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OPINION

ON

**THE SECTION RELATING TO LOCAL AUTHORITIES
AND OTHER PROVISIONS CONCERNING
LOCAL SELF-GOVERNMENT**

IN THE DRAFT CONSTITUTION OF UKRAINE

by

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DRAFT CONSTITUTION OF UKRAINE

(RESULTING FROM THE AGREEMENT CONCLUDED ON 24 FEBRUARY 1996
BETWEEN THE PRESIDENT OF UKRAINE, THE VERKHOVNA (SUPREME) RADA,
THE SUPREME COURT AND THE HIGH COURT OF ARBITRATION¹)

Opinion on the section relating to local authorities and other provisions concerning local self-government

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This opinion comprises a general presentation of the new Constitution and a description of the territorial organisation and the system of local self-government established, followed by an examination of this system in the light of the provisions of the European Charter of Local Self-Government of 15 October 1995.

I. GENERAL PRESENTATION OF THE DRAFT CONSTITUTION

1. The context in which it was drawn up

This draft text constitutes the first fruit of the political and legal agreement concluded on 8 June 1995 between the Supreme Assembly and the President of Ukraine. This agreement laid the foundations for a provisional compromise designed to determine the constitutional rules applicable until the adoption of a new Constitution, without formally abrogating the 1978 Constitution predating the declaration of independence, to set forth the principles on which this new Constitution should be based, and to lay down a procedure and a time-limit for the drafting and adoption of this new Constitution (one year).

It may be observed that this text, on somewhat similar lines to the so-called "little constitution" of Poland, concerns "the basic principles of the organisation and functioning" not only of "State power", but also of **local self-government**.

This last addition was judged to be very positive in the report drawn up at the Congress's request by Mr Claude Haegi and Mr Heinrich Holfshulte on 12 September 1995 (CG/Bur (2) 21 in particular p. 19). I was myself able to appreciate the progress made since the "preliminary draft law on the election of local soviets of people's deputies", which failed to distinguish clearly between the responsibilities of the "organs of State power" and those of the "organs of self-government"². Mr Locatelli and myself also had the opportunity, at the last

¹ English translation by the Ukraine Legal Foundation of 12 March 1996.

² My opinion of 5 December 1994 which, it seems, had the effect of halting discussion on this preliminary draft.

meeting of the European Commission for Democracy through Law, to acquaint ourselves with an intermediate stage of the preliminary draft of the new Constitution containing a Section XI on Local Self-Government. This prompted comments³ on a number of issues which I was given the opportunity to discuss publicly, in the presence of the Ukrainian Minister of Justice:

- clarifications to be provided as to the organisation of powers at local level in order to draw fuller implications from the separation between "State authorities" and "organs responsible for local self-government";
- clarification of functions within these powers;
- inter-connection between the first and second levels and, more generally, choice concerning the intermediate level;
- powers of the President of Ukraine as regards local executive bodies;
- problem of control and of judicial remedies against the acts of the authority responsible;
- financial responsibilities and resources;
- clarification as to the exercise of local self-government in the Autonomous Republic of Crimea.

The text of 26 February appears to be quite different from the preliminary draft. Many of the articles relating to local self-government have been reworked, in depth in some cases. Generally, the text is more precise and detailed. Even though there is still a specific Section (XI) on local self-government, a very large number of provisions also deal with it, directly or indirectly, in the majority of sections: (General Principles (I), Rights and Freedoms of the Person and the Citizen (II), Elections and Referenda (III), The National Assembly of Ukraine (IV), President of Ukraine (V), Cabinet of Ministers (VI) and Territorial Structure of Ukraine (IX)).

It would therefore be useful at this point to **outline the power structure established by the new Constitution.**

2. General presentation of the text and the proposed power structure

Section I includes 14 articles laying down **general principles**, including the assertion of the **unitary** nature of the State (Article 1) but also recognition of national minorities⁴ (Articles 10, paragraph 3, and 11). According to one article in this section, the State "**recognizes and guarantees local self-government**" (Article 7).

³ These comments partly echoed those made by Mr Locatelli on his return from a visit to Kyiv from 26 to 29 October 1995.

⁴ The preamble defines the Ukrainian "people" as comprising the citizens of Ukraine "of all nationalities".

