An Observatory was set up to carry out this analysis of the budgets, and it can recommend changes to the budget of local governments if the projections submitted are neither robust nor credible. Once annual budgets are assessed and made realistic, monthly targets are identified. Monthly budget execution is evaluated against the targets, and when significant deviations from the monthly targets occur for specific local governments, the latter is forced to adopt corrective mechanisms to avoid a freeze of transfers from the State Budget”.

25. The third review in July 2013²⁴ contains several references to local government. First of all, it provides for a new property tax that has to be established by January 2014. “In the medium term, the property tax could replace the existing financing of local government, along with an appropriate equalization system. Financing local governments through a real estate tax would have the advantage of strengthening incentives for municipalities to facilitate and attract new real estate and commercial development.”²⁵ In the attached MoU,²⁶ the Greek Government committed itself to:

“3. Enhance the corrective mechanism for local governments through a top down approach for the preparation of 2014 realistic budgets for local governments. This approach foresees subsequent steps:

- i. an agreement between Ministry of Interior and GAO on the total grants from the State to the local governments consistent with the updated macro-economic projections and with the binding ceilings for 2014-15 within the preparation of the MTFS (July 2013).*
- ii. The issuance of a Joint Ministerial Decision for the preparation of 2014 local governments' budgets (July 2013) consistent with the level of grants from the State, their own resources and with the guidelines for the assessment of the local government's budgets;*
- iii. Municipalities prepare budgets for 2014 consistent with the balance budget rule (September 2013).*
- iv. A review process of local governments' budgets by the Observatory of local authorities, in order to ensure consistency with the overall MTFS targets for local governments to be completed before the adoption of the MTFS. (November 2013).*
- v. Submission and approval of the local governments' budgets by the decentralised administration (December 2013).”*

21. Second Adjustment, First Review, p. 38

http://ec.europa.eu/economy_finance/publications/occasional_paper/2012/pdf/ocp123_en.pdf

22. Bank of Greece, p. 112.

23. Second Adjustment, Second Review, p. 32

http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp148_en.pdf

24. Second Adjustment, Third Review.

http://ec.europa.eu/economy_finance/publications/occasional_paper/2013/pdf/ocp159_en.pdf

25. Second Adjustment, Third Review, p. 28.

26. Second Adjustment, Third Review, p.151.

26. The fourth review, in April 2014 considers these commitments observed.²⁷

27. On April 30, 2014 the Greek government presented to the Parliament the MTFS 2015-18 (approved by the Law 4263/2014)²⁸, which is relevant in the context of the fifth review, that is ongoing (the Troika arrived in Athens on 29 September 2014).²⁹ According to this document, “With the MTFS 2015-2018, the Local Governments are required to contribute to the overall fiscal effort, with particular emphasis given both to the increase in revenues and the decline in expenditures. Critical success factors for this effort are various actions and policies aimed at: strengthening the existing institutional instruments, ensuring the fiscal consolidation of local governments, increasing the effectiveness of management and financial control, improving the revenue collectability and the effective supervision and functional assessment of supervised entities.”³⁰

28. To summarise, since 2010 Greece experienced an exceptional situation, facing exceptional difficulties in restoring fiscal and budgetary discipline, economic recovery and competitiveness and in reducing unemployment. The commitments contained in the Memorandums of Understanding with relevance to local and regional authorities are numerous and deeply affect the principle of local self-government. Greece’s obligations to reduce its overall state public deficit according to a very ambitious deficit reduction path compels the central government to make important spending and revenue cuts and territorial and administrative reforms of relevance to both the regional and the local level.

29. Even the major reform of local authorities (the “Kallikratis reform”), although it addressed a longstanding necessity, was finally approved in the context of the financial conditionality. Furthermore, its implementation has been deeply affected by the international commitments accepted by the Greek Government.

30. During the first years of the crisis, understandably no serious consideration was given as to whether the Troika requirements with respect to local and regional authorities were consistent with the provisions of the Constitution, which guarantees local self-government, or with the provisions of the Charter. Nonetheless, more recently, some of the domestic statutes enacted in the framework of the conditionality have been challenged, without success, in Courts.³¹ The understanding of the rapporteurs, confirmed during the meetings in Greece, is that the reform requirements based on the Memorandums of Understanding were generally considered as “inevitable”.

31. The rapporteurs are fully aware of the exceptional circumstances Greece has been facing. A situation that proved to be the most serious the country has experienced since the last war. The unprecedented austerity measures caused an economic meltdown (between 2009 and 2013 the GDP fell by more than 25%), generating the highest unemployment rate (30% in 2013) in modern Greek history. They are also aware of the intense pressure the Greek government had to face to overcome the State debt crisis and of the effects that this pressure had on regional and local authorities, particularly on their budgets.

32. Nevertheless, and even in the face of this economic downturn, the rapporteurs cannot avoid reaffirming the need to comply with the constitutional provisions regarding regional and local self-government and with the Charter.³² As the obligations set by Memoranda affect all the levels of government, a constant and structured dialogue between national, regional and local authorities becomes necessary to overcome together the severe consequences of the crisis.

27. Second Adjustment, Fourth Review, http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp192_en.pdf

28. http://www.minfin.gr/content-api/binaryChannel/minfin/datastore/2c/8b/b6/2c8bb668ed6cc48474a85ad22c64163ed6a57550/application/pdf/SNT_MTFS+2015-18+eng.pdf

29. http://ec.europa.eu/economy_finance/assistance_eu_ms/greek_loan_facility/index_en.htm

30. MTFS 2015-18, p. 72.

31. See Council of State, Decision 1716-1717/2014.

32. See on this issue the Utrecht Declaration of the Council of Ministers responsible for Local and Regional Government: “Good local and regional governance in turbulent times: the challenge of change” MCL-16 (2009)¹²; and the “Kiev Guidelines” MCL-17(2011)¹⁵, agreed by the Council of Europe Conference of Ministers responsible for Local and Regional Government at its 17th session in Kiev in November 2011.

2.2 Internal political situation and elections

33. The political crisis went hand in hand with the economic and financial crisis.³³ Since the establishment of democracy, in 1974, the Greek political system has been a quasi-two parties system, based on New Democracy (Νέα Δημοκρατία, ND) and Panellenic Socialist Party (Πανελλήνιο Σοσιαλιστικό Κίνημα, PASOK). However, things have been changing in the last few years, when new parties' electoral support dramatically increased.³⁴

34. In the parliamentary elections of 16 September 2007, ND, led by the Prime Minister Konstantinos Karamanlis won elections, obtaining 41.8% of votes and 152 seats, whereas the PASOK obtained 38,8% and 102 seats. In due course, Prime Minister Karamanlis sought a fresh mandate to deal with Greece's economic problems and called another early general election, held two years ahead of schedule on 4 October 2009. However, New Democracy went on to score its worst-ever result in the election (33,5% and 91 seats), while PASOK won a landslide victory (43,9% and 160 seats) under the leadership of Georgios Papandreou, who replaced Karamanlis as Prime Minister.

35. Papandreou's government negotiated the first Memorandum with the Troika and had to implement it, including drastic spending cuts as well as tax increases, which not only resulted in frequent strikes and demonstrations, but also left Prime Minister in an increasingly untenable position. Moreover, by 2011 it became clear the original rescue package would not be sufficient to prevent Greece from defaulting on its financial obligations. However, in November 2011 Prime Minister Papandreou triggered a financial and political crisis when he called for a referendum on a follow-up bailout package, and he was forced to not only drop the referendum plan altogether, but leave office as well. ND, PASOK and another party, LAOS subsequently agreed to form an interim coalition government headed by Lucas Papademos, an economist and former vice-president of the European Central Bank. In February 2012, Papademos' government agreed to a second, \$170 billion international bailout deal, which restructured Greece's debt but required further austerity measures.³⁵

36. The elections announced on 11 April 2012 were held on 6 May, but their result prevented the formation of a government, as the vote was extremely scattered; New Democracy obtained 18,9% (109 seats); the Coalition of the Radical Left (SYRIZA) obtained 16,8%(52 seats); the PASOK 13,2% (41 seats); the Independent Greek Party (ANEL) 10,6% (33 seats); the Communist Party of Greece (KKE) 8,5% (26 seats); Golden Dawn Party (XA) 7,0% (21 seats); Democratic Left (DIMAR) 6,1% (19 seats).

37. A new legislative election took place on 17 June 2012. New Democracy obtained 29,7% (129 seats); the Coalition of the Left (SYRIZA) obtained 26,9% (71 seats); the PASOK 12,3% (33 seats); the Independent Greek Party (ANEL) 7,5% (20 seats); Golden Dawn (XA) 6,9% (18 seats); Democratic Left (DIMAR) 6,3% (17 seats); the Communist Party of Greece (KKE) 4,5% (12 seats). On 20 June, a new unity government comprising ND, PASOK and DIMAR was formed for a planned 4 year term, with Antonis Samaras appointed to be the new Prime Minister. On 21 June 2013, DIMAR withdrew from the coalition; Prime Minister Samaras reshuffled the cabinet on June 25 and the number of Ministers of PASOK increased.

38. At local and regional level, elections took place on 7 November 2010 (first round) and 14 November 2010 (second round) to elect representatives to Greece's restructured local authorities, comprising 13 regions and 325 municipalities.³⁶ The term of office was from 1 January 2011 until 31 August 2014.

39. Recently, elections took place on 18 May 2014 (first round) and 25 May 2014 (second round), to elect representatives whose term in office will be 5 years for the first time (from 1 September 2014 to 31 August 2019). The newly elected authorities began their term of office on 1 September 2014. It should be mentioned that officially parties are not allowed to stand for municipal and regional elections

33. See X. Contiades & I. Tassopoulos, "The Impact of the Financial Crisis on the Greek Constitution", in X. Contiades (ed.), *Constitutions in the Global Financial Crisis*, Ashgate, 2013, p. 195 ss.

34. The results of the elections are available on <http://www.hellenicparliament.gr/en/Vouli-ton-Ellinon/To-Politevma/Ekloges/Eklogika-apotelesmata-New/#Per-13>

35. See T. Lansford (ed.), *Political Handbook of the World 2014*, CQ Press, 2014, p. 545.

36. Local elections results are available at [http://ekloges.ypes.gr/may2014/dn/public/index.html#f"page":main](http://ekloges.ypes.gr/may2014/dn/public/index.html#f)

but in fact political parties declare their support for municipal and regional candidates in public and offer resources to them. In quite a few cases multi-party coalitions participate in local government elections. As concerns the political parties, in most Regions ND won the elections, while the main opposition party SYRIZA gained the largest region of the country, the Region of Attika. In municipal elections, ND supported the first bigger number of elected mayors, while PASOK supported the second largest group of mayors. Partly due to the electoral system, candidates that were supported by the rising opposition party of SYRIZA were as successful as anticipated. In the three biggest municipalities of the country, elected mayors were independent from party influence. It is worth mentioning that the new Mayor of Piraeus was not supported by a party, but by the local football club of Olympiakos (the same happened in Volos, one of the biggest cities in the country). More than 60% of the incumbent mayors and regional presidents were not re-elected. There were more candidates than in any previous election (most likely because the crisis of the party system encouraged many independent candidates), the turnout was nearly 62% (nearly the same as 2010 but very low compared to pre-crisis turnout of more than 70%) in the first round and nearly 60% in the second round (turnout for European Elections that took place on the same day was 60%).

40. Since their visit, the rapporteurs would like to draw attention to the legislative election that took place in Greece on 25 January 2015 to elect all 300 members to the Hellenic Parliament in accordance with the Constitution. The election was held earlier than scheduled due to the failure of the Greek parliament to elect a new president on 29 December 2014. Left-wing party SYRIZA won a legislative election, securing 149 out of the 300 seats, 2 seats short of an absolute majority. The distribution of seats in the new Parliament is as follows: SYRIZA -149, New Democracy -76, Golden Dawn -17, To Potami -17, Communist Party -15, Independent Greeks (ANEL) - 13 and PASOK-13. A new government was formed on 26 January 2015 with an agreement between the political leaders of SYRIZA and ANEL. It is interesting to note that from now, the Ministry of Administrative Reform and e-Governance has been merged with the Ministry of Interior (The Ministry of Interior and Administrative Reconstruction).

2.3 Previous reports and recommendations

41. The first monitoring visit on the situation of local and regional democracy in Greece took place in 2001. It resulted in the adoption of Recommendation 109 (2002) and Resolution 131 (2002). The Recommendation focused on: a) the need to consult the local authorities and the associations of local authorities (ENAE and KEDKE) concerned in the administrative reorganization; b) the necessity that between central and local government, an intermediate level of government composed of representatives elected by direct universal suffrage be provided for; c) the fact that administrative decentralisation should be matched by genuine financial decentralisation.

42. A second monitoring procedure on regional democracy in Greece took place in 2007 and 2008, resulting in the Recommendation 247 (2008), which mainly focused on: a) the reform of the prefectures, to be treated as self-government authorities; in this framework, the Greek government was asked to confirm that this tier of authority does indeed come within the scope of the European Charter of Local Self-Government; b) the financial autonomy of local government; c) the European structural funds management system; d) the oversight functions of the *Periferia* Secretary General; e) the creation of regions with dimensions and competences that measure up to European standards; f) the consultation of both levels of local authorities and associations of local authorities (ENAE and KEDKE) in the preparation and introduction of such reform.

3. Honouring of obligations and commitments

3.1 Level at which the Charter is incorporated

43. Greece ratified the European Charter of Local Self-Government with Law 1850/1989. According to Article 28 of the Constitution, *"1. The generally recognized rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law"*. Thus, international conventions need to be ratified by statute to become an integral part of domestic Greek law, but once they are, they prevail over any contrary provision of the law.

44. The Charter has been used from time to time as a legal standard in judicial review of legislation,³⁷ although, according to the Council of State response to the rapporteurs' questions, the Charter "is mentioned in Court decisions along with the provisions of Article 102 of the Greek Constitution on local authorities. However, it is not regarded to have added value compared to Article 102".³⁸

3.2 Constitutional and legislative developments

45. Greece is a unitary state, with a long tradition of centralism that in the last two decades undertook a process of administrative decentralisation to modernise public administration in the context of the European integration and to strengthen people's participation.³⁹

46. Since the 1990s, some important developments took place both at constitutional and legislative level. In the 2001 constitutional revision,⁴⁰ Article 102 was amended: the constitutional provisions on local self-government were supplemented, and several principles of the Charter were incorporated in the article, among them the "presumption of competence in favour of local authorities" (para 1), the limitation of the State supervision to the review of the legality (para 2), the financial autonomy (para 5).

47. As for the legislative level, according to Law 2218/1994, the provinces (νομοί, *nomoi*; sing. νομός, *nomos*), ruled by prefectures (νομαρχίες, *nomarchies*), were turned into territorial authorities with fully elected councils, the same as the provincial governors (νομαρχοί, *nomarchoi*, since 1833 appointed by the government).

48. In 1997 the "Kapodistrias Reform" (Law 2539/1997) determined the merger of 441 municipalities (δήμοι, *dimoi*) and 5382 communities (κοινότητες, *koinotites*) into 900 municipalities and 133 communities. This way, the number of first level local authorities was reduced from 5775 to 1033 and, thus, the administrative set-up of the country was radically changed.⁴¹ In addition, this reform enhanced the structural and operational capacity of first level local authorities. The Municipal and Communal Code (Law 3463/2006) provided a detailed regulation of the first-tier authorities.

49. The main open issues remained the status of prefectures, that raised many questions in terms of their autonomy, and the status of the 13 administrative regions (περιφέρειες, *perifereies*), as regional branches of central government (created by Law 1622/1986 and Presidential Decree 51/1987, mainly for purposes connected with the use of EU structural funds). With ongoing decentralisation, they were accorded more powers by Law 2240/1994 and by Law 2503/1997, in the context of the Kapodistrias reform.⁴²

50. These issues have been corrected in the "Kallikratis programme". Since 2007 a reform plan of local government had been prepared by the Associations of local government, but then the government decided not to enact it. After the victory in elections of 2009, the socialist government decided to use radical local government reform as a remedy against the crisis.⁴³ A new reform plan named 'Kallikratis', was presented to public consultation (in January 2010) and a new law, radically changing the structure and operation of local governance was adopted at the end of May 2010 (Law 3582/2010 "New Architecture for Self-Governance and Decentralisation – Kallikratis Program")

37. See G. Stephanides 'La réforme des collectivités locales en Grèce Capodistria' in J.Cl. Némery (ed.) *Quelle administration territoriale pour le 21ème siècle en France et dans l'Union européenne*, Paris, Le Harmattan 2002, pp. 199-204 at p. 202.

38. Among recent cases in which the Charter was considered, the Council of State's written response to the rapporteurs' questions refers to Decision 1904/2014, on an action for annulment of local authorities against a decision of a ministerial committee, by which property rights on real estate, situated in their territory, are transferred to State property. The decision in dispute states that the exploitation of the private property of the State does not constitute a local affair. There exists no obligation from either art. 5, 26, 101 and 102 of the Constitution or art. 9 of the Charter of Local Self-Governance to transfer the above property rights on the real estate to the local authorities or to establish an administrative procedure with the participation of the affected local authorities prior to the decision-making.

39. N. Hlepas 'Local Government Reform in Greece', in N. Kersting, A. Vetter (eds.) *Reforming Local Government in Europe. Closing the Gap between Democracy and Efficiency* Opladen, Leske+Budrich 2003, pp. 221-239.

40. Article 110 of the Greek Constitution establishes the procedure for constitutional revision. Paragraph 6 states that "Revision of the Constitution is not permitted before the lapse of five years from the completion of a previous revision."

41. See Ministry of Interior, Public Administration and Decentralisation, 'Structure and Operation of Local and Regional Democracy in Greece', Athens, 2000, p. 22, <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN000205.pdf>

42. See N. Hlepas, P. Getimis 'Greece: A case of fragmented centralism and 'behind the scenes' localism' in J. Loughlin, F. Hendriks, A. Lidstrom (eds.) *The Oxford Handbook of Local and Regional Democracy in Europe* Oxford, Oxford University Press, 2010, pp. 414-432.

43. N. Hlepas 'Local Government in Greece' in Ángel-Manuel Moreno (ed) *Local government in the Member States of the European Union: a comparative legal perspective*, Madrid, INAP 2012, p. 257 ss.

(Kallikratis reform), from the name of one of the two Parthenon architects, a name that captures the notion of “fine state”).

51. The actual territorial structure of the country according to Kallikratis will be the object of the next section and the issues raised by implementation of this reform in the context of the economic and financial crisis will be the central aspects of this report.

3.3 *Local authorities: territorial structures and powers*

52. Greek Constitution establishes (Article 102, para 1) that “The administration of local affairs shall be exercised by local authorities of first and second level. For the administration of local affairs, there is a presumption of competence in favor of local authorities. The range and categories of local affairs, as well as their allocation to each level, shall be specified by law. Law may assign to local authorities the exercise of competences constituting mission of the State”.

53. The Kallikratis reform redefined the first and second level local authorities mentioned in the Constitution – at present the municipalities and the regions – by changing their territorial structures, their basic organization, their competences, the financial system, the State supervision. Each of these aspects will be shortly described in this section, whereas the more problematic issues and the more recent developments related to the measures adopted to address the economic and financial crisis will be dealt with in the sections on the corresponding articles of the Charter.

3.3.1 *Territorial structures*

54. First and second level local authorities have been regrouped into larger geographical units through the mergers of municipalities, communities and prefectural administrations respectively, resulting in the division of the country into 325 municipalities (first level local authorities), thirteen (13) regions (second level local authorities) and seven (7) Administration Authorities (see Appendix 3 for a detailed table of the territorial authorities in Greece after Kallikratis).

55. After the Kallikratis reform, Greek municipalities reached one of the highest scores among European countries in terms of population (mean value of 33.753, 44 inhabitants). The maximum population is 745.514 inhabitants and the minimum is 98 inhabitants. 45 municipalities have less than 5.000 inhabitants. The average size of the municipalities is 405 sq. km. There are several island municipalities and many mountainous municipalities. As for the regions, the size varies from the 2.307 sq. km of the Ionian Islands to the 18.881 sq. km of the Kentriki Makedonia. The population varies from the 3.761.810 inhabitants of the Attiki, or the 1.871.952 of the Kentriki Makedonia to the 206.121 inhabitants of the Northern Aegean Sea.

