

Chamber of Local Authorities

14th PLENARY SESSION CPL(14)4REP

4 May 2007



Status of capital cities

Emin Yeritsyan, Armenia, (L, EPP/CD)

Explanatory memorandum
Institutional Committee

Summary:

The report examines in comparative terms the varying situations regarding the status of capitals in Council of Europe member states from the standpoint of the principles of the European Charter of Local Self-Government. Although the Charter does not contain any specific provisions regarding capital cities, it is obvious that the fundamental principles of local democracy should prevail in them too. The report pays particular attention to the meaning of capital city status, the special administrative or legal status held by capitals, the structures and the functioning of their executive and legislative bodies, their institutional frameworks for self-government, the relationship of the capitals' municipal government with other public authorities, the division of functions between the tiers of municipal government, etc. The report concludes that there is a variety of situations at national level regarding the status of the capital city and this diversity is not in contradiction with the principles and the rules of the Charter, which can be implemented in different ways, in accordance with national traditions, political conditions and social climate.

R : Chamber of Regions / L : Chamber of Local Authorities
ILDG : Independent and Liberal Democrat Group of the Congress
EPP/CD : Group European People's Party – Christian Democrats of the Congress
SOC : Socialist Group of the Congress
NR : Member not belonging to a Political Group of the Congress

1. Introduction

1. Capital cities play an important role and have a distinguished place in a number of member States. They are often political, economic and cultural centres and, as the seat of central government, they frequently bear symbolic meaning. Nevertheless, the capital cities are themselves municipal authorities, governed by their elected representatives. All the principles enshrined in the European Charter of Local Self-Government should therefore prevail in them regardless of their actual function in the country.

2. The status, structure or scope of authority of capital cities is likely to vary substantially in the different countries. Some capitals have a unified administrative system, while others are based on two tiers, some are governed on parliamentary lines, others in a quasi-presidential manner etc. The status of the capital city itself may be based only on tradition and not on statute books.

3. It was thought that the assistance of the Group of Independent Experts could be highly valuable in studying the status and structure of European capital cities, since the experts from the member States could provide relevant information and explanations of how the different national solutions operate, and their contributions might make it possible to compare situations across Europe.

4. With this in mind, the Council of Europe's Institutional Committee asked the Group of Independent Experts to proceed with comparative research on the status of capital cities of the member States and prepare a report. The research method was, as usual, to compile a questionnaire to be completed by all national experts providing detailed information on the subject.

5. After discussion of the draft questionnaire, bearing in mind the wide variety of national situations, and the scope of the subject, the Group decided at its meeting held in St. Gallen on 24 March 2006 that the report should focus solely on the status of the national/federal capital cities of the member States, and its main aim would be to analyse and compare the institutional organisation of capital cities, their constitutional status where applicable, the financial and legal consequences of their status and also their relationships with other public authorities.

6. In the light of the comments of the Group's members, the questionnaire was modified and the final version was approved by the Institutional Committee.

7. It is a peculiarity of the topic that the study of the status of capital cities is not connected to a particular article of the Charter, but rather we should bear in mind the entire Charter when analysing this type of local government. The Charter does not mention the capital cities of the member States, and does not contain any specific principle or provision for them. Regardless of whether their capital city status is based on a constitutional recognition or it goes back to ancient times, or whether they have a special kind of legal status or it is equivalent to that of other local authorities, the fundamental principles and values of local democracy should prevail in them too.

8. Given the mission of the Group of Independent Experts, the aim of this report is first and foremost to study the status of the capital cities of the member States in comparative terms, examining how the principles and norms of the European Charter of Local Self-Government are implemented.

9. In addition, it would be most interesting to obtain information about how these cities are governed, what kind of legislative and executive organs they have, and in what way they are supervised. Since European capital cities are often much bigger than other towns and have a special historical, political, economic and cultural role, it is worth comparing the patterns on which these municipalities are managed. Thus, from a wide-ranging comparison we can obtain valuable knowledge about the major trends, the various institutional structures and legal mechanisms as they are applied in the member States of the Council of Europe.

10. This report is based on the contributions of the members of the Group replying to a uniform questionnaire approved by the Institutional Committee. Accordingly, by and large, the report follows the structure of the questionnaire.

11. In the first part, we will study the general situation summarising the common features of the meaning of capital city status and the role these municipalities play in their countries. Our job here was also to identify the special administrative or legal status held by these cities.

12. The next section comprises a set of questions on the legal and administrative status of the capital cities, examining whether or not they have special status.

13. The third part concerns the capital cities' institutional frameworks for self-government, including the relationship between the legislative and executive branches of municipal government, applying those analytical tools (eg the quasi-parliamentary, quasi-presidential or mixed relationship between the legislative body and the local executive) which were set up by our Group a few years ago.

14. Then the report discusses the relationship of the capital city's municipal government with other public authorities. We cannot properly assess the degree of autonomy of self-governing authorities of capital cities or how the principles and guarantees of the Charter are fulfilled in the given cases unless we study the external relationships of these municipal governments. Therefore, the fourth section is devoted to relations between the capital city and other public authorities, with special emphasis on supervisory bodies, central government, middle-level units and neighbouring municipalities.

15. A separate section examines the principles and practice of the division of functions between the tiers of municipal government of capital cities, where it is not unified.

16. Finally, we will deal with the specific problems or issues linked to the present status of the capital cities, based on the experts' views and predictions on the possible changes and pending reforms in their countries.