Section II, covering Articles 16 to 64, concerns **the rights and freedoms of the person and the citizen**. The list which it contains - and which is "not exhaustive" (Article 17) - could partly affect local self-government as it creates rights to services provided by the local authorities as well as by the State authorities.

The local authorities are referred to explicitly in Articles 42, 44 and 48: the first of these establishes, for those who are in need, the right to housing "free of charge or at an affordable price in accordance with the law". The second creates a right to "the protection of health, medical aid and insurance" and specifies that "State **and communal** health care institutions provide medical aid free of charge" (it would however seem that it is the State's responsibility to create the conditions for a health service accessible to all citizens). Similarly (Article 48), it is the State which must ensure free primary, secondary and professional education in State **and communal** educational establishments. This obligation extends to higher education in State **and communal** educational establishments "on a competitive basis". Finally, the right to education is extended to citizens belonging to national minorities, who are entitled "to receive instruction in their native language and to study their native language at State **and communal** educational establishments or through national cultural societies".

The citizen's right of expression is guaranteed, as regards both elections to local organs and participation in local referenda (Article 33, paragraph 1). The same applies to the equal right of access to State service (Article 33, paragraph 2) and the right to use communal property "in accordance with law" (Article 36, paragraph 4).

Four other articles deal with relations with **both national and local authorities**.

Article 45, paragraph 2, establishes the right of free access to information about the environment; a citizen also has the right to examine information about himself at the bodies of State power and bodies of local government.

Articles 35 and 50, paragraph 2, deal with appeals against decisions of the authorities. The appeal may take the form of an application to the same administrative authority, which must then reconsider its decision and provide a "reasoned reply", or it may involve legal proceedings.

Two articles more directly concern **the status of local authorities**. Article 37 states that private entrepreneurial activity is incompatible with the duties of elected and appointed local officials (which in some ways may appear excessive). Article 32, paragraph 2, contains a provision which can only be explained by **a desire to break with past practice, but which could be misinterpreted**: "The formation and operation of organisational structures of political parties within...the bodies of local self-government...shall not be permissible". It should not be possible for this text to be interpreted as prohibiting the organisation of political parties at local level and, a fortiori, within local councils.

Section III on elections, referenda and "other forms of direct democracy" obviously concerns local authorities. Elections to the bodies of local self-government are free and occur periodically on the basis of general, **equal** and **direct** election law through **secret** voting. A referendum can be called on the initiative of the Chambers or the President. The latter must also act on a people's initiative if it has collected 3 million signatures in no less than two

thirds of the oblasts (regions), with no less than one hundred thousand signatures in each.

Section IV concerns the **National Assembly**, divided into two Chambers which can hold joint sittings but are elected in different ways and have different powers, although they both play a part in the adoption of laws. The term of both the Chamber of Deputies and the Senate is four years. The Chamber of Deputies consists of 370 deputies elected by a ballot on which no details are given. Senators are elected from multi-member constituencies, three from each oblast. The voting age is eighteen for both elections (as for local elections); the age of eligibility to be a Deputy is eighteen and thirty to be a Senator.

The national mandate is **incompatible** with another mandate (**including, it seems, a local one**).

The Parliament meets in two sessions and adopts laws on the initiative of the Deputies, Senators or the President of Ukraine. In the event of disagreement between the Chambers, the final say may be given to the Deputies on the condition that they reach their decision by a two thirds majority. This is also the majority needed to overturn a Presidential veto (the President may request a second vote).

Amongst the subjects exclusively determined by the laws of Ukraine, listed in Article 92, specific mention is made notably of:

- the rights of national minorities (3);
- status of languages (4);
- the types and amounts of taxes (6);
- the organisation and order of conduct of elections and referenda (14);
- **territorial structure of Ukraine (18);**
- **the principles of local self-government (19);**
- **the status of the Capital of Ukraine; special status of other cities (25).**

The Cabinet of Ministers is only responsible to the Chamber of Deputies, which can be dissolved. Each Chamber has its own powers either of appointment (for example, the Chairman of the Chamber of Accounting is appointed by the Deputies, one half of the membership of the Constitutional Court by the Senators), or of approval (the appointment of Ambassadors and of the Procurator General is approved by the Senate), or of decision (the most important national programmes are decided on by the Deputies).