Table 1. Size and population per region, average size, and average population per municipality

Region	Size (sq. km)	Average size (sq. km)	Population (Number of Inhabitants)	Average Population (Number of Inhabitants)	Number of Municipalities
Anatoliki Makedonia Thraki (Eastern Macedonia Thrace)	14.157	643.53	605.826	27.537,55	22
Kentriki Makedonia (Central Macedonia)	18.811	495.01	1.883.277	49.559,92	38
Dytiki Makedonia (Western Macedonia)	9.451	787.63	285.002	23.750,17	12
Ipeiros	9.203	511.29	339.721	18.873,39	18
Thessalia	14.037	561.47	737.485	29.499,40	25
Ionía Nisia (Islands of Ionian Sea)	2.307	329.57	224.061	32.008,71	7
Dytiki Ellada (Western Greece)	11.350	597.38	682.604	35.926,53	19
Stereá Ellada (Mainland Greece)	15.549	621.97	559.457	22.378,28	25
Attiki (Attica)	3.808	57.70	3.786.616	57.372,97	66
Peloponnisos (Peloponnesus)	15.490	595.77	584.989	22.499,58	26
Voreio Aigaio (Northern Aegean Sea)	3.836	426.20	198.894	22.099,33	9
Notio Aigaio (Southern Aegean Sea)	5.286	155.56	366.795	10.788,09	34
Kriti (Crete)	8.336	347.33	682.928	28.455,33	24
Agion Oros (Mount Athos)	336		(2.072)	Self-governed	Self - governed
TOTAL	131.957	405.00	10.937.655	33.654,32	325

Source: Ministry of Interior, 2012.

56. Municipalities (δήμοι, *dímoi*; sing. δήμος, *dímos*), are self-governing territorial legal entities which form the first level of local government. Some intra-municipal decentralisation is provided. Municipalities with more than 100.000 residents, as well as those of more than 2.000 which consist of former municipalities that have been amalgamated are subdivided into municipal communities (δημοτικές κοινότητες - *dimotikes koinotites*), with a population of more than 2.000 inhabitants or local communities (τοπικές κοινότητες - *topikes koinotites*) with a population up to 2.000 inhabitants. Municipalities are responsible for the administration of local affairs.

Table 2. Distribution of municipalities by orders of magnitude before (2010) and after (2011) the implementation of the Kallikratis Reform

Population	MUNICIPALITIES 2010	%	MUNICIPALITIES 2011	%
UP TO 5.000	548	53	45	14
UP TO 10.000	259	25	26	8
UP TO 50.000	186	18	192	59
UP TO 100000	31	3	49	15
BIGGER	10	1	13	4
TOTALS	1034	100	325	100

Source: Ministry of Interior, 2011.

57. Regions (περιφέρειες, *periféreies*; sing. περιφέρεια, *periféreia*) are self-governing territorial legal entities which form the second level of local government. The 54 prefectures were abolished. More than one prefecture (νομαρχία; *nomarchía*) may be included within the regional geographical boundaries. In each region, regional units (*Perifereiakes Enotites*) are created, within the boundaries of the prefectures and the former insular *eparchia* (επαρχία); they play an intra-regional decentralisation role, being the seat of the former prefectural administrations' services and contributing to the unhindered service provision to citizens. Regions are responsible for planning and implementing regional policies with regard to their responsibilities.

58. Decentralised State administration has been re-structured. Today there are 7 units (Αποκεντρωμένη Διοίκηση, *Apokentromeni Diikesi*), which are extended within the boundaries of one (e.g. Attiki, Kriti) or more regions. Decentralised State administrations are headed by a secretary general, appointed by the government and are mainly responsible for town and urban planning, environmental policy, forest policy, migration policy, citizenship and energy policy. They do not have elected representatives bodies and exercise devolved State powers. For all these reasons, rapporteurs believe that it should be referred to, more precisely, as "de-concentrated State administration".⁴⁴

44. Article 101: "1. Η διοίκηση του Κράτους οργανώνεται σύμφωνα με το αποκεντρωτικό σύστημα". There is some confusion in the translation of the Greek word "αποκέντρωση". In the English translation of the Greek Constitution provided by the Greek Parliament (that we follow here, with few changes) it is translated as "decentralisation": "The administration of the State shall be organized according to the principle of decentralisation" (<http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-156%20aggliko.pdf>), but we believe that a more accurate translation should use the English neologism of "de-concentration". The French translation provided by the same Greek Parliament states: "1. L'administration de l'État est organisée selon le système de la déconcentration" (<http://www.hellenicparliament.gr/UserFiles/f3c70a23-7696-49db-9148-f24dce6a27c8/001-180%20galliko.pdf>). The expression "οργανισμούς τοπικής αυτοδιοίκησης" included in Article 102 is translated as "local government agencies" ("collectivités territoriales" in French). We will use the translation "local authorities". The word "αυτοτέλεια" (Article 102, para 2) is translated as "independence" in English and "autonomie" in French. We will use the translation "autonomy". In the Greek translation of the Charter provided by the Council of Europe, the expression "local self-government" is translated as "τοπική αυτοδιοίκηση" in the title of the document and as "τοπική αυτονομία" in some of the articles.

Table 3. Number of de-concentrated administrations, regions, and municipalities (2011)

DECONCENTRATED ADMINISTRATIONS	REGIONS "PERIPHERIA"	MUNICIPALITIES "Demos"
Macedonia-Thrace	East.Macedonia-Thrace	22
	Central Macedonia	38
West. Macedonia - Epirus	West. Macedonia	12
	Epirus	19
Thessaly- Central Greece	Thessaly	25
	Central Greece	25
Peloponnese-West.Greece-Ionian Islands	Ionian Islands	7
	West. Greece	19
	Peloponnese	26
Attica	Attica	66
Aegean	North Aegean	8
	South Aegean	34
Crete	Crete	24
SUMS	13	325

Source: Ministry of Interior

59. The special case of Aghion Oros (Mount Athos) which, under Article 105 of the Constitution, remains an autonomous, sovereign entity, directly controlled by the Ecumenical Patriarchate, falls outside the scope of this report.

3.3.2 Basic organisation

60. First and second level local authorities are elected by direct universal suffrage in a secret ballot every five (5) years. These elections are held concurrently at the same polling stations with those of the European Parliament (it happened for the first time in 2014).

61. The municipal council, the economic committee, the quality of life committee, the executive committee and the mayor form the governing bodies of a municipality.

62. The mayor (δήμαρχος, *dimarchos*) is responsible for defending local interests, heading local development actions, ensuring local society unity, implementing municipal council decisions and appointing the deputy mayors. The deputy mayors who are appointed by the mayor are councilors from the majority party. They assist the mayor in the exercise of sectorial and territorial competencies defined and allocated to them at his decision. The number of deputy mayors depends on the municipal population and the number of the municipal units; their term of office may not be shorter than two and a half years.

63. The municipal council is responsible for all municipal affairs with the exception of those under the responsibility of the mayor or any other municipal body.

64. The executive committee is a collective, executive and coordinating municipal body responsible for preparing and implementing the municipal programme. It is also responsible for monitoring and implementing municipal decisions. Executive committees are set up in municipalities with more than one deputy mayor. They are presided by the mayor and composed of the deputy mayors.

65. The economic committee is responsible for the economic control and regular monitoring of the economic function of the municipality, it designs the municipal budget; it makes proposals to the municipal council for the imposition of charges, fees and levies. It is composed of the mayor and a number of municipal councillors elected by the municipal council.

66. The quality of life committee is set up in municipalities with a population of over 10.000 inhabitants. It consists of the mayor and a number of municipal councilors elected by the municipal council. It has

responsibilities in the areas of urban planning, land-use planning, environment, business and shop licensing, in determining street market spaces and outdoor trade places. It also has special responsibility for, and takes action with a view to, upgrading the quality of life in the municipality.

67. There are elected bodies also in municipal and local communities: the president of the municipal community and the council of the municipal community are the administrative bodies for municipal communities. The president of the local community and the council of the local community are the administrative bodies for local communities. If a local community has up to three hundred (300) inhabitants the local community representative is the relevant administrative body.

68. The Head of the region, the deputy heads of the region, the regional council, the economic committee, the quality of life committee and the executive committee form the governing bodies of the region.

69. The Head of the region (περιφερειάρχης, *Peripheriarch*) is responsible for defending the public interest, monitoring implementation of the regional development plan and performing regional duties based on the principles of transparency and efficiency. Some of the Deputy Heads, who assist the Head of the region, are elected and the rest are nominated by the Head of the region. The number of deputy heads of the region elected depends on the number of the regional units; they do not occupy any regional councilor position. In addition, the Head of the region by his decision may appoint up to three deputy heads, vested with specific powers. The deputy heads of the region perform sectorial duties as may be assigned to them by a decision of the Head of the region, with the exception of issues related to cash payment orders.

70. The regional council is responsible for all regional issues, with the exception of those assigned by law to other regional bodies.

71. The executive committee is a collective, executive and coordinating regional body which monitors implementation of the regional policy as well as implementation of the regional development plan. It is composed of the Head of the region who heads the committee and by the deputy Heads.

72. The economic committee is responsible for carrying out the audit and monitoring implementation of the regional budget. It is composed of the Head of the region, or the deputy Head of the region appointed by the Head of the region as president, and regional councilors elected by the regional council in order to participate in the committee.

73. The mayors, the Heads of regions and the regional and municipal council members are elected in electoral constituencies, with an electoral system aimed at ensuring governmental stability. Every candidate running for mayor or for head of a region leads a list of candidate for all the seats of the council. Three-fifths of the total number of seats for regional and municipal councils belongs to the winning electoral formation and two-fifths of the seats are distributed to other formations depending on the number of valid ballots they received. A winning electoral formation, in regions and municipalities regardless of their population, is the one that received more than 50% (50 + 1) of all valid ballots. If none reaches this figure, a second run-off between the two lists that received the most votes in the first round is held.

74. The mayor and the Head of region are elected for a five-year term. They do not depend on a confidence vote of the assembly ('presidential' system) and they cannot be removed from office through vote before his term of office ends. However, if the mayor or the Head of region resign, the majority fraction at the council will elect a new mayor or Head of region from among its member.

3.3.3 Competences

75. According to the Kallikratis reform, municipalities and regions exercise their powers taking into account the relevant national, regional and European policies; the need for cooperation and coordination with other local or regional authorities and organisations; the available resources to meet their responsibilities, and the need to ensure their beneficial, efficient use and equitable distribution; the need for organizing services to ensure their adequacy, quality and effectiveness; the need for sustainable development and protection of the cultural heritage.

76. Kallikratis determined a transfer of powers from the Prefectural Administrations to the municipalities, as well as a transfer of powers from the former de-concentrated State administration to

the regions, in addition to those which remained (after the transfer of powers to the municipalities) from the former prefectures. Especially, responsibilities on the planning and development, as well as responsibilities of administrative/ management nature, have been transferred to the regions, as the Managing Authorities for the Regional Operational Programmes and the Regional Development Funds have been placed under the regions.

77. The law establishes that municipal authorities manage and regulate all local affairs according to the principles of subsidiarity and proximity, aiming at protecting, developing and improving the quality of life as well as promoting local interests.

Municipal responsibilities include (8) eight specific areas mainly comprising the fields of:

- a. Development
- b. Environment
- c. Quality of Life and proper functioning of cities and settlements
- d. Employment
- e. Social Protection and Solidarity
- f. Education, Culture and Sports
- g. Civil Protection
- h. Rural development – Livestock – Fisheries

78. In order to provide their services, municipalities may set up legal entities of public or private law. Municipalities are entitled to have the following legal entities of public law:

- a. Municipal establishments such as nurseries, orphanages, retirement homes, museums or other scientific institutions.
- b. Up to two public entities, one in the field of social protection, solidarity and education and a second one in the field of culture, sports and environment.
- c. Up to two school committees, for the primary and secondary education school units, respectively.
- d. One public entity for the administration and management of the port area.
- e. One public entity as an independent autonomous entity, because of its widely recognized action or its long dedication to specific fields of action.
- f. One or more Municipal Associations of special purposes.

79. Municipalities are entitled to have the following legal entities of private law:

- a. A welfare company aimed at organizing activities and providing municipal services in the fields of social protection, solidarity, education, sports, culture and environment.
- b. One Municipal enterprise of water supply and drainage.
- c. One special purpose company to operate a radio or TV station.
- d. One municipal S.A company to make use of the municipal immovable property or exploit public spaces.
- e. S.A. companies. It should be noted that S.A. companies of the same corporate category are compulsorily merged into one single S.A. company.
- f. Existing non-profit civil societies and existing inter-municipal companies.

80. With a view to providing better services, municipalities may also exercise State responsibilities at local level which have been assigned to them by law.

81. Regions design, plan and implement regional policies within the context of their competencies, according to the principles of transparency, effectiveness and efficiency. Regions exercise their competences within the framework of the relevant laws and administrative regulations, in the fields of:

- a. Planning, Development
- b. Agriculture, Livestock, Fishery
- c.. Natural Resources, Energy-Industry (water management, mineral wealth, energy, industry and manufacturing)
- d. Employment, Trade, Tourism
- e. Transports, Communications
- f. Works, Spatial planning, Environment
- g. Health
- h. Education, Culture, Sports
- i. Civil protection, Logistics

82. In order to provide their services, regions may set up legal entities of public or private law. Regions are entitled to have the following legal entities of public law:

- a. Foundations of the former prefectures, together with their staffs, which automatically come under the control of the regions and operate as regional institutions.
- b. One or more inter-level special purpose associations set up by a region together with one or more municipalities which have their seats in the region
- c. A Regional Association for solid waste management in the form of a limited society, in which participation of the region's municipalities is compulsory. The body operates within the administrative boundaries of each region. It aims at integrated solid waste management.

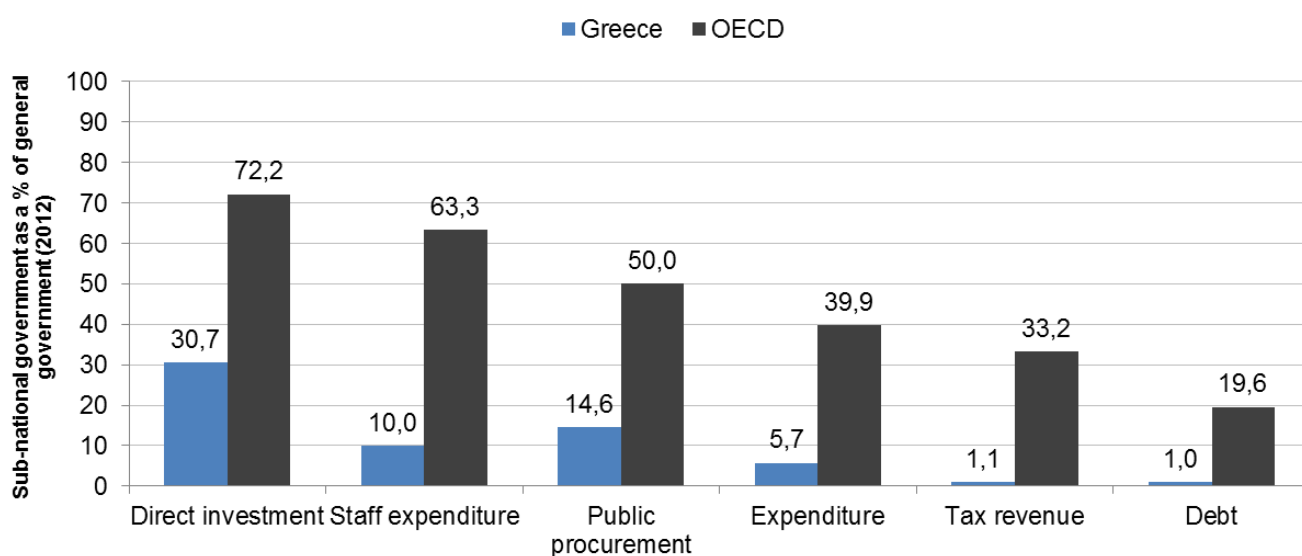
83. Regions are entitled to have the following legal entities in private law:

- a. One company in the form of a development S.A. company, responsible for 1) providing scientific and technical support to the Regions, the Union of Regions and other local government entities; 2) promoting business, economic and sustainable development in the region, as well as developing activities to protect the environment; 3) participating in relevant programmes, or in the implementation of relevant policies at the interregional level or in the wider geographic area.
- b. S.A. companies of the former prefectural administrations;
- c. The already existing non-profit civil societies;
- d. A regional development fund, in the headquarters of every region, supervised by the Supervisor of the Legality. On the basis of regional council decisions, it is responsible for the management of credits from the public investment programme, the management of the funding of public sector institutions and other legal entities, the management of funding from the EU and other international organisations' programmes, related to regional and special development programmes within the Region.

3.3.4 Financial resources

84. According to Article 102, para 2 of the Constitution, "Local authorities enjoy administrative and financial autonomy". The financial autonomy is regulated in paragraph 5, according to which "The State shall adopt the legislative, regulatory and fiscal measures required for ensuring the financial autonomy and the funds necessary to the fulfilment of the mission and exercise of the competences of local authorities, ensuring at the same time the transparency in the management of such funds. Matters pertaining to the attribution and allocation, among local authorities, of the taxes or duties provided in their favor and collected by the State shall be specified by law. Every transfer of competences from central or regional administrations of the State to local government also entails the transfer of the corresponding funds. Matters pertaining to the determination and collection of local revenues directly from local authorities shall be specified by the law."

Table 4. The role of local government in public finance



Source: <http://www.oecd.org/gov/regional-policy/Greece.pdf>

- *Municipal and Regional revenues*

85. According to the law, the revenues of local government can be divided into *ordinary* and *extra-ordinary* ones:⁴⁵

Those which are *ordinary* are derived from:

- a. statutory resources and regular subsidies from the state budget;
- b. taxes, duties (ordinary and user charges), royalties and contributions;
- c. income coming from municipal/communal/prefectural property;

Those which are *extra-ordinary* are derived from:

- a. loans (just 2% of total revenues), gifts, bequests and inheritances;
- b. selling (or "privatising" property);
- c. extra-ordinary subsidies from public agencies;
- d. funding from the European Union or other international organisations;
- e. any other source.

86. For the great majority of Local Government Authorities, revenues that cover ordinary expenditure come mainly from the *Central Autonomous Funds* (CAF), that is, the share of local government in revenues of the state budget (collected by state services). The Central Autonomous funds are, more specifically, derived from:

a. in the case of *municipalities*:

- the income tax of natural and legal persons in a percentage of 19.5% of the total annual tax receipts; a percentage up to 1/3 of the above percentage of 19.5% may be allocated to meet the investment costs of municipalities;
- the Value Added Tax (VAT) in a percentage of 12% of the total annual tax receipts;
- the Unified tax on real estate (ENFIA) in a percentage of 11,3% of the total annual tax receipts.

b. in the case of *the second tier*:

- the income tax of natural and legal persons in a percentage of 4,2% of the total annual tax receipts
- the Value Added Tax (VAT) in a percentage of 4% of the total annual tax receipts.

87. The CAF grants are first assigned to major spending areas and then distributed to individual local governments on the basis of population size, road network and level of social services. There seem, however, to be some major distortions in use of the population criterion. CAF grants are divided into the 'Regular Grant' (RG) for operating expenditure and the 'Public Investment Specific Programme Grant' (PISPG) which finances specific projects.

88. Apart from the CAF, Greek local governments also receive compensation grants, global investment grants and earmarked grants. The latter cover expenditure in specific areas, such as transportation costs for pupils and illness and welfare support grants.

89. It is a fact that second level government depends almost completely on State grants (95% of total revenue). This constrains the discretion of elected officials over budget distribution, since about one third of CAF and an important proportion of other state grants are reserved for investment expenditure. Municipalities have far more discretion, since 32% of municipal revenue (compared to only 3% of second tier revenue) stems from own fees, taxes and charges.