It should be noted that only the Senate has the power to create constituencies of "raions" (districts), to establish or to alter the boundaries of raions and towns, to reclassify settlements as towns and to name and rename settlements and raions (Articles 87-11). The "oblasts" are not however mentioned in this article.

Section V defines the **Presidential Institution**. The President, "guarantor of State sovereignty, the territorial integrity of Ukraine, the observance of the Constitution and securing of civil concord in society", is elected on the basis of direct, universal suffrage every five years. He must not be younger than 35 years of age and may not be elected for more than two consecutive terms.

His powers may affect local self-government in several ways. Third paragraph of Article 101, whose drafting would call for clarification, provides for the President to assist the coordination of the activity of bodies of State power and their interaction with bodies of local self-government.

Article 105, paragraph 14, has greater scope as the President has the power to revoke acts of the Cabinet of Ministers of Ukraine, central and local bodies of executive power and the Government of the Crimean Autonomy. He also, "on the basis and for implementation of the Constitution and laws of Ukraine, issues universals, decrees and directives that are mandatory for execution on the territory of Ukraine" (Article 105, paragraph 26).

The **Cabinet of Ministers** (Section VI, Article 111) is the central collegial body of executive power. In particular it has the power (Article 114, paragraph 9) to direct and coordinate the activities of Ministries and other bodies of executive power.

Finally, to this description of the main elements of the organisation of the country at central level, there is a **Constitutional Court** (Section XII) responsible for the official interpretation of the Constitution and the laws and the resolution of issues in regard to the constitutionality of laws and other legal acts of the National Assembly, normative legal acts of the Crimea Autonomy, and acts of the President of Ukraine and the Cabinet of Ministers.

The brief overview given above enables the regime established to be described as "**semi-presidential**" as it gives a prominent place to the President elected by universal suffrage. It also assigns an important role to referenda. In the same way, the powers conferred on the Senate (approval of the appointment of Ambassadors) and the way in which it is elected, together with the existence of a Constitutional Court, are somewhat reminiscent of the American Constitution. However, the text combines this pre-eminent role of the President, similar in some respects to his role in the French Constitution, **with elements of a real parliamentary regime**: responsibility of the Cabinet of Ministers to the Chamber of Deputies of the National Assembly, power of the President to dissolve the latter and a bicameral system in which the two Chambers are virtually equal in status.

The extremely numerous references to **local elected institutions, which are thus included among the fundamental institutions of the new regime**, may be noted at this stage. However, to obtain a more accurate picture of the role assigned to local self-government, we should look more closely at the territorial organisation of the country and the communities which serve as a framework for local self-government.

II. TERRITORIAL ORGANISATION AND THE SYSTEM OF LOCAL SELF-GOVERNMENT

The main descriptions of both of these are to be found in Sections IX (Territorial

Structure of Ukraine), X (Crimean Autonomy) and XI (Local Self-Government).

It should first of all be noted that part of the territory enjoys a special status: "Crimean Autonomy". It may be observed that the expression "Autonomous Republic of the Crimea" which featured in the preliminary draft, translated on 15 January, has disappeared.

1. "The Crimean Autonomy"

The elements of autonomy are however maintained and, in my view, allow us to apply the term "autonomous authority", which, as opposed to the term "decentralised authority" I feel can be applied not only to the Spanish autonomous communities, but also to the Belgian or Italian regions or the German Länder⁵:

- principle of autonomy defined in the Constitution. Own Constitution and Statute, even if the Statute is approved by a law of the Ukraine Parliament (Articles 132 and 134, paragraph 4);
- legislative power of the Crimean Parliament (Verkhovna Rada of the Crimean Autonomy) applicable in the whole of the territory, although it must be compatible with the Constitution and laws of Ukraine (in this respect the situation is closer to that in the Italian regions) (Articles 133 and 134);
- the existence of a Government. But the Head of Government chosen by the Parliament must also have the approval of the President of Ukraine (which seems less consistent with the forms of autonomy found in Western Europe).

⁵ My book "Les institutions locales en Europe", Paris PUF 1991, and my statements at conferences organised by the Council of Europe, in Geneva (regionalisation) in June 1993 and in Tampere in January 1995.

However, the fact that there is no autonomous legal system does not seem at variance with the status of an autonomous authority (Spain, Austria):

- power to establish own autonomous fiscal system;
- arbitration by the Constitutional Court in the event of a conflict between the normative legal acts of Crimea and those of Ukraine.

It may however seem surprising that the areas of competence of the Parliament of the "Crimean Autonomy" are not listed in the Constitution. They presumably belong to the field of "concurrent legislative competence".

2. Territorial organisation of the State

It may be observed that the text provides an important clarification as compared with previous drafts: there actually is a State administrative hierarchy in the sense of an executive to which "local bodies" are subordinate and which can annul their decisions. The bodies in question are regions, districts and the cities of Kyiv and Sevastopol (Article 116). The heads of State administration (the President's Delegate in Crimea) are responsible for implementing the Constitution, laws and rules and for ensuring: adherence to rights and freedoms of citizens; the implementation of programmes of social, economic and cultural development and environmental protection; the management of State property; the coordination of the activity of local bodies of State power and interrelation with "bodies of local self-government"⁶ (Article 117, paragraph 1). The second paragraph of the same Article 117 specifies that they **have no right to resolve issues, assigned by the Constitution and the law as a power of bodies of local self-government**.

On the lower, district, level, State powers may be delegated to bodies of local self-government "by law or by agreement" (Article 141, paragraph 2).

The section on **Territorial Structure** (IX), which is made up of only two articles, includes a statement of principle and a list of territorial divisions.

Article 130 stresses the principle of the unity of the territory but also a dual concern to make due allowance for diversity:

- "the combination of centralization and decentralization in the exercise of State power";
- balance, from a social and economic point of view, in the development of the different regions.

Article 131 lists **the different territorial divisions**: the Crimean Autonomy, the oblasts

⁶ Taken to be synonymous with "decentralised local authorities".

(regions) - 24 for 52 million inhabitants according to our information, ie an average population of just over 2 million inhabitants; the raions (which can be translated as districts) - 475, ie an average of 110 000 inhabitants; the cities, of which there are 427, including Kyiv (2 million), Kharkiv (1.6 million) and Sevastopol; municipalities or towns, of which there are 771, and villages (9 748).

The second paragraph of Article 131 states that Kyiv and Sevastopol have a special status.

3. Frameworks for the exercise of local democracy

3.1 Bodies of local self-government

Section XI entitled **Local Self-Government** treats villages, municipalities and cities on the one hand differently from oblasts and raions on the other.

Article 138 states that the former constitute **territorial communities**, whose residents have the right "to independently resolve issues of local character within the limits established by the Constitution and laws". This right is exercised both **directly and through councils and their executive bodies**. The text apparently leaves open the question of whether the executive bodies are elected by the councils or are themselves elected directly.

Article 139 specifies the functions of the "chairmen" of villages, municipalities or cities. They preside over the respective council and head its executive body. Only those persons who are "members" of the respective village, municipality or city can be elected to the council or exercise executive powers. The translated text seems to make a distinction between the condition of eligibility to stand (member) and the condition to vote (resident). This should be checked in the original text to determine whether these two words refer to different legal realities or not.

The oblasts and raions also have councils, which the Constitution (Article 138, paragraph 3) defines as "**bodies of local self-government**" whose purpose is to represent "the common interests of the citizenry of villages, municipalities and cities". They are formed (at least this can be assumed as, for practical reasons, not all the members of the village, municipality or city councils can be members of the raion councils) from the village, municipality and city councils in the case of the raion councils, while the oblast councils are formed from the raion and city ("cities of oblast importance") councils.

Each raion and oblast council elects a chairman, who also presides over its executive body.

This is therefore **a three-tier structure, the tier closest to the citizens seeming to be vested with what might be called the "original local legitimacy", which it transmits through indirect elections to the bodies of the second then third tiers.**

It may be observed that the concept of "city-raions" (somewhat similar to the German Kreisfreie Städte) contained in the preliminary draft (in particular Article 145, which seemed fairly unclear in the English translation), has now disappeared, although "city-oblasts" (no doubt

Kyiv and Sevastopol) are mentioned.

3.2 Powers and responsibilities

The councils of the first tier (municipalities, villages, cities) have general competence for local affairs as well as a number of specific fields of competence which are enumerated in Article 141, paragraph 1: local economy, housing, public transport, social aid, education, culture, health care, environment, public order, trade and services, support for entrepreneurship.