90. For the municipalities, the most important sources of revenue are waste management and cleaning duties, the road and street-lighting duties, the advertisement duty, the beer tax, the property tax and several fees for services, such as market charges, charges for cemeteries, charges for the use of slaughter-houses etc. In several coastal areas the tourist tax is an important source of revenues. The road and street-lighting tax is assessed on the area occupied or used (for business premises), multiplied by a set factor (which is different for residential and business premises). The property tax is assessed on floor area taking into account the location (value of the area) and the age of the building, both of which are determined by the Ministry of Finance. The national electricity company collects these two taxes (as well as waste management and cleaning duties) for local authorities, when electricity bills are paid - which ensures a very high level of collection. Other taxes and fees are levied

45. This section is based on N. Hlepas 'Local Government in Greece' cit., p. 257 ss.

directly by local authorities, with the exception of the beer tax, which is levied by the state and repaid to local authorities. Since 1994, local authorities have been able to adjust the factors applied to property to determine the sum due, and this gives them some power in tax matters. However, an Act of 2000 again reduced this room for maneuver considerably, since the factors applied may not increase tax above the inflation rate. It should be noted that official data on total independent revenues of the local government corporations have not been published during the last years, so that a rather confusing picture exists.

91. Second level local governments depend even more on state grants. They have small budgets, essentially based on transfers from the central state budget, but make little use of some of the powers conferred on them by law because they are still not organized enough to collect taxes, charges and duties, or because the politicians are afraid that the citizenry would protest against "over-taxation". Independent revenues would, however, give the second tier more freedom of action. Compensatory fees, charges and rates can be levied by second tier councils for services or works which help to improve quality of life, provide the public with better services, and develop the area covered by the provincial administration. This option seems to be little used, although it would make it possible to raise independent revenue to fund specific projects. Taxes, fees, charges and rates set by law are a negligible part of second tier revenues. Ordinary resources essentially come from the special grants and the so called central autonomous funds (see below). "Extraordinary" revenue, such as fees for the use of works financed by loans (used to repay those loans) or loans are little used, while second tier local governments also used to receive little in the way of national or EU grants.

- *Municipal and regional budget and expenditures*

92. Local authorities, as public law legal entities, possess private and public property, compile a budget and balance sheet, are subject to special restrictions as to their expenditure, are subject to special provisions as to their accounting system, and are monitored in terms of public finance by the Court of Audit (Article 98 of the Constitution), while most of them form their own service unit for their funds. Through the "Kallikratis" law, the role of the Court of Audit has been upgraded. Apart from controlling local spending, the Court of Audit controls local authorities' contracting as follows:

- For procurement of goods, works and services, including programme contracts, by LGO'S and their legal entities, amounting more than two hundred thousand (200,000) euros excluding value added tax (VAT), an ex-ante (before their signing) mandatory legality audit is carried out, by the Court of Audit Commissioner who is responsible for screening their expenditures.[Article 278 Paragraph 1 of law nr. 3852/2010, as replaced with Article 9 paragraph 1 of law nr. 4071/2012].
- For contracts of the previous paragraph, the budgeted amount of which exceeds the amount of five hundred thousand (500,000) euros excluding VAT, an ex-ante (before their signing) mandatory legality audit is carried out, by the appointed department of the Court of Audit.[Article 278 Paragraph 2 of law nr. 3852/2010]. The Court of Audit also monitors proper collecting of municipal and regional revenue.
- Finally, a special "stability and financial control program" has been initiated by Kallikratis, concerning the (few) municipalities that reached a high level of municipal debt. Other measures on local budgets have been introduced after Kallikratis, as a consequence of the financial crisis and in the framework of the Memoranda negotiated with the Troika (This refers especially to the Observatory for Financial Autonomy of the Local Government Organizations launched by Law 4111/2013 and further implemented by Law 4270/2014). See infra.

93. The law introduced the following additional provisions: a) Annual total payments of interest and principal cannot surpass 20% of ordinary annual revenue of the municipality; b) Total debt cannot exceed 60% of total annual revenue. In this way, new borrowing was made impossible for a minority of municipalities facing problems of over-indebtedness, and the law introduced the so-called "debt brake", whereas some of them were large and important municipalities, as the City of Piraeus.

94. The Kallikratis law provided that municipalities would join a "Special Economic Recovery Program", when they face fiscal problems as described in law. These problems would be:

- a. Incapability of drafting a balanced budget, due to insufficient revenue in the face of existing liabilities.
- b. Annual payments of loan instalments exceeding 20% of annual municipal revenue.
- c. Total debt exceeding a pre-defined ratio of annual revenue. Entering such a "recovery Program" would provide access to special funding but at the same time it would be combined to hiring freeze, pre-defined budgeting options and other fiscal measures, concrete implementation schedules and monitoring through a Central Audit Committee at the Ministry of Interior.

95. Joining such a “recovery Program” could be voluntary, based on the decision of the Municipal Council. For Municipalities without access to credit market, due to the new restrictions imposed by the Kallikratis Law (see above) or/and strict borrowing criteria that gradually prevailed in the banking sector after the outbreak of the crisis, such “recovery Program” could, theoretically, be a bitter but necessary option.

96. The law also provided for compulsory implementation of such “recovery Program” in over-indebted municipalities. The Minister of Interior could initiate a thorough scrutiny of the financial situation of a municipality through independent accountants. Finally, based on their report, the Central Audit Committee could decide that the scrutinized municipality has to adopt and implement a “Recovery Program”.

97. Municipalities have important assets (town halls, streets, parks and physical infrastructure). Streets, parks and squares are offered to public use”, while municipal “commonwealth” buildings (town halls, kindergartens, schools etc.) are regarded as municipal “public property”, having a special legal status. Many municipalities possess important private property (especially real estate, but also stock shares etc.) which has to be managed in a proper way. Respective actions (selling, buying, renting etc.) have to be approved by the municipal council and are subject to further substantial and procedural restrictions (tendering etc.). Second tier local governments do not have similar assets (apart from provincial roads), while their property (especially real estate property) is barely worth mentioning.

98. With regard to spending, it should be mentioned that investment expenditure does not totally feature in local government budgets. Local investment expenditure is, to a great part, funded by the state, and from the EU structural funds, but the corresponding resources do not always appear in local budgets. So, it is very difficult to have an accurate image of the financial situation of local government in Greece.

- Auditing of first and second level local authorities

99. The Kallikratis law, Articles 275-276, provides that the financial supervision of local authorities (municipalities and regions) is a competence of the Court of Audit. The Court of Audit carries out a preventive control of all expenses incurred by municipalities, regions and their legal entities, (except the school committees), public utilities enterprises, municipal enterprises of water supply and sewerage, and the municipal limited companies regardless of their population. The preventive control of expenses as well as that of debts, liabilities or penalties against third parties is conducted by the Commissioner of the Court of Audit who is responsible for the preventive control of expenses. Procedures for holding elected representatives or officials accountable for the amount of the damage they cause are available in the event of uncollected revenues owing to their fault or gross negligence.

100. The Court of Audit is responsible for carrying out ex post audits on the accounts of municipalities, regions and their public entities as well as on accounts of the public utilities enterprises, water supply enterprises and sewerage and municipal limited companies. Audits conducted are annual random audits, unless cases are identified which require a more generalised audit which is conducted after completion of a financial activity. Audits performed can be extraordinary, general, special purpose or thematic audits either of legality or regularity of the financial management procedures.

101. The Commissioner who is responsible for the preventive control is responsible for the ex post audits as well. The report prepared on the results of the ex post audits performed is submitted to the Ministers of Interior and of Finance and to Parliament's Institutions and Transparency Committee.

3.3.5 State supervision of local government

102. State supervision is provided in the Constitution itself. According to Article 102, para. 4 “The State shall exercise the supervision of local authorities, which shall consist exclusively in the review of the legality and shall not be allowed to impede their initiative and freedom of action. The review of legality shall be exercised as specified by law.”

103. The traditional scheme of state supervision through Secretary Generals appointed by the central government has been abolished by the Kallikratis reform, although its provisions have not been implemented yet and in the transitional period the former system is still in force. In accordance with law 4257/2014, a Special Supervision Service of Local Authorities is established within the seat of

each De-concentrated Administration. This service is included in the organizational structure of the De-concentrated Administration concerned and reports directly to the Secretary General of the De-concentrated Administration. It is headed by the Supervisor of Legality, a person of high skills and authority, selected after a competitive tender (Articles 215ff). This position is equivalent to that of the Head of a Directorate General.

104. It is obligatory to forward to the Supervisor of Legality several acts of the collective organs of the local government corporations (councils, committees, etc.), the public law legal persons and enterprises established by local authorities. The acts concern especially tendering, local rules, loans, expropriation, imposing of taxes and fees, local government property etc. They must be forwarded within 15 days from the date of issuance (obligatory control) and are checked within 30 days. In the event of illegality, the act is declared void (Article 225 of Kallikratis). After the 30 days without answer from the supervision authority the act is considered to be legal. In addition to the obligatory control, the law provides for an *ex officio* control. In this context, the Supervisor of Legality may *ex officio* cancel any decision made by the above bodies, for reasons of legality, within two months from the date of publication or issuance.

105. Moreover, any person having a legal interest may appeal to the Supervisor of Legality against any act of a collegial or single-member organ of a local government entity (with the exception of enterprises) within 15 days from the publication or posting on the site of any municipal or regional decision. The Supervisor of Legality must decide within two (2) months from the date the complaint is submitted; otherwise the complaint is considered to have been tacitly rejected. In this case, following a corresponding application, the Supervisor of Legality can suspend the execution and enforcement of respective acts and decisions, provided that the appeal has "solid reasons" and the person will suffer a serious, non-reversible damage should the act be executed and enforced. It is worth mentioning that this kind of appeal is a formal precondition, in order to use a remedy in the courts (in case of rejection of the appeal) (Article 228 Kallikratis).

106. State supervision is exercised also over the *persons* who make up the organs of the local government authorities (so called "disciplinary" supervision). According to Kallikratis, the Supervisor of Legality, by a reasoned decision and with the consent of a five member special council, can impose certain penalties on them. These are, more specifically, the penalty of suspension for up to six months for a serious dereliction of their duties or the exceeding of their competence by deliberate action or heavy negligence, and the penalty of forfeiture (or downfall: "*ekptosi*") of office in certain more particular cases which are stipulated by law (e.g. arbitrary absence or abstention from their duties). The legislation also continues to provide for the penalty of dismissal "for grave reasons of public interest"; which is imposed, with the consent of a special council, by a decision of the minister (Article 237 Kallikratis). All these special disciplinary councils meet in public, and consist in the majority (three of the five members) of regular judges, while a representative of the Association of Local Government serves as a member. The relevant procedure involves a defence, representation by a lawyer, and the examination of witnesses. Recourse against a disciplinary decision is only possible to the Council of State (which also judges the case as to its substance).

3.3.6 *The status of mountainous and insular municipalities*

107. Greece is a country with a huge diversity of geographical conditions, especially as far as mountains and islands are concerned. There are remote areas of the country with a very low density of population, vast distances and difficult transportation. The Constitution refers to this diversity in Article 101, concerning the deconcentrated State administration. According to Article 101, para. 2, "The administrative division of the Country shall be based on geo-economic, social and transportation conditions". According to paragraph 4, "The legislator and the Public Administration, when acting in their regulatory capacity, must take into consideration the special circumstances of the insular and mountainous areas caring for their development". No references to a special status of local authorities situated in those areas are made in Article 102, on local government.

108. The principle established by Kallikratis, is one island-one municipality (apart from Crete, Evvoia and the very small islands), which determines important differences in size and population, from the island of Gavdos (158 inhabitants – the smallest municipality in Greece) to Rhodes (157.635 – the largest island municipality in Greece and 9th in total).

109. According to Kallikratis reform (Articles 204-209), insular municipalities may undertake additional responsibilities, to provide services which are close to the place of residence of insular population

(some of them have already been transferred; others have not been transferred yet). Special regulations are provided to support such responsibilities. In particular, insular municipalities exercise additional powers in the areas of: Agriculture, Livestock and Fishery; Natural resources, Energy and Industry; Employment, Trade and Tourism; Transports and Communications; Works, Urban and Spatial Planning and Environment.

110. In addition, the Central autonomous fund (CAF) is allocated considering the demographic, geomorphological, administrative, financial, social, environmental and cultural characteristics of the municipalities. In this framework, the permanent service provision to insular and mountain municipalities is taken into serious consideration.⁴⁶ At institutional level, deputy mayors and presidents of municipal communities within the territorial boundaries of an island are provided with far-reaching competencies. As for the regions, insular regions, in addition to their regional responsibilities, exercise responsibilities related to the planning, the approval and monitoring of intra-regional transport plans.

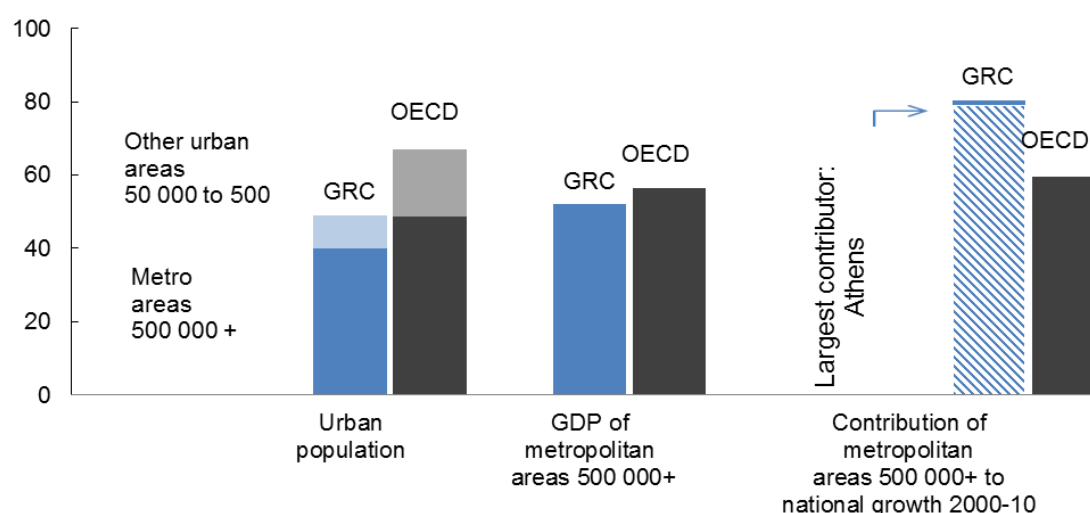
111. For the mountainous municipalities, the legal treatment is similar to the one provided for insular municipalities. The mountain municipalities exercise powers in the fields of: Energy; Waters; Forestry; Agriculture and livestock; Support of local community and economy.

112. Despite these provisions, during the visit the rapporteurs received several claims from insular municipalities that most regulation continues to relate to the traditional criteria of uniformity and that a special status for insular municipalities is still missing, especially from the financial point of view. This lack of special status undermines the capacity of islands' municipalities to provide public services to their citizens, due to higher costs and longer procedures. This issue was raised especially by those municipalities that, after the amalgamation realized by Kallikratis, now include several islands, as is the case for the Municipality of Naxos and Small Cyclades.

3.3.7 The status of the Metropolitan Regions and of the Capital City

113. Another aspect of diversity that does not seem to have been properly addressed yet is the status of metropolitan areas. In Greece there are two important urban conglomerations: those of Athens and Thessaloniki. According to the 2011 census⁴⁷, the regions of Attiki (Attica) and Kentriki Makedonia (Central Macedonia), where the two main cities are located, have respectively 3.828.434 and 1.882.108 inhabitants. As for the municipalities, the municipality of Athens has 664.046 inhabitants; the municipality of Thessaloniki 325.182. Patra has 213.984 inhabitants and Iraklion 173.993.

Table 5. The importance of the urban areas



Source: <http://www.oecd.org/gov/regional-policy/Greece.pdf>

46. 'Structure and Operation of Local and Regional Democracy, Greece, Situation in 2012' Strasbourg 2012, p. 33.

47. http://www.statistics.gr/portal/page/portal/ESYE/BUCKET/A1602/PressReleases/A1602_SAM01_DT_DC_00_2011_03_F_EN.pdf

114. Formally, according to Kallikratis, in the context of the second level of local government, additional metropolitan functions are undertaken associated with addressing supra-local problems and development needs with a view to better serving the two big urban centres of the country. In particular, the Region of Attiki is an entire metropolitan region, while in the Region of Kentriki Makedonia metropolitan functions are exercised only in the Metropolitan Unit of Thessaloniki, namely within the boundaries of the urban complex (Law 3852/2010, Part E, Articles 210-213).⁴⁸ These provisions have not been implemented, as the necessary ministerial decisions and presidential decrees have not yet been issued. A public entity regional Association called the “Special inter-collective Association of the Prefecture of Attiki (ESDNA)” operates in the metropolitan region of Attiki. Both the metropolitan region of Attiki and the municipalities of the regional unit of Attiki participate in this association to manage integrated solid waste.

115. During the meetings the rapporteurs had with the Mayors of Athens and of Thessaloniki, both public officials expressed their concern at the lack of a special status of their municipalities, as far as institutions, competences, finances, relationship with the State are concerned. The Mayor of Athens pointed out the need to grant to the City of Athens, as Capital City, a special status.

116. Taking into consideration Recommendation 219 (2007) on the status of capital cities, establishing that “the Congress 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”, the rapporteurs consider that recognition of a special status for the municipality of Athens is warranted. In addition, they recommend the implementation of the already existing provisions on metropolitan regions and the introduction of special provisions for metropolitan municipalities.

4. Article-by-article analysis of the situation of local democracy in the light of the European Charter of Local Self-Government

117. Since Article 2 of Law 1850/1989 establishes that “The implementation field of the Charter is restricted to local self-government entities of the first tier”, this analysis – based on the previous recommendations – will not include the regions.⁴⁹

4.1 Article 2 and 3 – Principle and concept of local self-government

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.

Article 2: Constitutional and legal foundation of local self-government

118. Consistently with the Greek tradition of centralisation, the principle of local self-government is not included among the “Basic Provisions” of Part One of the Constitution.⁵⁰ Conversely, the principle can be found in Section VI of Part Three of the Constitution, in Chapter One “Organization of the Administration”, Articles 101 and 102 (Article 101A addresses a different matter, namely independent authorities). The location of the principle is the result of the view, well-rooted in the Greek tradition, according to which local authorities are considered part of the executive power. This view, however, is not always perfectly compatible with the principle of “local self-government” and in case of a future constitutional revision; the opportunity to include an entire section on self-government should be taken into account.

119. Article 101, paragraph 1, establishes the principle of “deconcentration” for the administration of the State: “1. The administration of the State shall be organised according to the principle of decentralisation.”⁵¹

48. See Council of Europe, ‘Structure and Operation of Local and Regional Democracy, Greece, Situation in 2012’, cit., p.11.

49. On the specific features of the regions, see *infra*, para 5.

50. See, among others, J. Loughlin ‘Greece: Between ‘Henosis’ and Decentralisation’ in John Loughlin (ed.) *Subnational Democracies in the European Union. Challenges and Opportunities*, Oxford, Oxford University Press 2001, p. 271; G. Avdikos ‘Local Authorities in Greece: Organisation, recent trends, European integration, reform, and the “Kapodistrias” tendency’ in C. Panara & M. Varney, *Local Government in Europe*, New York, Routledge, 2013, p.128 ff.

51. See *supra*, note 43

120. Article 102, in its actual text, following the 2001 revision, establishes in paragraph 1: “1. The administration of local affairs shall be exercised by local authorities of first and second level. For the administration of local affairs, there is a presumption of competence in favor of local authorities. The range and categories of local affairs, as well as their allocation to each level, shall be specified by law. Law may assign to local authorities the exercise of competences constituting mission of the State”. The notion of “local affairs” is not defined by the Constitution and it is a matter of legislation or of judicial interpretation⁵².

121. Article 102, paragraph 2 points out that: “2. Local authorities shall enjoy administrative and financial autonomy”. Financial autonomy is more specifically regulated by paragraph 5: “5. The State shall adopt the legislative, regulatory and fiscal measures required for ensuring the financial independence and the funds necessary to the fulfilment of the mission and exercise of the competences of local authorities [...] Every transfer of competences from central or regional administrations of the State to local government also entails the transfer of the corresponding funds”.

122. In comparison with most constitutions, especially the most recent ones, the constitutional regulation of local self-government in Greece is rather circumscribed and synthetic. In addition, also as a result of the 2001 (Article 102) and the 2008 (Article 101) amendments, the provisions are neither organic nor well-organised. Therefore, the remark contained in the 2008 Congress recommendation, at para 5b, according to which Article 102 does not identify the two levels of local authorities (consequently weakening their constitutional guarantee), still holds unfortunately true.⁵³

Article 3 – Concept of local self-government

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

Article 3: *Concept of local self-government*

123. The main question that must be addressed under this heading is whether, in the present situation, Greek municipalities do regulate and manage a “substantial share of public affairs under their own responsibility and in the interests of the local population”. This provision requires an assessment which takes into account the rather “subjective” and relative nature of the concept of “a substantial share of public affairs”, since no official or universal method of measuring such substantial character has yet been developed. The question must be addressed considering the historical evolution, the culture and the constitutional traditions of the country under analysis.

124. In order to assess compliance with this provision, both legislative and factual aspects should be taken into consideration.

125. As for the legislation, a first problematic issue is the lack of statutory powers of municipalities, which cannot “regulate” local affairs. This aspect is part of the Greek longstanding and well-rooted tradition of centralisation and is enshrined in the Constitution itself.⁵⁴ Actually, State competence (i.e. matters reserved to parliamentary law) for important subjects of public policy (education and health system, environmental protection, physical planning, economic development, etc.) is explicitly established by the Constitution (e.g. in Articles 21, 16, 24, 106), while local governments are deprived of regulatory autonomy. “This means” – according to the written answer provided by the Council of State in response to the questions raised by the rapporteurs – that “all strategic decisions regarding local authorities are taken at the level of National Parliament”.

52. However, the 2006 revision of the Code of Municipalities and Communities (Act 3463/2006) made some steps in this direction, listing seven categories of local affairs: a) development, b) environment, c) quality of life, d) labor, e) social protection and solidarity, f) education, culture and sports, g) civil protection. See C. Akrivopoulou, G. Dimitropoulos, S. Koutnatzis ‘The “Kallikratis Program”, cit., p. 673.

53. Before the 2001 amendment, Article 102 established: “The first level [of local authorities] comprises municipalities and communities. Other levels shall be specified by law”.

54. See for this part N. Hlepas ‘Local Government in Greece’, cit., p. 257 ss.

126. This is also true as far as taxation is concerned. Article 78 of the Constitution safeguards the so called “taxation monopoly” of the parliament (whose plenary law defines subject, percentages and exemptions of taxation), whereas Article 102, para. 4 imposes correspondingly on the State the duty to “concern itself” to ensure the necessary resources for local authorities.

127. Statutory powers may be delegated by the Parliament to local authorities. This delegation is subject to the same rigid substantial and procedural rules that were drawn by the Constitution (Article 43) for any “organ of the executive function” (e.g. ministers, boards, etc.). This means that delegation of legislative power is allowed only by parliamentary act and only if it refers to “special matters” or “subjects of detailed or technical character or of local interest” (Article 43, para 2).⁵⁵ Accordingly, case-law of the Greek Council of State underlined that local government competence for “local affairs” (Article 102, para. 1) refers only to single administrative acts and not to normative acts (local norms of general character), which are subject to the restrictions set out by Article 43, para. 2, just as they apply to any other organ of the executive function. Furthermore, the Council of State rejected the delegation of new responsibilities from the State to local government, every time these responsibilities refer to “important sectors of public policy”, which are assigned by the constitution exclusively to the state (e.g. physical planning, environmental protection, or the status of teachers in public schools).⁵⁶

128. After the 2001 constitutional revision, the new version of Article 102 of the Constitution, by establishing that “Law may assign to local government agencies the exercise of competences constituting mission of the State” tried to facilitate delegation of State responsibilities to local authorities (Article 75II of the Code of Municipalities and Communities 2006 (law 3463/2006) assigning to municipalities state responsibilities) but the Council of State has continued to oppose delegation to local authorities. Furthermore, according to the prevailing legal view, the law can change borders and types of local government authorities for reasons of public interest, following objective criteria. Discretion of ordinary law over territorial structure and organizational form of local government is quite broad, especially when the existing structures are considered inefficient. For this reason, the amalgamation reforms of 1997 and 2010 did not face any serious legal opposition.⁵⁷

129. Regarding factual aspects, during their visits in Greece the rapporteurs were told in several meetings with the associations of local authorities and with some municipalities, that, notwithstanding this legal framework, “no decentralisation exists in Greece” or that “the country is less decentralised now than it was before Kallikratis”.

130. Several problematic aspects have been pointed out that the rapporteurs would like to list here, as they can undermine the very concept of local self-government:

a. Kallikratis reform transferred many new competences to municipalities; some of them, e.g. on social policies, are important in a time of economic crisis, but without adequate financial and human resources municipalities cannot manage them. This is especially true for municipalities that experienced important mergers and have a vast territory (such as Lagadàs, for instance, where the rapporteurs had a meeting during their visit.

b. As a consequence of the Kallikratis reform, in many fields there is an overlapping of competences (and responsibilities) between deconcentrated State administration, regions and municipalities.

55. See Council of State, Decision 1181/2014, plenary session: Admissibility of an action for annulment against a decision of the community council regulating the duties on bottling and trading of drinking water (tax on transactions in favor of local authorities). Constitutionality of the law provision granting legislative delegation to the city and community councils to determine the rate of the aforementioned duties, provided that the limits of such competence are specifically determined by act of parliament.

56. Council of State, Decision 3661/2005: The notion of “local affairs” (Article 102, para. 1 of the Constitution) refers only to single administrative acts. Regulatory powers can only be delegated to local governments if the conditions of Article 43 of the Constitution are respected, just as it applies to any other part of the executive function. Local authorities lack normative autonomy. Physical planning is entrusted by the Constitution to the state and cannot be delegated to local authorities. See also Council of State, Decision 4483/2010 that declared the invalidity of acts of parliament conferring competences of urban and regional planning on the determination of streamlines to local authorities, since such a competence belongs to the central government and cannot be regulated by acts of local authorities.

57. See Council of State, Decision 545/2001: Legal remedy against the electoral result concerning a local community. The discontinuation of municipalities and their union or merger to larger local authorities does not require the prior opinion of residents, voters or councils of the affected authorities. Such regulation does not violate art. 5 of the European Charter of Local Self-Government, which provides that changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, since the charter was ratified by the Greek government formulating a reservation to, amongst others, the aforementioned article.

Competences need to be reassessed; mechanisms of co-operation and dialogue between the different authorities do not work properly. It is especially unclear concerning the role of 7 State authorities that are becoming progressively weaker, also as a consequence of the empowerment of regions; these State authorities cannot be abolished without a constitutional revision since there are some matters that according to the constitution cannot be transferred to local government. Rapporteurs were told by different interlocutors (at both local and national level) that they should be abolished.

c. A better, more institutionalized, co-ordination and consultation at any level is warranted, especially in areas with extensive overlapping of competences (such as education or transportation).

d. Financial autonomy is a very complex issue, as the transfer of competences occurred without adequate resources. Since 2010, the State funds (CAF) were cut by 60%; interlocutors pointed out that cuts have been proportionally more extensive at local level than at State level.

e. There is a growing difficulty in collecting local taxes due to the economic crisis: more than addressing local affairs in the interests of local population, the main concerns of mayors are to be able to pay to the administrative staff their salaries each month.

f. All interlocutors, both at national and local level, agreed that local authorities should be able to make use of own resources, especially taxes, also in order to enhance accountability; the proposal to transfer all taxes on local estates to local government is welcomed.

g. Many municipalities, especially those located in remote areas, face significant operational problems due to the large extension of their territory and the lack of sufficient resources.

h. Especially problematic is the issue of human resources. Since 2010, municipalities have experienced important cuts in personnel. Concerns have arisen from both a quantitative - many municipalities are understaffed - and a qualitative perspective - others are overstaffed with non-expert staff and are in need of staff with higher expertise. The number of staff employed at every municipality seems to escape planning and be the result of mere personal choices (depending on the number of employees who decide to retire or to take advantage of the mobility programs), also in consideration of the fact that it is not possible to hire new staff until 2016 and that cuts have been made to temporary contracts. Most interlocutors agreed that this policy on contracts responds to the need to eliminate the pre-existing patronage system, but the result is a lack of seasonal staff, especially in touristic destinations. The new, centralised, system for the selection of personnel - currently not operational due to the crisis - was perceived as too lengthy.

i. Even more simple measures adopted by the legislator within the framework of the public administration reform - such as the compulsory publication on the web of decisions of local governments, the program on transparency⁵⁸ or the centralised system for public procurement⁵⁹ turned out to be difficult to implement at local level due to the lack of well-trained staff, able to use new technologies.

j. The right and the ability of local authorities to manage local affairs in the interests of their populations are also undermined by the overwhelming quantity of existing legal provisions. Legislations and regulations often go into great detail. Standards established long ago are still in force, only partially amended due to their progressive obsolescence, ultimately increasing the complexity of legislation and creating inefficient procedures. This legislative complexity often determines different decisions in similar cases, both at the level of administrative courts and at the Court of audit.

k. Another important obstacle is represented by the extensive bureaucracy. The supervision on local government is especially complex. Very often legality control turns into an expediency control; as a consequence of the crisis, financial controls - on expenditures and budget - increased and the control by the Observatory is considered by local authorities as undermining their autonomy;

l. There are several cases of dismissals of elected officials after a final decision of a court; they are very often prosecuted for no reasons, as a consequence of anonymous complaints.

58. See the programme named "DIAVGEIA": <https://diavgeia.gov.gr/en>

59. See Law 4013/2011 which provides for the establishment of a single independent regulatory authority for public procurements (SPPA-EAADISY) and recently Law 4281/2014 on Public Procurements (see <http://www.eaadhsy.gr>).

131. To summarise, considering Greece's past as a much centralised State, the reform introduced by Kallikratis was considered positively (a step in the right direction) by most interlocutors, both at central and local level. This is so, especially because Kallikratis increased local competences, transparency and accountability, all elements considered necessary to counteract the diffuse maladministration and corruption, especially common at local government level.⁶⁰ Within this framework, also the ex-ante control over local budget is admitted by some interlocutors at local level; many sources considered that until the crisis local budgets were not accurately drafted, and in many instances were merely fictional; therefore, the Observatory can be seen just as a temporary tool in order to make the budgets realistic.

132. Nevertheless, the rapporteurs were told very often that the implementation of the reform has been deeply affected by the crisis. This explains the abovementioned statements ("there is no decentralisation in Greece" or that "the country is less decentralised now than it was before Kallikratis"). There is a diffuse perception that agreements with the Troika determined Greek politics at any level and that, by the time being, there is no possibility to properly implement the reform, or any other improvement in the local self-government. The interlocutors, not only at national level, but also at local level, share the view that local governments must contribute to the country's recovery. How this can be accomplished, however, is still very much an open issue.

Article 3.2: Municipal form of government

133. The right to self-government is exercised in Greece by elected bodies: Article 102, para 2 of the Constitution provides that the institutions of local authorities (of first and second level) "shall be elected by universal and secret ballot, as specified by law". At municipal level both the council and the mayor are freely elected by secret ballot on the basis of direct, equal, universal suffrage. The mayor, as mentioned before, is the executive organ and is not responsible to the council. The electoral system, taken in conjunction with the fact that the mayor, elected for a five-year term, does not need the declared confidence of the majority of the municipal council (a quasi-presidential, non-parliamentarian system at the local level), determines a dominant role of directly elected mayors.⁶¹

134. The Kallikratis reform tried to introduce in the organisational structure bodies that could counterbalance the power of the mayors.⁶² Among these, the following may be mentioned: 1.) the executive board, which is a kind of city cabinet that monitors and coordinates the implementation of municipal policies, 2.) the economic committee, which is responsible for financial planning and control as well as for public procurement, and 3.) the quality of life committee (in municipalities with more than 10 000 residents) which is responsible for environmental, city planning, and certain permitting matters.

135. In addition, new institutions were introduced as elements that should increase the accountability, transparency, and participation of the citizens in local issues and that were expected to upgrade local government performance. To this end, Kallikratis stipulated that local authorities are obliged to make all their decisions public on the internet, as a requirement for their validity.

136. The establishment of a local mediator in every municipality to support citizens is an attempt to reduce mismanagement and eliminate sources of corruption as this institution will examine relevant allegations. He is elected by 2/3 municipal council decision (an analogous mediator is provided at regional level). The local and regional mediators are responsible for protecting citizens and enterprises against municipal and regional acts of maladministration and from the maladministration of their legal entities and enterprises; they are also responsible for mediating in order to address relevant problems.

137. A consultation committee should be created in municipalities with more than 10.000 residents as well as in municipalities with a population of less than 10.000 inhabitants, upon decision of the municipal council. It is composed of representatives of professional organisations, scientific entities and organisations, workers' and employers' organisations, cultural and sports organisations, civil society organisations, registered municipal residents, etc. It acts as an advisory body on various

60. See European Commission, EU Anti-corruption Report, COM(2014) 38 final http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_greece_chapter_en.pdf

61. N. Hlepas 'Local Government in Greece' cit., p. 257 ss.

62. N. Hlepas 'Centralisation, Decentralisation, Recentralisation: Lessons from the Greek Experience' in K. Göymen & O. Sazak (eds), *Centralization Decentralization Debate Revisited*, Istanbul, 2014, p.171 ss., <http://ipc.sabanciuniv.edu/en/new/the-book-on-centralization-decentralization-debate-revisited-has-been-published/>

issues of local interest and offers advice to the municipal council (a similar organ is set up at the regional level providing advice on issues of regional interest).

4.2 Article 4 – Scope of local self-government

Article 4 – Scope of local self-government

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

138. The Greek Constitution regulates the scope of local self-government in Article 102, para. 1. After establishing that: “The administration of local affairs shall be exercised by local government agencies of first and second level”, it provides that “For the administration of local affairs, there is a presumption of competence in favor of local authorities”, accepting the principle of Article 4, paragraph 3 of the Charter. The same Article 102, para. 1 adds that “The range and categories of local affairs, as well as their allocation to each level, shall be specified by law”. Therefore, it is the law that determines the competences of local authorities and especially the Municipal code of 2006 (Law 3463/2006, art. 75). The Municipal code has been deeply amended by Kallikratis reform and at the moment a new code is under elaboration.

139. The rapporteurs were informed by the representatives of the Greek Parliament that in 2013, due to the strict limitations on the budget set by the Medium-Term Fiscal Strategy 2013-2016, the government was forced to suspend the transfer of a number of significant powers to local government authorities (Law 4147/2013). However, it is the government’s intention to proceed with the full implementation of the “Kallikratis” Program as soon as the fiscal situation permits it.

140. Accordingly, Article 4, para. 1 of the Charter that establishes that “*The basic powers and responsibilities of local authorities shall be prescribed by the Constitution or by statute*”, should be considered formally respected, although in the practice the transfer of the new competences has not yet been completed. In addition, it should be noted that, in practice, not only major, but also sometimes even minor decisions tend to be taken at the highest administrative or political level. Some of the most important public service delivery systems, such as public education, public health services, and social protection are still subject to direct and comprehensive control by the central government.

141. The consequence of the Greek tradition of centralisation and the existing legal and factual framework are not in line with full discretion (Article 4, para. 2 of the Charter) and to the fullness, comprehensiveness and exclusiveness of responsibilities (Article 4, para. 4 of the Charter) as stipulated in the Charter. It is sufficient to mention the role played by the deconcentrated State administration. While in some countries it is considered that it is not necessary for the government to set up its own field offices, the prevailing view in Greece argues that the implementation of major government policies and their adaptation to local circumstances should be entrusted to deconcentrated state administrations, thus safeguarding an unbroken line of unitary political responsibility and control through the central government that is trusted by the national parliament.

142. However, regions have no legal authority to regulate, control or simply exercise influence over the first tier of local government, the municipalities. In fact, regions often co-operate with municipalities and often offer resources and assistance to municipalities but the law explicitly states that there is no subordination or any form of “hierarchical relation” between municipalities and regions. From this point of view, art. 4, para. 4 of the Charter is respected.

143. As for Article 4, para 5 of the Charter, it should be pointed out that Article 102, para 1 of the Constitution provides also that “Law may assign to local authorities the exercise of competences constituting mission of the State”, although in many fields, as pointed out above, the delegation of powers to local authorities is still not admitted by the case-law of the Council of State. When delegation is possible, it is regulated in the framework of Article 43 of the Constitution, as any delegation in favor of “organs of the executive function”: thus the space of discretion left to local authorities is narrow.

144. Finally, Article 4 para. 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”. This issue was addressed in Recommendation 247 (2008), according to which the Greek authorities responsible for local and regional self-government have to “consult both levels of local authorities as broadly as possible, taking account of their interests, when preparing and introducing the reform”. As a matter of fact, rapporteurs were told that local authorities’ representatives (by now KEDE for municipalities and ENPE for regions, see *infra*) were deeply involved in the preparation of Kallikratis reform.

145. From a legal point of view, there is no constitutionally-established process of consultation between central and local government. However, some interlocutors told the rapporteurs that the Ministry of the Interior is in constant communication with local government representatives and always consults with them before taking any legislative initiatives. Regarding the Parliament, its members are informed through the Special Standing Committee on the Regions on the functioning of local government authorities, particularly on the issues concerning the design and implementation of regional development policy. They also consult with local government representatives in committee hearings when matters concerning them are discussed in Parliament.

146. The case-law of the Council of State has established that for every transfer of powers from central or regional authorities to local authorities and for the allocation of the local affairs to the different levels of decentralisation, it is necessary to acquire the opinion of the local authority in question, before the transfer of powers.⁶³

147. In conclusion, four basic remarks may be formulated in respect of the requirements of Article 4 of the Charter:

148. On the one hand, the number and importance of powers and competences presently enjoyed by municipalities do not seem too limited. In addition to the competences already listed in the previous legislation, Kallikratis reform transferred many new competences to municipalities. The main concern is the lack of adequate financial and human resources to adequately manage them.

149. On the other hand, fullness, comprehensiveness and exclusiveness of responsibilities seem not be respected. In many fields there is an overlapping of competences (and responsibilities) between deconcentrated State administration, regions, and municipalities. The role of 7 de-concentrated State authorities is especially controversial. Rapporteurs were told by different interlocutors (not only at local level, but also at national level) that they should be abolished.

150. In order to avoid overlapping responsibilities, it should also be considered that there are many matters in which competences can be neither transferred nor delegated to local authorities, due to the wording of the Constitution and to the interpretation given by the Council of State.

151. Finally, more institutionalised co-ordination and consultation processes at any level are needed, especially in areas with huge overlapping of competences (such as education or transportation).

63. Council of State, Decision 506/2010 and 2599/2011: Legal remedy against a regulatory act of transfer of powers a) of execution of urban planning and b) of maintenance of national road networks to local authorities.

4.3 Article 5 – Protection of local authority boundaries

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.