This list contains the three fields mentioned in Section II but goes much further, to such an extent that one could ask what matters may not be dealt with at local level. The list naturally needs further clarification, which is a matter for the law. These councils are allowed to have their own territory (Article 141, paragraph 2). They can establish rules which are binding in their territory (Article 142, paragraph 1). They each vote a budget and can impose local taxes (Article 141, paragraph 2) and "duties".

Article 141, paragraph 3, provides as has already been indicated, for certain powers to be delegated by law to village, municipal or city councils. These delegations of power from the bodies of executive power are not defined, but the Constitution States as a principle that their execution **shall be financed** by the State and that, if need be, ownership of State property shall be transferred.

Raion and oblast councils have, as part of their general role of representing "the common interests of the citizenry of villages, municipalities and cities", the power to adopt budgets and define programmes of social and cultural development and environmental protection. Issues of "regional character" can be entrusted to them by legislation (Article 141, last paragraph). It appears that their resources can only be derived from agreements with the councils of the first tier, under "joint programmes" of economic and social development (Article 141, last paragraph).

3.3 Resources

Article 140 is devoted to this aspect, but we have seen that important elements also feature in other articles. It lists the different possible sources of income: taxes on personal and real property, revenues to local budgets and local property, which includes land and natural resources. These are sources of income for local authorities as well as being part of the joint resources available to councils of the higher tiers.

Financial support for local authorities is one of the State's obligations (Article 140, paragraph 2).

3.4 Supervision

The Constitution distinguishes between own and delegated powers.

In the case of delegated powers, the local authorities act under the supervision of the administrative authorities of executive power.

In the case of acts carried out in the context of their own powers, supervision is exercised in Crimea by the Representative Office of the President and, over the whole territory, by the head of the administration of the corresponding level of executive power. The State representatives can **suspend acts** which they consider to be in breach of the Constitution or the law, but **they must at the same time refer the matter to the competent court**. This is therefore **supervision of a judicial nature**.

III. APPRAISAL IN THE LIGHT OF THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

Although Ukraine has not yet signed the Charter of Local Self-Government, the country's leaders have expressed on several occasions their desire to gain knowledge of the provisions and bring their legislation into conformity with it. In this connection, it is interesting to note that, according to Article 9 of the draft Constitution, "international treaties, ratified in accordance with the Constitution, and which have gained legal force for Ukraine, form a part of its national law".

1. The place of the principles of local self-government in the hierarchy of norms (Articles 2 and 3)⁷

The text meets to a satisfactory degree the requirements of Articles 2 and 3 of the Charter, which call for a definition of local self-government and for the principle to be enshrined in domestic legislation (in the sense of laws adopted by Parliament) "and where practicable in the Constitution".

The definition features in Article 138. The principle is part of the "General Principles" enumerated in Section I. The following are also dealt with in the Constitution: powers and responsibilities, power to issue regulations, financial powers, supervision arrangements, the authorities to which the principle of local self-government applies and the procedure for electing them. A more detailed definition of these various elements is left to the law. One question should be raised: that of the binding force of the decisions taken by the President of Ukraine vis-à-vis elected local authorities. In keeping with legal logic and the spirit of the Charter, these should only apply to administrative authorities representing the executive at local level.

2. Distinction between authorities subordinate to the executive and local authorities - the election principle

⁷ In this section, the numbers of articles generally refer to the text of the European Charter of Local Self-Government.

The **political legitimacy** of the future authorities is ensured through the organisation of free elections by secret ballot and on the basis of universal suffrage. The Transitional Provisions (Section XV) are perfectly explicit as to the changes which the holding of local elections will bring about in the organisation of the country, in particular in Articles 6 and 7.

The care taken to distinguish between administrative authorities subordinate to the State, (including those operating at local level⁸), and elected local authorities (decentralisation) should also be emphasised. Perhaps it would be possible to go a little further in this direction by making sure that local authorities are explicitly mentioned alongside State authorities in order to avoid future interpretations tending to subsume local authorities into the category of "State authorities" (state in the sense of "executive"). This could be the case in Article 5 of the Constitution, which could be completed as follows: "The people exercise power directly and through the bodies of State power or, where local affairs are concerned, bodies of self-government". Similarly, in Article 33: "Citizens have the right to participate in the conduct of State affairs *and local affairs*...". It would also be possible to modify the wording of Article 130 for the same purpose: "The territorial structure of Ukraine is based on the grounds of the unity and integrity of the territory *of the Republic*, the combination of centralisation, devolution and decentralisation⁹ in the exercise of power, the balance of social and economic development of *the different parts* of the territory" (to avoid ambiguity between the words "region" and "oblast"¹⁰).