152. Greece is not bound by article 5, according to which local authority boundaries should not be changed without prior consultation with the local communities concerned, possibly by means of a referendum where this is permitted by statute. This being said, the rapporteurs would like to stress that the process of mergers of municipalities has been a prominent feature in the Greek territorial landscape in the last decades, especially in the “*Kapodistrias*” and “*Kallikratis*” reform. Changes to administrative boundaries of a municipality may take place under certain conditions provided for in articles 2-5 and 10-13 of the Law 3463/2006 (“Code of Municipalities and Communities”) and article 5 (“Redefinition of boundaries of municipal communities within municipalities of over 100 000 inhabitants, transfer of a local community to a neighbouring municipality”), as well as article 6 of the Law 3852/2010 (“the Kallikratis reform”) (“Establishment of a local community from a settlement which is defined in the census as independent”). The opinion of the local authorities involved is requested. The holding of local referendums is enshrined in article 216 of the Law 3463/2006; however the presidential decree necessary to implement this provision is still lacking and therefore, referendums have not, in practice, been held. Therefore the rapporteurs are of the opinion that the situation in Greece would be, *de jure* at least, in compliance with Article 5. Consequently, they consider that very little is required to enable ratification of Article 5 of the Charter and they encourage the Greek authorities to consider revisiting the declaration made as regards this article.

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

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

- 1 Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- 2 The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

153. Article 6, para 1 of the Charter provides that local authorities shall be able to determine their own internal administrative structure. Greek municipalities enjoy a certain degree of autonomy in establishing their internal organisation charts, although it should be considered that they lack statutory powers and that the laws regulate in detail the municipal organisation.

154. As regards Article 6, para. 2, of the Charter, on the recruitment of staff, this is presently a very controversial issue in Greece, also as a consequence of the economic and financial crisis and the measures imposed to address it.

155. The public service system in Greece is a career system: officers are recruited at the base of a pyramid and advance progressively to higher posts. The current constitutional status for civil servants is also applied to employees of local self-government authorities (Article 103, para. 6 of the Constitution). Civil servants have tenure and they have an obligation of political neutrality. The whole formal status of local authorities’ staff, although governed by a special code, is assimilated in its major aspects to that of the staff of the state public service, although the administration units of local government authorities have many special profiles and, usually, a smaller size.

156. Article 103, para. 2 of the Constitution establishes that personnel with the status of civil servants (so called “permanent personnel”) can only be hired if a corresponding post is provided in the organisation chart (“organigram”) of the local authority. “Long-term private law employees” can only be hired as “special scientific” or “technical” or “assistant” personnel. Short-term employment according to private law is only allowed in view of “unexpected” or “urgent” needs.

157. Since the constitutional revision of 2001, control of an independent regulatory authority (the High Council for the Selection of Personnel, known under the acronym ‘ASEP’) over hiring and contracting of all kinds of personnel in the whole public sector – already introduced in 1994 – is being constitutionally guaranteed. Although this means that respective hiring and contracting procedures can

require a long lead time, this centralised system has been deemed necessary in order to terminate traditional patronage practices that frustrated meritocracy and overloaded public administration with high numbers of personnel that lacked the necessary skills, while it undermined professionalism and ethics of public servants. Furthermore, the Constitution explicitly prohibited the adoption of laws that would turn temporary employment into any kind of permanent employment, since several laws, in the past, used to “legalize” ex post a plethora of patronage practices that circumvented constitutional provisions on hiring and employment status in the public sector.

158. Apart from rigid legal restrictions concerning recruitment, local government has practically no possibility to develop a human resources management system of its own. Negotiations between employees and employers are organised nationally, given that salary increases and other claims are settled at the level of central government. In the case of local government, although the employer is the authority concerned, bargaining is conducted with the central government (especially the Ministry of Interior and the Ministry of Finance).

159. As for the quality of the staff, an important role in improving the capacities of local government employees is played by the National Centre for Public Administration & Local Government (EKDDA). It is the strategic agency of Greece for the development of the public administration and local government human resources. It was founded back in 1983 as a Public Law Entity with administrative and financial autonomy and is supervised directly by the Minister of Administrative Reform & e-Governance.

160. For budgetary reasons, restrictive measures on hiring of public sector personnel have been introduced by the beginning of the eighties, while nowadays, due to financial crisis and consequent conditionality, they have been further tightened. Since 2010 several exceptional measures have been taken in order to cut the cost of local government staff, as for the overall public administration employees, such Article 11 of Law 3833/2010, which defined that the number of annual recruitments and hiring could not be higher than the ratio of 1:5 (one recruitment per five exits) for all the entities and the provision contained in 2013-2016 MTFS of reduced recruitments under the rule 1:10. Another important aspect was the cuts in public sector seasonal bonus and in wages. New laws ordered internal re-organisation of local authorities: in 2011 new and “lean” organisational charts were adopted, in 2012 municipalities and regions had to abolish existing vacancies (posts without staff), in 2013 internal units (directorates, departments, offices etc.) had to be reduced by 30%. Employees on contract basis (without civil servant status) have been fired (ca. 30,000, 1/5 of local government employees in total in 2011). Employment contracts should be reduced, in 2012 only 4,477 contracts were approved, in 2013 the number was reduced to 3,582, further reducing is foreseen for 2014 (-20%) and 2015-2016 (-10%). Even employees with civil servant status (3,500 municipal policemen and 2,200 school guardians) were removed from their offices in 2013.⁶⁴

161. According to the 2015-1018 MTFS, the process of appointing and recruiting permanent staff and staff with private law contracts of indefinite duration of secondary and compulsory education, for first and second degree local authorities and their legal entities under private law, is suspended until 31 December 2016. Local authorities may appoint and recruit regular staff (university and technical education) within the limitations set by the provisions of article 11 of Law 3833/2010 as applicable, according to which, a decision by the Minister of Administrative Reform and e- Government is needed for implementing the ratio 1:5.

162. It should be noted that the planning of recruitments for first and second level local government staff falls within the public sector staff planning, under the jurisdiction of the MAREG, which is responsible for keeping the relevant data. Finally, Article 30 of Law 4223/2013, as amended and applicable (article 51, par 8 of Law 4250/2014) provides for the program of voluntary mobility within the two levels of local government, according to which staff from first degree local authorities may upon their request, be transferred to first and second degree local authorities.

163. In conclusion, at the moment Greek municipalities lack the possibility to recruit high-quality staff on the basis of merit and competence, according to Article 6, para. 2. Many interlocutors pointed out that local authorities (as well as the rest of Greek public administrations) have been over-staffed with unqualified people hired in the past. However, nowadays most municipalities deal with an important lack of specialized staff. Rapporteurs cannot avoid to point out that this weakness on human

64. See N. Hlepas, ‘Centralisation, Decentralisation, Recentralisation: Lessons from the Greek Experience’, cit., p.196.

resources is likely to undermine the local authorities' ability to manage their competences and, in substance, the very scope of local self-government.

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

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

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

164. As for Article 7, para 1 of the Charter, under Greek law, the conditions of office of local elected representatives do provide for the free exercise of their functions. This point has never been put into question by facts or reality, although in the recent years the financial crisis determined an important cut in remuneration of elected representatives (e.g. only the mayor and one or two deputy mayors, depending on the size of the municipality, are remunerated; the amount of the remuneration has been reduced; municipal councillors do not receive any payment or allowance).

165. Mayors, deputy mayors, and the presidents of the municipal councils who are employed as civil servants, public entities employees or state private legal entities or business employees are entitled to unpaid mandatory special leave throughout their term of office. No such possibilities of unpaid leave exist for private employees being councilors, nor allowances for councils meetings are provided.

166. Mayors or their relatives whose private interests come into conflict with municipal interests are required to abstain; in this case their powers are exercised by the deputy mayor. As a part of the transparency program carried out in the framework of Kallikratis, mayors, deputy mayors, all members of the economic committee and the quality of life committee are required to submit an annual statement of their assets and post it on the municipal website.

167. As for Article 7, para 3, objective criteria of incompatibility are provided by the law. In order to safeguard public interests, judicial and religious officers, armed forces and security forces officers as well as any person having any relation with the municipal authorities, or any debt or owing money to the municipality may not stand for the offices of mayor, deputy mayor or member of the municipal council. Standing for elections at both levels of local government is prohibited. Any election of the same person as an elected representative of the first and second level local government is precluded. Rapporteurs were told that a prohibition existed between the office of mayor and the practice as a lawyer that could prevent lawyers from engaging in local democracy, but that eventually that prohibition was lifted.

168. Although Greece is not bound by paragraph 2 of Article 7, rapporteurs would like to point out the risk that important cuts in remuneration of elected representatives, if brought to extremes, may prevent some categories from standing for office and, in the end, undermine the free exercise of their functions.

4.6 Article 8 – Administrative supervision of local authorities' activities

Article 8 – Administrative supervision of local authorities' activities

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

169. Article 8 of the Charter deals with supervision of local authorities' activities by other levels of government. Greece is not bound by paragraph 2 of this article. However, the expediency control (to

which paragraph 2 refers to) is not contemplated by the Greek legal system. Following the 2001 constitutional revision, Article 102, para. 4 of the Constitution explicitly refers to “the review of legality” and provides that State supervision “shall not be allowed to impede” the “initiative and freedom of action” of local authorities. Legislation has been amended accordingly.

170. In the past (as observed by Recommendation 247 (2008)) one of the most problematic issues of local and regional democracy in Greece was the role of the Secretary General of the deconcentrated State administration *vis-à-vis* the local authorities. The Recommendation considered that it “infringes the principle of local self-government, particularly owing to the administrative interventions which this office is allowed to make in the settlement of local affairs, that is, in the field of planning and management of community funds and the powers of administrative and financial control and surveillance of both levels of local authorities”.

171. The rapporteurs notice with satisfaction that important progress has been made by Kallikratis reform, as a completely new system of legality supervision has been introduced (described above), although the system has not been fully implemented yet and Greece is still in a transition period, in which the previous system is still in place. During the monitoring visits, rapporteurs were told by several representatives of local authorities that many difficulties still exist, as the State’s supervision of local government is still extensive.

172. In practice, control procedures are lengthy, also due to the weakness and lack of human resources in State deconcentrated administrations, determining, especially in the numerous cases of *ex ante* compulsory control, a paralysis of the local administrative action and, in some cases, a denial of citizens’ rights.

173. The Greek Ombudsman, in his written answers to the rapporteur’s questions, pointed out that maladministration, which often characterises local government authorities, is due, to a great extent, to the unwillingness or weakness of the deconcentrated State administration in monitoring practices, to ensure legality and transparency. The investigation of the complaints submitted to the Greek Ombudsman has revealed incapacity on the part of the Secretary of deconcentrated administration to review citizens’ complaints within the required 60 day absolute deadlines from the submission’s date. If there is no action on the part of the deconcentrated administration the complaint is overruled implicitly.

174. Furthermore, very often legality control shifts towards expediency control. Examples were provided of cases in which State control voids the local autonomy, leaving no discretion to municipalities, also in matters relevant to their competence.

175. Another important concern expressed by local authorities is in relation to the financial controls introduced as consequence of financial crisis, and especially in relation to the creation of an observatory for local government’s fiscal management (the official title was “Observatory of financial autonomy of Local Authorities”, hereafter “Observatory”).

176. The Observatory was firstly established in 2012, by the new mid-term framework for fiscal strategy (MTFS) and it has been launched through Law 4111/2013 (Article 4). It is a Committee supported by the Financial Directorate of the Ministry of Interior and consisting of Fiscal Judges and high civil servants, while it also includes representatives of Local Government Associations (from the first and, respectively, the second tier). Law 4270/2014 (“Fiscal management and supervision principles, incorporation of directive 2011/85/EU - Public accounting and other provisions”) redefined the tasks of the Observatory.

177. The main role of the Observatory – according to the MTFS 2015-2018⁶⁵ – is to ensure the preparation of realistic and balanced budgets by local authorities, in accordance with the applicable budgetary Law as well as the monthly monitoring of budget execution by local authorities and their legal entities included in the Register of General Government Entities. Moreover, the Observatory provides its opinion to the Ministers of Interior and Finance on the draft budgets, by drawing up proposals, which are taken into consideration in the preparation of the consolidated local government budget that is reflected in the MTFS and the State Budget.

178. In the above mentioned context, the Observatory:

65. MTFS 2015-2018, p.75.

- a. Assesses the revenue forecasts presented by local authorities in their budgets and the Integrated Action Plan and draws up proposals concerning the modification of targets, mainly when revenues appear to be overestimated and unrealistic;
- b. Assesses and controls the proper budget implementation, and in case of deviation greater than 10% from the quarterly budgetary objectives, it informs the local authority involved and its supervising authority and provides guidance on correcting the deviation. In the case of deviation from the targets for two consecutive quarters and if no appropriate measures have been taken, by decision of the Minister of Interior issued upon a proposal of the Observatory, the local authority concerned is placed under the fiscal consolidation program. The Observatory is responsible for defining the way of implementation of the programme.

179. According to the experts' opinion, up to now, however, no such case has been recorded yet. Even in cases of persistent budget variance, the Observatory tends to apply "soft" methods of persuasion. Mandatory opinions of the Observatory on several matters and occasions have been submitted to all entities (893 in total), sometimes even containing instructions for draft budgets of 2014. Corrective mechanisms to control the budget execution for annual targets had already been introduced in 2012, however, such mechanisms proved not to be useful to the full extent if ceilings are not used in the budgetary process over time. In its comments sent to the rapporteurs during the consultation process, the Minister of Interior stressed that the opinions of the Observatory concern the drawing up of the annual budgets and focus on checks related to realistic budget drawings. Compliance with the directives and the ceilings, provided for in the annual Joint Ministerial Decision on the preparation of the budget issued by the Ministers of Finance and of Interior, is the essential tool for evaluating the realistic aspect of local budgets. In case of deviation in the execution of the budgets, the Observatory gives instructions to the entities that deviate so that they carry out actions with a view to correcting the deviations.

180. In 2013, Local Authorities' budgets were not fully consistent with the projections of the MTFs for the local government sector as a whole. Consistency between the MTFs projections and Local Governments' budgets of 2014 became obviously more effective through the cooperation between the Observatory from one side and local government from the other side.

181. Institutionalisation of such an "Observatory" and other mechanisms of central fiscal control including obligatory measures faced vehement opposition from local government associations as well as from trade unions of local government employees. National Associations of Local Governments appealed in Council of the State against acts of the Observatory. They claimed this Institution would violate constitutional safeguards and especially the provisions on operational and economic autonomy of local government authorities (Article 102 para 2 of the Constitution).

182. The Council of State decided that legal provisions about the Observatory would not violate the financial autonomy of local government. The new institution would restrain in guidelines and instructions while municipal and regional councils still have enough space of discretion. Furthermore, the court stated that fiscal targets imposed by international agreements of the Greek government with the Troika and the European partners would be directly binding for all entities of general government.⁶⁶

183. In conclusion, as for the compliance with Article 8, paras. 1 and 3, rapporteurs are perfectly aware that in the Greek context after 2010 – deeply marked by the financial crisis and by the subsequent international conditionality – a certain degree of centralised supervision, especially budgetary, over local government cannot be avoided. In addition, they were told by most interlocutors, not only at State level (such as the President of the Observatory or the representatives of the Minister of Finance) but also at municipal level, that some degree of budgetary control was needed, due to the

66. Council of State, Decision 1716-1717/2014: Action for annulment against ministerial acts regulating the budget-passing procedure of regions and municipalities. The applicants contested the involvement in this procedure of a Government Committee called "Observatory of the financial independence of local authorities" that gives an opinion on the draft budget of local authorities. The applicants maintained that the involvement of this Committee is contrary to the guarantee of the administrative and financial independence of local authorities according article 102 of the Greek Constitution. The Court attested that the opinion given by the Observatory, indicating the amounts that the Economic Committee of the Region/Municipality should enter under a specific code number of the draft budget so that it becomes realistic and balanced, is not binding on the regional/municipal council, which ultimately passes the budget. The latter must take the Observatory's opinion into account, but can deviate from it. The regional/municipal council must, however, comply with the principles of public finance management and budgeting laid down by law 2362/1995 on Public Accounting, as amended. Compliance with the principles established by the above provisions is a legality control (and not expediency control) and does not affect the administrative and financial autonomy of local authorities, which does not include the power to adopt regulatory provisions without a foundation on parliamentary law. The cases were dismissed.

long-established and very common practice for Greek local authorities to present inaccurate provisional budgets.

184. The rapporteurs highly appreciate the efforts made by Greece, since the 2008 recommendation, in modifying the administrative supervision system. However, they cannot avoid expressing their concern about the existing situation: the lack of full implementation of the new system of legality supervision; the excessive length and bureaucratisation of procedures; the tendency of the legality control to shift to expediency control. Especially delicate is the role of the Observatory, given the risk that its control is not kept in proportion to the importance of the public interests which it is intended to protect and that it undermines the local financial autonomy and especially the freedom of local authorities to determinate expenditures priorities (in relation to Article 9, para. 1, of the Charter, see *infra*).

185. So far, it seems to the rapporteurs that the actual situation in Greece is not in compliance with the requirements laid down in article 8, paras. 1 and 3 of the Charter and those factual developments should be further monitored.

4.7 Article 9 – Financial resources of local authorities

Article 9 – Financial resources of local authorities

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

186. The legal authority to perform certain functions is meaningless if local authorities are deprived of the financial resources to carry them out. The financial resources of local authorities are a sensitive topic and an important source of controversy in many countries, but this issue is especially delicate in Greece.

187. It was already addressed by Recommendation 247 (2008), according to which “the financing of the municipalities and communities remains most inadequate; it is based almost exclusively on transfers from the state”. It was recommended that the Greek authorities responsible for local and regional self-government: “c. guide the evolution of the financial system towards more extensive diversification of sources of local government revenue, as directed in Article 9, paragraph 4 of the charter, by developing the foundations of greater financial autonomy through levying of local revenue (dues and charges, borrowings and direct taxation); d. reinforce the system of local financing, in accordance with Article 9 (paragraphs 1 and 2) of the Charter, in the framework of devolution and transfer of powers to local authorities, looking to a larger proportion of local government funding in the GDP (gross domestic product) and in overall public spending”.

188. Local government revenues and expenditures are very low in Greece, as a percentage of GDP. The taxation autonomy of both tiers remains limited. Their total share of public expenditure is one of the lowest in Europe. More specifically, the two tiers of local government expenditure amounted to

2.8% of GDP in 2011 and 5.6% of total public expenditure. Local government revenue reached 2.6% of GDP and 5.6% of total public sector revenue in 2011⁶⁷.

189. The already existing difficulties increased in the recent years. From one hand, Kallikratis reform improved the competences of local authorities that subsequently would need more financial resources; from the other hand, the unprecedented financial crisis and the related Memoranda of Understanding imposed severe austerity measures and important budgetary cuts throughout the public sector.

190. The economic crisis had very heavy repercussions on the situation of local government in Greece. Rapporteurs were told that local and regional authorities have to “offer much more with much less”. General grants (CAF) decreased no less than 60% within 5 years. At the same time, municipalities faced increased claims for childcare, elderly care and especially for social assistance to jobless and poor people. Many municipalities proved to be very innovative, initiating “time banks” (service offers in exchange for other services), “social supermarkets”, “social drugstores” etc. At the same time, there were obvious efforts of the State and especially of the Ministry of Finance to control and coordinate financial management in municipalities, as showed above (sub art. 8).

191. In the written answer to the rapporteurs’ questions, the Ministry of Finance pointed out that the local government balance has improved significantly in recent years. This improvement is illustrated in fiscal outturn figures published by the ELSTAT.

	2010	2011	2012	2013
ESA95 LGs Balance	-569	487	693	770

192. The high surpluses should be considered sustainable as also projected in the Medium Term Fiscal Strategy (MTFS) 2015-2018.

MTSF 2015-2018	2014	2015	2016	2017	2018
Fiscal Balance	784	852	958	941	1046

193. It pointed out that due to the economic adjustment program, several measures were taken place in order to improve the financial situation of local authorities. Some of the measures aimed at improving own revenue such as increase in local tax compliance through the introduction of local tax clearance certificate requirement and increase other revenue due to economies of scale and better organization of collection mechanism while others targeted at the rationalization of expenses (e.g. introduction of electronic public procurement system, reduction in the cost of land expropriations, reduction in the number of fixed term contracts, cuts in public sector seasonal bonus, reduction in the number of advisors’ positions of elected officials, flat rate for Chairmen and Managing Directors of Municipal Enterprises etc).

194. Moreover, despite the austerity measures which resulted in the reduction of Central Autonomous Funds (CAF), local authorities managed to successfully implement the aforementioned interventions and, therefore, contribute to the financial effort of the country mainly through the maintenance of own revenue (fees and royalties, income taxes, other fees and services, etc.) to high levels despite the economic recession and further rationalisation of operating costs. It should be noted that a key factor in achieving a positive balance for 2013 was the financing from the state budget to pay off outstanding obligations from the special appropriation of arrears clearance program.

195. The MTFS 2015-2018 points out that “The financial result improved in 2013 compared to 2012 and the most significant reasons are the maintenance of their own revenues at high levels despite the economic downturn, and the further rationalisation of their operating costs, which were decreased by approximately 12% compared to 2012. A crucial factor in achieving a positive balance in 2013 was the funding (about 933 million € cumulatively for 2012-2013) from the special allocation, of the State budget, to clear pre 2011 arrears”.⁶⁸

196. Notwithstanding, the rapporteurs cannot consider art. 9, para. 1 of the Charter respected in Greece: presently, local authorities do not dispose of “adequate financial resources of their own, of which they may dispose freely”. In practice, decision-making and especially implementation of policies often depend on resources controlled by the State and not by local authorities.

⁶⁷. DEXIA 2012.

⁶⁸. MTFS 2015-2018, p. 73.

197. As for Article 9, para. 2 of the Charter, the principle of commensurability (according to which there should be an adequate relationship between the financial resources available to a local authority and the tasks it performs) has been violated since several additional responsibilities have been transferred to municipalities without the corresponding resources, as highest administrative court already acknowledged in more cases.⁶⁹

198. Paragraph 3 of Article 9 of the Charter requires that a proportion of local revenues should come from local taxes, and local governments must be able to determine the rate applicable. Paragraph 4 establishes the principle of diversification of financial resources of local authorities, while paragraph 5 establishes the principle of financial equalisation. Paragraph 6 provides for the necessity of proper consultation, paragraph 7 limits the special grants to local authorities and paragraph 8 disposes the access to the national capital market for local authorities.

199. On those issues, rapporteurs point out that, according to the data provided by the written answer of the Ministry of Finance, (quoting the fiscal outturn figures published by the ELSTAT for 2013), local government revenues' structure is as follows:

- Grants from Ordinary Budget : 45% of total revenues
- Grants from Program Investment Budget: 11% of total revenues
- Other Revenues: 34% of total revenues (*of which (a) revenues from reciprocal duties and rights: 15%, (b) tax revenues, duties, rights & services 7%, (c) other own revenues 6%, (d) revenues related to previous years 6%*)
- Revenues collected on behalf of third parties : 10% of total revenues

200. The Local Government expenditure structure is described below:

- Personnel Remuneration: 25% of total expenditures
- Welfare benefits: 12% of total expenditures
- Interest Expenditure: 1% of total expenditures
- Program Investment Budget Expenditures: 17% of total expenditures
- Other Expenditures: 33% of total expenditures (*of which (a) Payments related to previous years: 5%, (b) Transfers to third parties 10%, (c) Other operating expenditure 18%*)
- Expenditures on behalf of third parties: 12% of total expenditures⁷⁰

201. As described before, local authorities' other revenues (e.g. excluding grants from State Budget & PIB) which represent approximately the 34% of total revenues are divided in 4 main categories:

- a. Revenues from reciprocal duties and rights: 47% of own revenues in 2013
- b. Tax revenues, duties, rights & services: 22% of own revenues in 2013
- c. Other own revenues: 13% of own revenues in 2013
- d. Revenues related to previous years: 18% of own revenues in 2013

It must be noted that the share of the first three categories (a+b+c) is higher if we take into account amounts that refer to taxes, duties, rights, etc. but are related to previous years and are depicted in the fourth category.

202. Regarding the ability of Local Authorities to independently determine the burden of local taxes, the Ministry of Finance pointed out the following:

- Reciprocal duties are determined according to the cost of the offered service. The amount is approved by the City Council and the Secretary General of the Deconcentrated Administration
- The burden of other local taxes is provided by law and is not at the discretion of each Local Authority to alter.

69. Council of State, Decision 506/2010 and 2599/2011: Legal remedy against a regulatory act of transfer of powers a) of execution of urban planning and b) of maintenance of national road networks to local authorities. In compliance with the provisions of article 102 (par. 2 and 5) of the Constitution, as well as with the principles of administrative and financial autonomy of the local authorities, for every transfer of powers from central or regional authorities to local authorities and for the allocation of the local affairs to the different levels it is necessary to entail the transfer of the corresponding funds. In case this requisite is not met the regulatory act of transfer of powers is deemed invalid.

70. According to the written answer of the Ministry of Finance, "The special appropriation of arrears clearance program was excluded from total revenues since this financing is not directly connected with the LGs actual operation and thus this exception gives a more representative picture of revenues structure. Similarly, expenditures related to arrears clearance program were excluded from total expenditures".

203. Finally, the Ministry of Finance determines the total amount of statutory funds (Central Autonomous Funds (CAF)) as well as special grants given to Local Authorities taking into account the performance of specific taxes (e.g. VAT, CIT, ENFIA) and specific needs and events (e.g. economic recession, growing number of responsibilities). The redistribution and allocation of the aforementioned amounts are Ministry of Interior's responsibility and are decided based on quantitative and qualitative criteria such as population, unemployment, growth, etc.

204. Other information on local financial resources has been provided, from a completely different point of view, by the Greek Ombudsman. According to Greek Ombudsman's data the most common complaints concerning to the department of State-citizens relations and related to the first tier of local administration are the financial problems arising from the imposition of the local taxation. In addition the inefficient tax collecting affects the economic self-sufficiency of local government and their ability to fulfil their contractual or other obligations.

205. According to its experience the Ombudsman has come to the conclusion that local authorities are not sufficiently prepared to impose local taxation or, to be more specific, unable to implement the complex and -in many cases- outdated legislation.

206. Another serious problem is the inability of local government authorities to honour their financial obligations. The citizens often submit complaints because municipal authorities do not recognize their predecessors' debts. Generally, local authorities refuse to fulfil their economic obligations arising either from the conditions of contracts or the rules of the relevant laws. Payment on time of the compensation for the expropriation of private property for urban planning processes is rare and many citizens ask for the Greek Ombudsman's mediation.

207. Against this background, rapporteurs are fully aware of the unprecedented financial crisis and of the international constraints Greek authorities have to comply with. As important actors of the country, local authorities need to contribute to the consolidation process.

208. Nevertheless, rapporteurs believe that the economic and financial emergency cannot determine a suspension of the binding nature of the Charter. Thus, they should reaffirm, taking into consideration Recommendation 247 (2008), that the financing of the local authorities remains inadequate, as is based almost exclusively on transfers from the State.

209. The evolution of the financial system towards more extensive diversification of sources of local government revenue, as directed in Article 9, para. 4 of the Charter, by developing the foundations of greater financial autonomy through levying of local revenue (dues and charges, borrowings and direct taxation) is still missing.

210. The need to reinforce the system of local financing, in accordance with Article 9 (paragraphs 1 and 2) of the Charter, in the framework of devolution and transfer of powers to local authorities, looking to a larger proportion of local government funding in the GDP (gross domestic product) and in overall public spending is still current.

211. The rapporteurs believe that a real local democracy needs strong local and regional government disposing of more own resources and discretion to decide upon them. During the monitoring visit, rapporteurs found a vast consensus on the possibility that revenue from real estate taxation would be transferred to municipalities and regions, which would thus become less dependent on State grants, improving the level of tax collection and increasing their accountability to the citizens. Thus, rapporteurs invite the Greek authorities to seriously consider this possibility, already in place in many countries of the Council of Europe having a long and well-rooted history of strong and effective local self-government.

4.8 Article 10 – Local authorities' right to associate

Article 10 – Local authorities' right to associate

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

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

212. In relation to Article 10, para 1 of the Charter, it should be pointed out that Article 102, para 3 of Greek Constitution establishes, after the 2001 constitutional revision, that “Law may provide for compulsory or voluntary associations of local authorities to execute works or render services or exercise competences belonging to local authorities; these shall be governed by elected administrations”. Co-operation across levels of local government (municipal and regional), as well as inter-municipal co-operation are being regulated and encouraged by law.

213. Co-operation including both tiers of local government is nowadays explicitly foreseen by law, that provides the (voluntary) establishment of cross-level “associations” (*“diavathmidiki sindesmi”*, Article 105 Kallikratis), which can deal with public works, service provision, fulfillment of concrete tasks or implementation of development programs and projects. Especially within the Attikia Region, an obligatory special cross-level “association” is provided, for waste management, while in the rest of the country, obligatory special inter-municipal association (on in each region) will deal with waste management.

214. Inter-municipal associations (*“diadimotiki sindesmi”*) can also be created on a voluntary basis, dealing with public works, service provision, fulfillment of concrete tasks or implementation of development programs and projects. The law is offering, furthermore, a wide range of contracting and networking possibilities both to municipalities and regions. Municipalities or/and regions can become parts of “contracts of inter-municipal or cross-level cooperation”, where one part can offer support to the other part or/and fulfill some of its tasks (Article 99 Kallikratis). Quite common are the so-called “programmatic contracts” (Article 100, *“programmatikes simvasis”*), concerning concrete projects (e.g. development projects, constructions etc.), where not only local authorities, but also other public authorities (also Universities) and public sector entities (public enterprises etc.) can become parts of.

215. Finally, municipalities and regions can also be members of looser co-operation schemes, such as “networks” (Art. 101, 202, 203 Kallikratis, *“diktia”*) following targets of public interest (including networks with foreign local governments).

216. An especially important role is played by the completely renovated associations of local authorities: Central Union of Municipalities in Greece (KEDE), the Regional Unions of Municipalities (PED) as well, for regions, by the Union of Greek Regions (ENPE) (see Law 3852/2010, article 282 and Presidential Decree 75/2011), although, as already said above (sub. art. 4), an adequate institutional consultation procedure of these association is not provided within the existing legal framework.

217. As for Article 10, para 3, of the Charter, first and second level local authorities may set up international and European collaborations under international, European Union and national law, according to the scope of their responsibilities and subject to the country's international obligations, as follows: a) Municipalities and regions collaborate with respective foreign authorities, at the European and international level, in order to facilitate and promote transnational, inter-regional, cross-border and territorial co-operation and participate in programmes, activities and initiatives of European (EU, etc.), international and regional organisations (Council of Europe, etc.); b) Municipalities may enter into twinning programmes with other cities with a view to promoting economic, cultural, educational and social relations and building and developing close and friendly relations; c) Municipalities, regions and de-concentrated administrations may participate in a European Grouping of Territorial Co-operation (EGTC) in order to facilitate and promote cross-border, transnational and/or interregional co-operation with the exclusive aim of strengthening economic and social cohesion. A European Grouping of Territorial Co-operation with its headquarters in Greece is an urban non-profit company; d) Municipalities may organise cultural, artistic and sporting events and mission exchanges; e) Regions may cooperate with respective local authorities and other foreign organisations.

218. In conclusion, rapporteurs appreciate the multiplicity of instruments provided by the law. Considering also that no remarks or complaints on this issue have been submitted by the interlocutors during the meetings, rapporteurs consider that Article 10, paras. 1 and 3 of the Charter is fully respected in Greece. It should be pointed out that Greece is not bound by paragraph 2 of Article 10.

219. Nevertheless rapporteurs would like to point out that Greece has not yet signed the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

4.9 Article 11 – Legal protection of local self-government

Article 11 – Legal protection of local self-government

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

220. Concerning the protection of local self-government, as public law entities, local authorities have all the substantial and procedural rights which apply to such entities, while they furthermore can refer to fundamental rights applicable to private entities, whenever their private property rights are concerned.

221. However, the rapporteurs would like to point out that Greece lacks a constitutional court and in particular a special remedy for local authorities is not foreseen by law. The lack of these remedies can entail a weakening of constitutional and legal protection of local self-government as far as legislation is involved.

222. For executive acts, Article 95 para. 1, letter a) of the Constitution establishes the direct and centralised jurisdiction of the Council of State (Συμβούλιο της Επικρατείας, *Symvoulío Epikratias*), the supreme administrative court, “to annul upon petition enforceable acts of administrative authorities for excess of power or violations of law”. Municipalities and regions can challenge administrative acts infringing their administrative and financial autonomy. The Third Chamber of the Council of State has jurisdiction over such applications. If the Chamber holds unconstitutional a legal provision, it is obliged to refer the matter to the Plenum.

223. As far as legislation is concerned, a diffuse system of judicial review exists. Thus, the question of constitutionality can be addressed by any court, and local authorities can invoke their constitutional and further legal status, whenever they appeal against State decisions (e.g. decision of State supervision authorities, the Court of Audit, or if they appeal against court decisions at a higher court). Notwithstanding this diffuse system, several factors – the availability of legal remedies against judicial decisions, the lower courts’ standard practice of following the pronouncements of the high courts, the possibility to directly challenge executive acts before the Council of State – pushed towards a “de facto” concentration of judicial review in the hands of the Council of State (at least as far as administrative matters are concerned. For civil and criminal matters this tendency is in favour of the Supreme Court. Whenever their interpretations differ, a Special Highest Court shall be established, according to art. 100, para. 1, letter e) of the Constitution).

224. Legislative acts that include individual measures – and do not need any further executive act for their implementation – cannot be challenged in courts, thus bypassing both direct and diffuse judicial review.⁷¹ The Council of State⁷² has indicated that to enact regulations of an individual nature by statute in order to bypass direct judicial review is constitutionally permissible only in exceptional circumstances and is always subject to judicial scrutiny.⁷³ However, many reforms of local government have been introduced by statutes that exhaustively provide all details⁷⁴ and thus preclude any further executive regulations. Therefore, they cannot be challenged, neither directly, nor indirectly (by challenging the executive acts) by local authorities.⁷⁴

225. In the light of the foregoing, the rapporteurs point out that the lack of any mechanism to directly challenge the constitutionality of legislative acts in the Greek system of judicial review results in a substantial gap in terms of legal protection of local self-government.

71. See C. Akrivopoulou, G. Dimitropoulos, S. Koutnatzis, ‘The “Kallikratis Program”, cit. at p. 691.

72. Council of State (Full Bench) Decision 1847/2008.

73. Especially on the consolidation of local authorities as was the case with Kapodistrias and Kallikratis reforms.

74. Council of State, Decisions 3866-3868/2011, Plenary session: Action for annulment against an act of parliament regulating the establishment of a new municipality by means of the union of discontinued local authorities is inadmissible. See also Council of State, Decision 1618/2012, Plenary session: Action for annulment against an act of parliament regulating the seat of a local authority is inadmissible.

4.10 Article 12: Undertakings – reservations formulated by States, if any**Article 12 – Undertakings**

- 1 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.
- 2 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.
- 3 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.

226. As noted above in various paragraphs, the Instrument of Ratification of the Charter by Greece was deposited on 6 September 1989. The Charter entered into force in respect of that country on 1 January 1990. On the ground of Article 12, paragraph 2 of the Charter, Greece declared itself not to be bound by:

- Article 5
- Article 7, paragraph 2;
- Article 8, paragraph 2;
- Article 10, paragraph 2 of the Charter.

227. Moreover, while an explicit declaration according to Article 13 of the Charter is not included in the ratification instrument, as indicated above, Article 2 of Law 1850/1989 establishes that the implementation of the Charter is restricted to local authorities of the first tier.

228. In the written answers to the rapporteurs' questions the Ministry of the Interior informed the rapporteurs that, for the time being, it is still not possible to ratify all the above mentioned provisions. The only provision on which the reservation could be lifted, according to the competent Directorate of the Ministry of Interior could be Article 8, para. 2, as control, which is strictly limited to their legality and not to their expediency, is exercised over local government actions.

229. Regarding the other provision, the Ministry of the Interior pointed out that:

“- Art.5 Any change of the administrative boundaries of a municipality may take place under certain conditions provided for in articles 2-5 of the Law 3463/2006 (“Code of Municipalities and Communities”), Articles 10-13 of the same law, and Article 5 (redefinition of boundaries of municipal communities within municipalities of over 100.000 inhabitants, transfer of a local community to a neighbouring municipality) and Article 6 (establishment of a local community from a settlement which is defined in the census as independent) of Law 3852/2010 (“the Kallikratis reform”), with different regulatory acts, as the case may be, and based on the opinion of the local authorities involved. Holding local referendums is provided for in Article 216 of Law 3463/2006; however, in practice, referendums have not been held, pending the issuance of a Presidential Decree, which will provide for legality and other organisational issues;

- Article 7, par.2: The Law 3852/2010 (article 92 in relation to municipalities and article 181 in relation to regions) and provisions which settle specific issues are mainly issued on the initiative of the Ministries of Finance and of Labour. A payment is provided for the heads of the regions, the deputy heads of the regions, the mayors and the deputy mayors, as well as representation allowances are provided for the presidents of local and municipal communities. However, such payments or allowances are not provided for the municipal or the regional councillors. For any loss of profit or fees in respect of services provided, court action should be taken; [...]

- Article 10, par 2: The possibilities for municipal authorities to engage in international co-operation are provided for in Articles 219-221 of Law 3463/2006 and in Articles 99-101 (inter-municipal or intra-level

cooperation, contract plans, and networks of municipalities and of regions) of law 3852/2010. Articles 202 (networks) and 203 (international co-operation at the regional level) of the same law provide for such cooperation possibilities especially for the regions. However, at both tiers of local government, networks are set up in Greece in accordance with the provisions of the Civil Code (obligatory establishment of a non-profit partnership under civil law) while any kind of international co-operation is subject to the approval of the special inter-ministerial committee in accordance with law 3345/2005. This special committee is set up on a joint decision of the Ministers of Interior and of Foreign Affairs. Concerning the collective organs of the two tiers of local government, respective international co-operation possibilities are also provided, without the terms provided for in Law 3345/2005 (Article 2 of the Presidential Decree 74/2011 on the Union of Regions and article 1 of the Presidential Decree 75/2011 on the Regional Unions of Municipalities and the Central Union of Municipalities of Greece)."

230. The Ministry confirmed as well that "in relation to Recommendation 247 (2008) and the ratification of the Charter of Local Self-Government, we note that according to Article 2 of Law 1850/1989, the scope of the Charter does not concern the second tier of local government."

231. In consequence, this report would recommend the Greek authorities to consider revisiting the advisability of reviewing some of the declarations made at the time of ratification. For instance, the withdrawal of the declaration made in connection with Article 5 and Article 8, para. 2 of the Charter should not represent a serious problem.

232. In addition, the rapporteurs recommend the Greek authorities to extend the scope of the Charter to the second tier of local government (regions) as after the Kallikratis reform no doubts remain on their nature of self-government authorities, as we will point out below.

4.11 On the possible signature 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)

233. In relation to the possibility for Greece to sign the Additional Protocol to the European Charter of Local Self-Government, in the written answers to the rapporteurs' questions the Ministry of Interior noted that "the reason for not signing is due to the reservation related to para 4.1 of Article 1, which indicates that the right to vote and stand as a candidate at the elections of the local level, is given to citizens who reside in the territory of the local authority ("Each Party shall recognize by law the right of nationals of the Party to participate, as voters or candidates, in the election of members of the council or assembly of the local authority in which they reside"). This may mean that the Protocol possibly refers to an "occasional" residence, which, however, in accordance with the applicable national legislation, is not related to the notion of the registered municipal residence. The right for a registered municipal residence is granted on the basis of certain residence criteria, which are provided by law."

234. The rapporteurs note that the explanatory report to the Additional protocol, regarding para 4.1 of Article 1, expressly states that "the purpose of the current paragraph is to make clear that the Additional protocol does not oppose the granting of electoral rights by the Party to other persons, such as nationals not resident in the local authority or non-nationals. If the Party chooses to grant such a right, this provision requires it to do so by law. *This paragraph does thus not provide for an individual electoral right of non-nationals of the Party.* Under Council of Europe standards, this matter is the subject of Part C of the Convention on the Participation of Foreigners in Public Life at Local Level."⁷⁵ (emphasis added)

235. In consequence, according to the rapporteurs, Greek government's concerns seems not to be founded. Considering also the important measures aimed at improving transparency and citizens participation contained in Kallikratis reform (see above), the rapporteurs recommend that Greece signs the Additional Protocol.