The ways and means may not be clearly apparent in the Constitution's provisions, but the **local executives are** accountable to the citizens and, at least, to the elected councils. **Citizens can participate directly**, through measures aimed at ensuring administrative transparency (Section II), the existence of judicial remedies or the holding of referenda (the Constitution only provides for a right of initiative at national level).

The draft opts for **indirect suffrage** in the election of raion and oblast councils, which is not in conformity with the principle laid down in Article 3, paragraph 2, of the Charter. On this matter several solutions are open to the Ukrainian authorities:

- to sign the Charter while excluding the raions and oblasts from its scope (Article 13);

⁸ It is in particular highly appropriate that the text seeks to avoid confusion by referring to these in several articles as "bodies of executive power" instead of simply using the possibly ambiguous term "state bodies". It would probably be a good thing if the expression "administrative bodies subordinate to the executive" were used more widely in the text, notably in the Transitional Provisions section.

⁹ These last two words could be replaced or supplemented by the word "subsidiarity", which might be useful to determine the responsibilities of the different levels.

¹⁰ We are prisoners of the English translation of the text here.

- to sign the Charter without excluding these authorities but making a declaration concerning paragraph 2 of Article 3, possibly even specifying that the reservation is provisional (solutions adopted by Spain and, more recently, Hungary);
- to leave the future open by beginning the third paragraph of Article 139 with a formula of the following kind: "Until such time as a law is adopted providing for their election by direct suffrage, the raion council...(the rest being unchanged)".

3. A considerable share of public affairs

As concerns **powers**, my earlier comments show their conformity with the Charter, even if the attention of the Ukrainian authorities should be drawn to the need to **specify more clearly** their distribution between the different levels in a future law. The distribution of powers would also be closely linked to the problem of the **interconnection** between these levels. We shall leave it to the Ukrainian authorities to specify, or not, following the example of Danish or French legislation, "that no level of local government may exercise supervision over another level". This is a point which could be specified in law and possibly later on in the case-law of the Constitutional Court. The problem arises for the raions and oblasts vis-à-vis the first-tier authorities. Questions could also be raised as to the interconnection between the municipalities and villages.

4. Legal certainty

The text contains no reference to the **status of elected officials** (Article 7 of the Charter). Perhaps it would be wise, in order to protect the new authorities from possible controls on the persons elected, to add the following words to Article 7 of the Constitution: "The State recognises and guarantees the principles of local self-government *and the free exercise of local mandates*".

The provisions relating to **supervision** are in keeping with the requirements of Article 8 of the Charter. They will, of course, have to be supplemented by legislation. Beforehand, Article 116 would probably need to be revised, if not deleted, and especially the second paragraph, which is inconsistent with Section XI and, moreover, with the rest of the Charter. The executives of local authorities cannot be heads of State administration. But perhaps this is a remnant from a previous version which has been overlooked.

Article 5 of the Charter on the protection of boundaries is, I feel, complied with through the power conferred on the Senate.

5. Legal freedom

Self-organisation (Article 6, paragraph 1, of the Charter) does not necessarily have to feature in the Constitution; questions can be raised as to the right of local authorities to associate (Article 10) and also as to the existence of a right of recourse to judicial remedies (Article 11). Even if the local authorities cannot apply to the Constitutional Court, they should have the right to recourse to judicial remedies against illegal actions of the supervisory authorities; this should be made clear.

6. Management methods

The status of staff (Article 6, paragraph 2) is not mentioned. However, financial resources (Article 9) and **even the matching of resources and responsibilities** (Article 9, paragraph 2) are, but only as concerns delegated powers. This principle will have to be extended by law to local authorities' own powers and parliamentarians and associations of elected officials will have to see to it that the likely cost to local budgets of the rights granted to citizens in Section II (housing, health care, education) is at least partly compensated for.

On the whole, the text is a very important step towards recognition of the principles of local self-government and fulfilment of the conditions for exercising local self-government. We hope that even if the questions raised do not necessarily result in an amended version of the draft, they will make it possible to set a debate in motion and to define the main lines of the future legislation needed to supplement the Constitution.