5. Regional democracy

236. One of the main innovations contained in the Kallikratis reform is the creation of the region as an "intermediate" level of government, between the municipalities and the State. The status of the former prefectures was one of the most problematic issues of local government in Greece, dealt with by

75. <http://conventions.coe.int/Treaty/EN/Reports/Html/207.htm>

Recommendation 247 (2008). The recommendation asked the national authorities of Greece to “clarify their institutional nature [of prefectures] as local authorities” and to “take the necessary measures to eliminate the factors of prefectures ‘dependence’ on the government”.

237. From this point of view, the rapporteurs note with satisfaction that Greece complied with the recommendation and that, after the elimination of the prefectures and the establishment of the regions, no ambiguity is left, as regions present all the features of a local authority, as pointed out above.

238. Anyway, after this important step, one issue still remains to be clarified, related to the very existence of “regions” in Greece. This question is not limited to this country, as it is quite common in Europe to find an “intermediate” level of government between municipalities and the State that is much more “local” than “regional”. In other terms, the question to be raised is whether the Kallikratis reform provided for the “municipalisation” of regions – i.e. for the establishment of a second tier of local government (having a “supra-municipal” territory and sphere of competences) – or established a genuine “regional level of government”.

239. The answer to this question is not without practical consequences, as in the latter case the reference for the Monitoring process should be the Reference Framework for Regional Democracy (hereinafter, the Reference Framework) ⁷⁶, while in the former case the reference should be represented by the Charter: however, as we pointed out above, according to Article 2 of Law 1850/1989, in Greece the Charter does not concern the second tier of local government, thus at the moment it does not concern the regions. In conclusion, if we consider the new regions as a second tier of local government, Greece should extend the scope of the Charter to the regions. In the absence of this extension, the risk is that the regions escape the Monitoring process, unless we consider these regions as real “regions”: in that case, the Reference Framework could be applied.

240. In trying to answer this question, the already quoted Article 2 of the Law 1850/1989 does not help. Actually, when it was written, no regions as local authorities existed, and its purpose was clearly the exclusion of the former prefectures from the scope of the Charter. Thus, we cannot interpret the actual exclusion of the regions from the scope of the Charter (reaffirmed by the Ministry of the Interior during this Monitoring exercise) as a denial of the local nature of the regions.

241. On the other hand, we cannot simply rely on the wording of the provision, since while the word “municipality” has a clear and recognisable meaning in all European countries, the terminology “region” is not a state-of-the-art concept, but rather a more undetermined notion, subject to nuances and different national approaches. For instance, several countries clearly have “regions” (within the meaning of the Reference Framework) but do not call them “regions”. Other countries have regions which cannot be considered as genuine “regions”, but rather as a second tier of the local government.

242. Actually, the Reference Framework provides a concept for regions which is not fully respected by Greek regions. From one hand, some elements of the definition provided by the Reference Framework are present: regions are territorial, administrative-governmental bodies, situated between municipalities and the State; they have their own competences and powers, namely in those domains singled out by the Reference Framework: regional development, land use planning, etc.

243. On the other hand, there are many elements of the Reference Framework definition that are not respected and that lead towards considering the regions as a second tier of local government.

244. First, the constitutional framework is exactly the same for municipalities and regions. Both of them are considered as parts of the administration, regulated in Section VI (Administration), Chapter one (Organization of the administration) of the Constitution. Article 102 refers to “local authorities of first and second level” and provides for a common regulation for both tiers, without providing any special regulation for regions. As a consequence, they do not possess a specific legal scheme and they do not enjoy a separate system of financing or control.

245. Secondly, Greek regions (also as they are regulated as municipalities) lack regulatory powers and do not have powers of self-organisation, they can only establish their own organisational chart and define internal rules for their own administration but within the framework that is set by national

76. See Congress Resolution 299 (2010).

laws, which tend to be quite extensive and standardise even secondary matters of details of administrative actions.

246. Thirdly, Greek regions are “new”, artificial or bureaucratic subdivisions of the territory, created in 1987 in order to respond to organisational and functional requirements of the EU structural policies. Greek Regions were not the expression of historically rooted regional identities. Such identities are not particularly strong in Greece (with the exception of Crete), while all over the country local identities obviously overshadow the regional ones. Out of these Greek regions, only a few coincided with historical regions (in Crete, the Ionian Islands, Thessaly and Epirus).

247. In the rapporteurs’ opinion, also in light of the above considerations, Greek regions cannot be considered as “regions” in the context of the Reference Framework but rather as a second tier of local government. The consequence of this conclusion is that the Rapporteurs recommend the Greek authorities to extend the scope of the Charter to the second tier of local government (regions).

6. Conclusions

248. Since the last monitoring visit, in 2008, the Greek scenario has changed dramatically. From one hand, in a country with a strong tradition of centralisation, the most important administrative reform of the country’s history was introduced, namely Kallikratis (Law 3582/2010). The law established for the first time a real self-government system at the first and second tier of local authorities. From the other hand, since 2010 Greece has experienced an exceptional situation and faced exceptional difficulties in the attempt to restore fiscal and budgetary discipline, achieve economic recovery and competitiveness and reduce unemployment.

249. Implementation of the reform, however, has been deeply affected by the international commitments accepted by the Greek Government and therefore transition towards a more decentralised system is seriously at risk.

250. Although rationalisation and austerity measures had already been part of the Kallikratis reform (municipal enterprises and other municipal legal persons had been reduced by 80%, new accounting and controlling systems were introduced, “over debt” municipalities were forced to adopt stabilisation programmes, etc.), local government became the target of several austerity measures. At the same time, general state grants were gradually reduced by nearly 60%, with local government personnel representing an important share of the public sector’s employees that were going to lose their job. The Observatory for Financial Autonomy of the Local Government Organizations was established. Rationalization prerogatives of structure and operation, staff lay-offs, and ongoing fiscal controls, combined with the abolition of services and recentralisation of competence led to an unprecedented clash between local and national politicians. In addition, State and supervising authorities adopted rigid practices towards local government and a series of extensive new rules prompting further restrictions on local and regional autonomies were introduced.

251. Furthermore, despite the numerous efforts at decentralisation, centralist traditions still seems to prevail in Greece, strongly influenced by the fact that local authorities are considered as a part of the executive power. Not only major, but also sometimes even minor decisions tend to be taken at the highest administrative or political level. Some of the most important public service delivery systems, such as public education, public health services, and social protection are still subject to direct and comprehensive control by the central government. In addition, legislation and regulation often go into great detail. Standards laid down a long time ago remain in force, being partially amended several times because circumstances have made them obsolete, thus increasing the complexity of legislation and creating heavy procedures.

252. Several elements of concern can be listed, related to all the articles of the Charter that Greece accepted. They are in part connected to the legal (including constitutional) provisions on local government, in part to the factual context.

253. First of all, we should point out that one of the main innovations contained in the Kallikratis reform is the creation of the region as an “intermediate” level of government, between the municipalities and the State. The status of the former prefectures was one of the most problematic issues of local government in Greece, dealt with by Recommendation 247 (2008). The recommendation asked the national authorities of Greece to “clarify their institutional nature [of prefectures] as local authorities”

and to “take the necessary measures to eliminate the factors of prefectures ‘dependence’ on the government”.

254. The Kallikratis reform fulfilled the recommendation, but, as this report tried to show, Greek regions cannot be considered as “regions” in the context of the Reference Framework, but rather as a second tier of local government. The consequence of this conclusion is that the rapporteurs recommend the Greek authorities to extend the scope of the Charter to the second tier of local government (regions), by amending the existing legislation (since, according to Article 2 of Law 1850/1989, in Greece the Charter does not concern the second tier of local government).

255. As for the constitutional provisions, consistently with the Greek tradition of centralisation, the principle of local self-government is mentioned in Section VI of Part Three of the Constitution, in Chapter One “Organisation of the Administration”. The location of the principle is the result of the view, well-rooted in the Greek tradition, according to which local authorities are considered part of the executive power. This view, however, is not always perfectly compatible with the principle of “local self-government” and in case of a future constitutional revision, the opportunity to include an entire section on self-government should be taken into account.

256. In comparison with most constitutions, especially the most recent ones, the constitutional regulation of local self-government in Greece is rather circumscribed and synthetic. In addition, also as a result of the 2001 (Article 102) and the 2008 (Article 101) amendments, the provisions are neither organic nor well-organised. Therefore, the remark contained in the 2008 Congress recommendation, at para. 5b, according to which Article 102 does not identify the two levels of local authorities (consequently weakening their constitutional guarantee), still holds true.

257. Another especially problematic issue is the lack of statutory powers of municipalities, which cannot “regulate” local affairs. This aspect is part of the Greek longstanding and well-rooted tradition of centralisation and is also enshrined in the Constitution, which, in order to regulate on many subjects requires a parliamentary law. This issue is relevant not only to fully develop the scope of local government, but also to avoid the overlapping of responsibilities: State responsibility on many matters is needed since in many areas competences can be neither transferred nor delegated to local authorities due to the wording of the Constitution and to the interpretation given to such provisions by the Council of State: also on this issue, a reflection on possible changes at constitutional level is needed.

258. As for the protection of local self-government, the rapporteurs’ findings show that the Charter did not play an important role in the case-law. This is also due to the fact that the case-law does not play an important role in the protection of local government in Greece altogether. These very same constitutional principles remain unprotected. The lack of a constitutional court and of a special remedy for local authorities may determine a weakening of the constitutional and legal protection for local self-government, especially as far as legislation is involved.

259. Another aspect of significant weakness, also from an institutional point of view, is the lack of a more institutionalised coordination and consultation processes: they are especially necessary, as there are several areas with extensive overlapping of competences.

260. Also other (constitutional and legislative) provisions are problematic: it is especially unclear the role of 7 State authorities that are becoming progressively weaker, also as a consequence of the empowerment of regions; these State authorities cannot be abolished without a constitutional revision since there are some matters that according to the constitution cannot be transferred to local government. The rapporteurs were told by different interlocutors (at both local and national level) that they should be abolished.

261. The factual point of view is even more problematic than the legal one. As for the scope of local government, the number and importance of powers and competences presently enjoyed by municipalities do not seem too limited. In addition to the competences already listed in the previous legislation, Kallikratis reform transferred many new competences to municipalities. The main concern is the lack of adequate financial and human resources to properly manage them.

262. At the moment, Greek municipalities lack the possibility to recruit high-quality staff on the basis of merit and competence and nowadays most municipalities deal with an important lack of specialised staff. Even more simple measures adopted by the legislator within the framework of the public

administration reform – such as the compulsory publication on the web of decisions of local governments, the program on transparency or the centralised system for public procurement -turned out to be difficult to implement at local level due to the lack of well-trained staff, able to use new technologies.

263. Especially delicate and problematic in Greece is the issue of financial autonomy of local authorities. The topic was already addressed by Recommendation 247 (2008), according to which “the financing of the municipalities and communities remains most inadequate; it is based almost exclusively on transfers from the state”. In addition, Kallikratis reform transferred many new competences to municipalities; some of them, e.g. on social policies, are important in time of economic crisis, but without adequate financial resources municipalities cannot manage them. This is especially true for municipalities that experienced important mergers and have a vast territory.

264. The rapporteurs are fully aware of the unprecedented financial crisis and of the international constraints Greek authorities have to comply with. As important actors of the country, local authorities need to contribute to the consolidation process. Nevertheless, rapporteurs believe that the economic and financial emergency cannot determine a suspension of the binding nature of the Charter. Thus, they should reaffirm, taking into consideration Recommendation 247 (2008), that the financing of the local authorities remains inadequate, as is based almost exclusively on transfers from the State.

265. The evolution of the financial system towards more extensive diversification of sources of local government revenue, as directed in Article 9, para. 4 of the Charter, by developing the foundations of greater financial autonomy through levying of local revenue (dues and charges, borrowings and direct taxation), is still missing.

266. The need to reinforce the system of local financing, in accordance with Article 9 (paragraphs 1 and 2) of the Charter, in the framework of devolution and transfer of powers to local authorities, looking to a larger proportion of local government funding in the GDP (gross domestic product) and in overall public spending, is still current.

267. In the past (as observed by Recommendation 247 (2008)) one of the most controversial issues of local and regional democracy in Greece was the role of the Secretary General of the deconcentrated State administration vis-à-vis the local authorities. Important progresses have been made by Kallikratis reform, as a completely new system of legality supervision has been introduced. However, many difficulties still exist, as State's supervision on local government is still extensive: the lack of full implementation of the new system of legality supervision; the excessive length and bureaucratization of procedures; the tendency of the legality control to shift to expediency control. Especially delicate is the role of the Observatory, given the risk that its control is not kept in proportion to the importance of the public interests which it is intended to protect and that it undermines the local financial autonomy and especially the freedom of local authorities to determinate expenditures priorities.

268. Greece is a country with a huge diversity of geographical conditions, especially as far as mountains and islands are concerned. There are remote areas of the country with a very low density of population, vast distances, and difficult transportation: despite some provisions of Kallikratis, most of the regulation is still informed to the traditional criteria of uniformity and a special status for insular municipalities is still missing, especially from the financial point of view. This lack of special status undermines the capacity of islands municipalities to provide public services to their citizens, due to higher costs and longer procedures.

269. The same problem (uniformity of regulation that does not take into account diversity) can be reported for metropolitan municipalities which lack a special status, as far as institutions, competences, finances, and relationship with the State are concerned. Taking into consideration Recommendation 219 (2007) on the status of capital cities, rapporteurs consider that recognition of a special status for the municipality of Athens is warranted. In addition, they recommend the implementation of the already existing provisions on Metropolitan regions and the introduction of special provisions for metropolitan municipalities.

270. As for the reservations formulated by Greece in signing the Charter, this report would recommend the Greek authorities to consider revisiting the advisability of reviewing some of the declarations made at the time of ratification. For instance, the withdrawal of the declaration made in connection with Article 5 and Article 8, para. 2 of the Charter should not represent a serious problem.

271. As for the Additional protocol, considering the important measures aimed at improving transparency and citizens' participation contained in Kallikratis reform, the rapporteurs recommend that Greece signs the Additional Protocol.

272. Finally, the rapporteurs would like to point out that Greece has not yet signed the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Euroregional Co-operation Groupings (ECGs) (CETS No. 206).

Appendix 1 - Programmes of the Congress monitoring visits in Greece

Congress Monitoring visit to Greece, Part I, Athens (16–17 September 2014)

PROGRAMME

Congress delegation:

Rapporteurs:

Mr Artur TORRES PEREIRA

Rapporteur on local democracy
Chamber of Local Authorities, EPP/CCE⁷⁷
Member of the Monitoring Committee of the Congress
President of the Municipal Assembly of Sousel (Portugal)

Ms Gudrun MOSLER-TÖRNSTRÖM

Rapporteur on regional democracy
Member of the Monitoring Committee of the Congress
Chamber of Regions, SOC⁷⁸
Vice-President of the State Parliament of Salzburg (Austria)

Congress Secretariat:

Mr Jean-Philippe BOZOULS

Head of the Department of Statutory Activities
Executive Secretary of the Chamber of Local Authorities

Ms Stéphanie POIREL

Secretary to the Monitoring Committee of the Congress

Consultant:

Prof. Tania GROPPi

Member of the Group of Independent Experts
on the European Charter of Local Self-Government
Professor of Public Law at the Faculty of Economics
of the University of Siena (Italy)

Interpreters:

Mr Haris GHINOS & Ms Eleonora CAMBAS

The working languages, for which interpretation is provided during the visit, will be Greek and English.

77. EPP/CCE: European People's Party in the Congress

78. SOC: Socialist Group in the Congress

**Tuesday, 16 September 2014
Athens**

- **National Delegation to the Congress and Local and Regional Associations**

Chamber of Local Authorities:

- **Mrs Alexandra–Marina SOTIRIADOU (NI / NR, Hellenic Socialist)**, Representative, Municipal Councillor of Paranesti
- **Mrs Xarikleia OUSOULTZOGLU (SOC, Hellenic Socialist)**, Representative, Mayor of Veria
- **Mr Antonios GKOUNTARAS (SOC, Hellenic Socialist)**, Substitute, Mayor of Agias
- **Mr Spyridon TZOKAS (GILD / ILDG, Coalition of Radical Left)**, Substitute, Municipal Councillor of Kesariani

Chamber of Regions:

- **Mrs Anna Theodora TSATSOY–PAPADIMITRIOU (SOC, Hellenic Socialist)**, Substitute, Vice-Governor, Attica Region
- **Mr Konstantinos AGORASTOS (EPP / CCE, New Democracy)**, Representative, Governor, Thessaly Region

- **Meeting with the Expert**

- **Prof. Dr Nikolaos–Komninos HLEPAS**, Expert of the European Charter of Local Self-Government

- **Ministry of Administrative Reform and e-Governance**

- **Mr Kyriakos MITSOTAKIS**, Minister

- **Ministry of Finance**

- **Mr T. ANASTSATOS**, General Secretary of the Ministry
- **Mr Emmanuel MAMATZAKIS**, Secretary General for Fiscal Policy
- **Ms Pavlina KARASIOTOU**, Advisor to the Secretary General
- **Dr Andreas KATSAROS**, Council of Economic Advisors

- **Ministry of Interior**

- **Mr Giannis F. IOANNIDIS**, Secretary General of the Ministry

Wednesday, 17 September 2014
Athens

- **Hellenic Parliament**
 - **Mr Evangelos–Vasileios MEIMARAKIS**, Speaker
- **Council of State**
 - **Mr Sotirios AL. RIZOS**, President of the Hellenic Supreme Administrative Court
- **Hellenic Court of Audit (Supreme Public Financial Court)**
 - **Mr N. AGGELARAS**, President of the Court
- **Meeting with the Athens Ombudsman**
 - **Mr Vasilis SOTIROPOULOS**, City of Athens Ombudsman
- **National Ombudsman of Greece**
 - Ms Calliope SPANOU, Greek Ombudsman;
Represented by **Mr John SAYAS**, Deputy Ombudsman

**Congress Monitoring visit to Greece, Part II
Paros, Naxos, Lagadas, Thessaloniki, Athens
(18–20 November 2014)**

PROGRAMME

Congress delegation:

Rapporteurs:

Mr Artur TORRES PEREIRA

Rapporteur on local democracy
Chamber of Local Authorities, EPP/CCE⁷⁹
Member of the Monitoring Committee of the Congress
President of the Municipal Assembly of Sousel (Portugal)

Ms Gudrun MOSLER-TÖRNSTRÖM

Rapporteur on regional democracy
Member of the Monitoring Committee of the Congress
Chamber of Regions, SOC⁸⁰
Vice-President of the State Parliament of Salzburg (Austria)

Congress Secretariat:

Mr Jean-Philippe BOZOULS

Head of the Department of Statutory Activities
Executive Secretary of the Chamber of Local Authorities

Ms Stéphanie POIREL

Secretary to the Monitoring Committee of the Congress

Consultant:

Prof. Tania GROPPi

Member of the Group of Independent Experts
on the European Charter of Local Self-Government
Professor of Public Law at the Faculty of Economics
of the University of Siena (Italy)

Interpreters:

Ms Eleonora CAMBAS & Ms Evanthia ZISSIMIDES

The working languages, for which interpretation is provided during the visit, will be Greek and English.

79. EPP/CCE: European People's Party in the Congress

80. SOC: Socialist Group in the Congress

Tuesday, 18 November 2014
Paros, Naxos

Meeting with the Mayor of Paros

Mr. Marko KOVAIOS, Mayor of Paros

Meeting with the Mayor of Naxos and Small Cyclades Islands & President of the Municipal Community

Mr. Manolis MARGARITIS, Mayor of Naxos and Small Cyclades Islands

Mr. Makis MAVROGIANNIS, President of the Municipal Community

Meeting in the Financial Department of the Municipality of Naxos Island

Mrs. Eleni KAMPOURI, Director of the Financial Department of the Municipality of Naxos

Wednesday, 19 November 2014
Lagadas, Thessaloniki

Meeting with the Mayor of Lagadas

Mr. Ioannis KARAGIANNIS, Mayor of Lagadas

Meeting with the Mayor of Thessaloniki

Mr Yannis BOUTARIS, Mayor of Thessaloniki

Thursday, 20 November 2014
Athens

Meeting with the Mayor of Athens

Mr. Yiorgos KAMINIS, Mayor of Athens

Meeting in the National Centre for Public Administration and Local Government (EKDDA)

Mr. John CHRYSOULAKIS, President EKDDA, Professor Emeritus

Joint meeting with the Central Union of Municipalities of Greece (K.E.D.K.E.) & Union of Greek Regions (ENPE) & the Greek National Delegation

Mr George PATOULIS, President of Central Union of Municipalities of Greece, Mayor of Amarousion in Attica

Mr Konstantinos AGORASTOS, President of the Union of Greek Regions

Meeting with the Expert

Dr Konstantinos TSIMARAS, Faculty of Law, University of Thrace teaching public law

Appendix 2 - Information on human rights and local authorities

1. According to Resolution 296 (2010) of the Congress of Local and Regional Authorities, protecting and promoting human rights is a responsibility shared by all the different tiers of authority within each Council of Europe member State. Because of the close relationship between citizens and their elected representatives at this level, local and regional bodies are best placed to analyse the human rights situation, identify the relevant problems which arise and take action to solve them.

2. Greece is a developed country and a well-established Western democracy, as displayed by many indexes (e.g. Freedom House Index,⁸¹ Human Development Index of United Nations).⁸² However, in the past some problems on the state of human rights in Greece have been frequently pointed out at international level, mainly related to the protection of minority rights, migrants and asylum seekers rights, racial discrimination, Roma people rights, workers' rights.⁸³

3. In more recent years, many new issues are emerging, as a consequence of the economic and financial crisis and of the subsequent austerity measures. From one hand, poverty and vulnerability are increasing. Greece lost around 25% of its GDP since 2011 and unemployment rate reached 27, 2% in May 2014, according to OECD data.⁸⁴ From the other hand, social programs experimented important cuts and reductions, determining a decline in social rights protection. Health and education rights were deeply affected by budget cuts, as well as social policies for vulnerable people (elderly people, people with disabilities, migrants).⁸⁵ New problems arose also with regard to civil rights, especially freedom of information, as effects of the economic crisis and outbreaks of populism,⁸⁶ and with regard to discrimination of less advantaged groups.⁸⁷

4. The latest annual reports of the Greek Ombudsman pointed out that "the progress in human rights in recent years is at risk of being overturned by xenophobic and defensive attitudes and behaviour while the crisis leaves the weaker – poorer, unemployed, disabled and immigrants – behind".⁸⁸

5. In the 2013 Annual Report the Greek Ombudsman pointed out the ongoing discrimination practice against citizens belonging to vulnerable social groups (e.g. people of Roma origin). Moreover, it underlined the broad range of discriminatory treatment against immigrants, asylum seekers, and undocumented foreigners living in Greece. The Greek Ombudsman aimed at reducing the social conflicts caused by a combination of social exclusion and structural discrimination policies and horizontal social tensions. Furthermore, from a long-term standpoint what is being witnessed is the absence of specific political and social support of the afflicted groups (e.g. Roma, immigrants, asylum seekers etc.), as well as of those experiencing collateral problems resulting from the implementation of positive support measures.

6. One of the recent special reports drafted by the Greek Ombudsman was "The phenomenon of racist violence in Greece and how it is combated". More specifically, the Ombudsman proposes, inter alia, in

81. According to the 2014 report of Freedom House, Greece is considered "Free": <https://freedomhouse.org/sites/default/files/Freedom%20in%20the%20World%202014%20Booklet.pdf>

82. According to the 2013 Human Development Report, Greece is ranked at 29th position, the same as in the previous years. See <http://hdr.undp.org/sites/default/files/hdr14-report-en-1.pdf>

83. See Parliamentary Assembly of Council of Europe, "The state of democracy in Europe and the progress of the Assembly's monitoring procedure", Doc. 12275 Add 2 June 2010.

84. See <http://www.oecd.org/greece/EMO-GRC-EN.pdf>

85. See: The Hellenic Minister of Justice, Human Rights National Action Plan 2014-2016, pp. 19-20 (<http://www.coe.int/t/commissioner/source/NAP/Greece-National-Action-Plan-on-Human-Rights.pdf>): "The severe financial crisis our country is experiencing particularly affects the most vulnerable groups of the population. The protection of citizens' rights and the implementation of adaptation measures to the new conditions is an open challenge that our country is called to face in fulfilment of its obligations under the domestic and international laws".

86. Greece declined in 2014 "World Press Freedom Index", losing 14 positions, to the 99th position. In 2009 Greece was ranked at the 35th position. The 2014 report by the non-governmental organization Reporter Without Borders points out that "in Greece, journalists are often the victims of physical attacks by members of Golden Dawn, the neo-Nazi party that entered parliament in June 2012. The government's actions have also contributed to the fall. By closing the state broadcaster under pressure from the Troika (the European Commission, European Central Bank and IMF), Prime Minister Antonis Samaras seems to be cutting back on democracy to save money." See <http://rsf.org/index2014/en-index2014.php>

87. According to the results of the Eurobarometer for the year 2012, 80% of Greek citizens - the second highest rate in the European Union, compared with 64% of the European Union average - believes that the economic downturn will lead to more discrimination in the labour market: See Special Eurobarometer 393, Discrimination in the EU in 2012, p. 84 http://ec.europa.eu/public_opinion/archives/ebs/ebs_393_en.pdf

88. The Greek Ombudsman, Introduction to 2013 Annual Report, <http://www.synigoros.gr/resources/introduction-cspanou-report-2013-draft-1.pdf>

this special report specific legislative and operational measures for the more effective operation of the police units combating racist violence: investigation of possible racist motive, the security and protection of the legal status (e.g. special stay permit) of victims and essential witnesses, review of “Xenios Zeus” mass sweeping police operation, special training of police officers, thorough investigation of complaints against police officers so as not to give the impression of tolerance and cover-up. With regard to combating the racist phenomenon in the school community, the Ombudsman proposes organized discussions held by the schools, teachers’ support, establishment of conflict resolution procedures with the students’ participation and, in general, educational activities to inform and raise the awareness of the students and the school community.

7. Although most of the problems and criticisms did not relate to the activities of local governments, local authorities can play an important role in mitigating or solving some of them. During the monitoring visits, rapporteurs found a high level of concern and awareness in local representatives, as far as human rights issues are concerned, especially on social rights affected by the economic crisis.

8. As regards institutional arrangements, an Ombudsman («Συνηγόρου του Πολίτη») was established at national level in 1998, as a constitutional independent authority, according art.103, para. 9 of the Constitution (see Law 2477/1997, as amended by Law 3094/2003). The Ombudsman is elected by the Board of Parliament Chairmen, with unanimity if possible, and if not, by the qualified majority (4/5) of its members.

9. The mission of the Greek Ombudsman is to mediate between public administration and citizens, in order to protect citizens’ rights, to ensure compliance with the rule of law, and to combat maladministration. The Ombudsman is assisted by six Deputy Ombudsmen.

10. Furthermore, in 2005 the Ombudsman was designated as a Specialized Equality Body for the implementation of the principle of equal treatment. More specifically, the Greek Ombudsman is the competent authority: a) for the implementation and promotion of the principle of equal treatment irrespective of race or national origin, religion or other beliefs, disability, age or sexual orientation in the public sector b) for the monitoring of the implementation of the principle of equal treatment between men and women in both private and public sector.

11. More precisely, the Ombudsman has jurisdiction over issues involving services of: a) the State, b) first and second tier of local government, c) other public bodies, d) private law entities of the public sector, public corporations, local government enterprises and companies whose management is directly or indirectly appointed by the state by means of an administrative decision or as a shareholder.

12. In principle the Ombudsman investigates individual administrative acts or omissions, material actions of public officials, which violate rights or infringe upon the legal interests of physical or legal persons. In particular, the Ombudsman investigates cases in which an individual or collective public body: i) by an act or omission, violates a right or interest protected by the Constitution and the legislation; ii) refuses to comply to obligation imposed by a final court decision; iii) refuses to comply to obligation imposed by a legal provision or by an individual administrative act; iv) commits or omits a due legal act, in violation of the principles of fair administration and transparency or in abuse of power.

13. When an investigation is completed, if required by the nature of the case, the Ombudsman shall draw up a report on the findings, to be communicated to the relevant Minister and authorities, and shall mediate in every expedient way to resolve the citizen's problem.

14. In its recommendations to public services, the Ombudsman may set a time-limit within which the services have an obligation to inform him of the actions taken for the implementation of his recommendations or of the reasons for which they cannot be accepted. The Ombudsman may make public the refusal to accept his recommendations, if he considers that this is not sufficiently justified. The refusal of a public official or administration member to cooperate with the Ombudsman during an investigation constitutes a disciplinary offence of breach of duty, and for administration members, a reason for their replacement.

15. If during the course of the investigation, it is established that there has been unlawful behaviour on the part of a public official, civil servant or member of an administration, the Ombudsman shall submit the report to the competent body and may call for disciplinary action against the person responsible or recommend the adoption of other measures, if the person responsible is not subject to disciplinary

control. If there is sufficient evidence that a public official, civil servant or member of an administration has committed a criminal act, the Ombudsman shall also communicate the report to the competent Public Prosecutor.

16. Finally, the Ombudsman draws up an annual report and a special report as equality body explaining the work of the Authority, presenting the most important cases and formulating recommendations for the improvement of the public services and the adoption of the necessary legislative measures. The annual report of the Ombudsman is submitted in March each year to the Speaker of Parliament and discussed according to the House Rules and published in a special edition of the National Stationery Office. The Ombudsman may present to the Prime Minister and the Speaker of the House special reports during the year, which are communicated to the relevant Minister in each case.

17. The Greek Ombudsman benefits from the trust of the citizens and enjoys a high level of legitimacy. In 2013, the independent authority completed 15 years of operation and its role remains crucial, more than ever before, due to the deep financial and social crisis experienced by the country. According to the latest data and statistics (Annual Report, 2013) the Ombudsman received 14,738 new complaints. The number of complaints submitted to the Greek Ombudsman in 2013 was larger than for any other year.

18. A large number of the complaints investigated by the Greek Ombudsman in 2013 is mainly focused on social security and pension problems and other financial matters, such as taxation, that seem to prevail due to the economic austerity and the restructuring of the public administration. Furthermore, the Ombudsman's Annual Report in 2013 presents some concrete examples of the risk of regression concerning the protection of human rights, mainly of the most vulnerable social groups (poor, unemployed, disabled, immigrants). Finally, due to above mentioned fiscal policy constraints, a series of other matters, such as children's protection, gender equality at work, environmental impact of works and activities, are downgraded.

19. 54% of the complaints were justified, concerning mainly cases of maladministration. Furthermore a significant number, almost 16 % of these complaints, was related to problems of local authorities (municipalities and regional authorities).

20. More precisely, through the investigation of complaints concerning dysfunctions of the local authorities, the Ombudsman has realised that the recent reform was not fully implemented. It has to be noted that quite a lot of problems of maladministration were caused by the transfer of various administrative and operational functions to Municipalities and Regions.

21. In terms of the thematic regarding quality of life issues, complaints falling within the wider segment of the urban environment amount to 85%. More specifically, an approximate 37% of new complaints concern issues which are related to the terms of operation and establishment of enterprises (public + private). Approximately 24% of cases focus on issues of city planning and illegal construction. Furthermore, issues that are of importance to citizens, as observed in those citizens' reports, stem from the location and licensing of facilities and activities at the local and regional level as well as from issues regarding leisure and food establishments (KYE).

22. Concerning local self-government, Kallikratis' reform introduced several provisions related to human rights protection. As for political participation of foreigners, a new municipal institution for the representation of immigrants is provided: the Immigrants integration council. In addition, According to Article 63(g) of Kallikratis, each municipality shall issue a Charter of Rights and Obligations of Citizens and Inhabitants, although in most of municipalities this issue is still pending.

23. Kallikratis' reform introduced a new institution, called "the Supporter of the Citizen and Enterprises" (Συμπαραστάτης του Δημότη και της Επιχείρησης) in both municipalities and regions (Articles 77 and 179 of Law 3852/2010). According to the law, in each municipality of more than 20.000 inhabitants, after the publication of an open call issued by the mayor on the official web-page, the municipal council elects, by a majority of 2/3 of the members with secret ballot, a distinguished person of experience as the "Supporter of the Citizen and Enterprise".

24. This institution is commonly known as "local Ombudsman", although the name is not officially used and during the visit, rapporteurs were told by National Ombudsman that it would be better to avoid using the name "Ombudsman" at local level in order to avoid confusion. The role of the local

Ombudsman is to receive complaints lodged with citizens or enterprises directed affected by maladministration from the municipalities and to mediate in order to resolve the relevant disputes.

25. The institution is independent from the political bodies. The municipal ombudsman does not receive directions from the local or other authorities. According to Article 77, para. 6 of Kallikratis the local ombudsman's status as regards his/her responsibilities is governed by the provisions concerning the municipal councilors. The relevant provisions concerning the responsibilities of the municipal councilors can be found on Article 98, para. 3 of the Municipalities Code (Law 3463/2006) which states: "The municipal councillor expresses his point of view and votes with complete freedom, with the view of serving the interests of all the citizens." The municipal ombudsman cannot be fired, unless by a reasoned decision, taken under the same enhanced majority vote by the municipal council for "improper performance of his tasks".

26. In addition, the municipal Ombudsman is not entitled to stand as a candidate for mayor or as a municipal councilor or for another relevant position at his/her municipality, unless he/she resigns before the official announcement of the candidates, namely almost one month before the local elections (article 14 of Kallikratis). This practically means that the ombudsman would not have the time for a proper electoral campaign. As it follows from that provision, the local Ombudsman is also independent from the electoral body, since he/she cannot use the mandate for purposes of an election campaign.

27. The municipal ombudsman does not issue legally binding decisions. According to the City Ombudsman of Athens, this is exactly its added value: their recommendation promotes dialogue and relies on the validity of the argumentation. Nevertheless the transparency obligations imposed by the law to any municipal institution, namely to publish on its web-site the documents produced in the course of the mediation has the effect of moral pressure in cases the recommendations are not followed. In the case of Athens, the Ombudsman also publishes on the web-site the reaction we receive from the municipal agencies. Thus, the local government is under a publicly available control on the percentage of the recommendations it accepts or not.

28. In the first phase of application of Kallikratis, the institution of the municipal Ombudsman was introduced in only 30 municipalities, while in the end of the municipal legislature (31.8.2014) only 15 municipal ombudspersons were in charge. The 50% had left the post for several reasons (the most serious was a 50% cut of the monthly salary from 1.1.2013. The salary now is 720 euros for municipalities of more than 100 000 inhabitants and 548 euros for municipalities with fewer inhabitants).

29. During the meeting with rapporteurs, the City of Athens's Ombudsman gave some data on his activity. In the course of these 2 years he has handled 527 cases on citizen's complaints. According to the 2013 Annual Report, his interventions were successful in favour of the citizens in a percentage of 71, 05%. According to the 2012 Annual Report (September – December 2012) this percentage was 59, 61%. The City of Athens's Ombudsman has received complaints that raise human rights issues and his intervention was successful in a number of cases. Nonetheless, there are still cases in which the final reaction of the municipal authorities is still pending.

30. In cases relating to the right to marriage (responsible agency: Directorate of Civil Status), according to Article 12 of the European Convention on Human Rights, after the Ombudsman's intervention the municipal agencies accepted to record at the official files the documents that were produced in the course of Jehovah's witnesses' marriages that initially had been refused. Furthermore, still pending is the final reaction of the agency regarding the case of an application for marriage permission by a Greek citizen with a third country citizen whose passport was not renewed. We have to mention that according to the Greek legislation there is no right of same sex couples to enter in a civil partnership agreement. Greece has been condemned by the European Court of Human Rights (case: Vallianatos and others vs. Greece) for a violation of article 8 in conjunction with article 14 of the European Convention on Human Rights for this reason. Nevertheless, the Greek legislation still remains discriminatory, by allowing only different sex couples to conclude a civil partnership agreement.

31. With regard to the right of respect to religious belief (article 9 of the European Convention on Human Rights), a case is still awaiting decision regarding a citizen's application to change the relevant record from the citizens' registry. The point was that the new religion he declared was not deemed a "known religion" and the municipal agency sent a relevant question at the competent Ministry of

Internal Affairs. The reply of the Ministry was in favor of the citizen's right, but the municipal agency sent a request on how to proceed to the Legal Service Office of Municipality of Athens.

32. More effort is needed on cases of real estate property that have been “frozen” in the course of expropriation procedures which have been pending for decades. This category of cases relates to the human right to property. (1st Additional Protocol of the European Convention on Human Rights). During a process of consultation with Greek authorities, the municipality of Athens informed the rapporteurs that “the Ministry of Environment (YPEKA) which is responsible for the legal framework for these properties passed a new law in December 2014 in relation to this matter (Law 4315/2014). According to the new law, such properties may be released from expropriation if: a) 15 years have passed since the first expropriation decision was taken, or b) 5 years have passed since the necessary study was approved that mandates how the expropriation will take place (i.e. identifying the owner). In this respect, Athens Municipality has begun all necessary procedures for setting the criteria to clarify which properties will be reimbursed and which will be released from expropriation”.

33. Complaints from inhabitants regarding noise produced by bars and open air restaurants, due to lack of control of the municipal police or reluctance to impose administrative sanctions may relate to violations of the right to respect for private life and home (article 8 ECHR), in accordance with the European Court of Human Rights case-law. The issue has aspects that involve the competences of the Region of Attica, the Hellenic Police and the Judiciary. Nevertheless, the Municipality of Athens is responsible within the scope of its competences to supervise the legality of the administrative permissions on the functioning of bars. The City of Athens's Ombudsman has published the Special Report 1/2014 on this issue.

34. The rights of people with disabilities were the subject of the Special Proposal 3/2013 that the Ombudsman addressed to the Mayor of Athens. The right to accessibility was at stake, due to the serious delay of the administrative process for issuing of parking permissions for vehicles of people with disabilities. Another problem was the cut of disability benefits without a previous report of social rights expert, as is provided by the law.

35. The respect of the rights of elderly people was the subject of the Special Proposal 2/2012 that the Ombudsman addressed to the Mayor of Athens. The document was drafted after an in situ research at the municipal “Friendship Clubs” for elderly people.

36. On the occasion of the International Human Rights Day (10.12.2013) the City of Athens's Ombudsman published a press release mentioning all categories of human rights cases he had examined.

37. Finally, the City of Athens's Ombudsman told the rapporteurs that, on his initiative, the municipal ombudsmen of Greece (and the 4 regional ombudsmen that were elected by the regional councils) met for the first time together in Athens in 2012. Following the relevant Congress' Resolution 80/1999 on the role of local and regional ombudsmen, a Local Ombudsmen's Network was established for the exchange of information and best practices. The Network has now 19 members and has issued several resolutions addressed to the local governments, the Ministry of Interior and the Parliament. In March 2014, the Network sent to the Ministry of Internal Affairs a document on the amendment of Article 77 of the Kallikratis law, in order for the institution of municipal Ombudsman to meet the standards outlined on the Resolution 80/1999 of the Congress and other official documents of the Council of Europe.

38. The rapporteurs appreciate the provisions on the Ombudsman institution in Greece, and the role played both at national and local level. Nevertheless, they would like to point out some open issues, as the limited number of municipalities that appointed local Ombudsmen and the unclear relationships between the two levels of Ombudsmen. In particular, while the national Ombudsman has issued several special reports on local government matters, it avoided to mention the interventions of municipal or regional Ombudsmen in the field. The rapporteurs express their conviction that – also in the light of Resolution 80 (1999) – an institutionalized mechanism of cooperation between the several forms of the ombudsman institution that work directly or indirectly in local government issues is needed.