17. The questionnaire has been completed by 41 experts.[1](#)

18. This report is not without the usual methodological problems. Not surprisingly, the national experts sometimes used different terminology or the same concepts with different meanings. Other difficulties came from the great variety of situations in the member States regarding the status of capital cities. As we will see, there are many specifics. The status of the city-states and the capitals of 'mini-states' is special, not for their nature as capital cities but because of the particular territorial division of their countries. In other cases, special administrative status is not assigned to the capital city because of its symbolic or political role but because it is a regional centre. But whatever the reason for the special status of the capital, it is the entire legal or administrative status that will be examined.

19. Moreover, it is to be noted that our study relates only to the capital city of the whole country and does not extend to the capitals of federated states, autonomous communities, regions or any other sub-national units. When reviewing the constitutional patterns and approaches applied to the capital cities, in federal and other composite (ie "regional") states, capital status may also be legally and politically interpreted in the federated states or other constituent

entities, which have their own capitals. But the subject matter of our analysis relates only to the national capitals, one in each member State.

20. Finally, mention should be made of the reports prepared by the Group of Independent Experts in previous years, focusing on particular articles of the European Charter of Local Self-Government. These studies examined certain legal, institutional, intermunicipal and financial features of the local government systems of the member States in detail. Therefore, the present report concentrates only on the special characteristics of the municipal government of capital cities which differ from that of other municipalities.

2. General situation

21. Although the term "capital city" has no uniform definition, it is well known in every European state which city holds this title. In identifying the capital of a country we can refer to the historical traditions or the existing social consensus – we cannot miss it. Or we can think of the seat of government, claiming that the city where the Parliament, the national Executive and the high courts (and possibly other power institutions) work must be the capital. Another strategy is to use the legal definition of the capital city, in which case we can rely on the relevant legal texts designating the location of the capital.

22. Nevertheless, none of these methods results in an exact definition. There are some capital cities in Europe which have held this status only for a short time. Slovakia or Ukraine, for example, are very young states on the map of Europe, and the Baltic states regained their independence only one and a half decades ago.

23. Finding the seat of government cannot be used in every case either, since in the Netherlands the governmental institutions are not based in the capital city of the country; instead, they are located in the Hague (which is the residence of the queen as well), but everybody knows in that country that the capital is Amsterdam. In Germany, some federal ministries are located in Bonn (capital of West Germany before 1990), while the seats of some other federal authorities (eg Supreme Court, Constitutional Court) are also outside Berlin.²

24. And finally, as to the use of legal definitions, we will soon see that many constitutions tell us nothing about the capital, and a number of local government laws relate to all municipal governments, without any reference to the capital city.

25. But our task here is not hopeless either. If we look at the status of the capital cities of Council of Europe member States from the point of view of the Charter, we study them as municipal authorities. And as such, they must have legal recognition and empowerment, as any other municipalities. They work in a fixed structure, following explicit working guidelines and spending public money. They might have a special status reflecting their size or importance. But even if they are on an equal legal-administrative footing with the other local authorities, it is enough for our study to observe which municipality is regarded as the national capital city.

2.1. The constitutional status of capital cities

26. As a starting point in investigating the status of capital cities in 40 European states and comparing them, it is a good idea to examine their constitutional recognition or other relevant legal texts specifying the meaning of this status.

27. As far as constitutional recognition of the capital is concerned, in theory the countries reported can be grouped into two clusters: those where this status is entrenched in the fundamental law, and those where it is not. But in practice it is not so simple because in some cases, although there is no particular provision designating the capital city, there are indirect references to the municipality holding this rank.

28. The national constitution designates the capital of the country in Albania (Tirana), Armenia (Yerevan), Austria (Vienna), Azerbaijan (Baku), Belgium (Brussels), Bulgaria (Sofia), Croatia (Zagreb), Czech Republic (Prague), Georgia (Tbilisi), Germany (Berlin), Hungary (Budapest), Iceland (Reykjavik), Italy (Rome), Liechtenstein (Vaduz),³ Luxembourg (Luxembourg), "the Former Yugoslav Republic of Macedonia" (Skopje), Poland (Warsaw), Romania (Bucharest), Russia (Moscow), Slovakia (Bratislava), Spain (Madrid), the Netherlands (Amsterdam), Turkey (Ankara) and Ukraine (Kyiv).

29. In certain cases, the capital city has multiple constitutional recognition. Thus, in Austria and Germany, Vienna and Berlin are not only the capitals of the federal state but are themselves federated states having their own sovereignty, which is acknowledged by the basic law. Moreover, the legal status of these cities is an integral part of constitutional law at *Land* level, so they have different legal statuses expressed by the federal and the *Land* law respectively. In Russia, Moscow also has constitutional recognition as a constituent entity of the Federation. So it is worth noting that in such cases the alternative constitutional recognition relates not to capital status at national level but rather to the position of federated state (in Austria or Germany), of the capital of a federated entity (Bern in Switzerland, Brussels in Belgium) or of a region (as in Croatia).

30. As mentioned above, the constitutional status of the capital city is expressed in some national constitutions only indirectly.

31. The Irish constitution states that the President "shall have an official residence in or near the City of Dublin " and that the legislature must "sit in or near the City of Dublin or in such other place as [the legislature] may from time to time determine" (in practice, it has never sat anywhere else than Dublin). Given the general view that the most typical characteristic of capital city status is that it is the seat of government, these references appear to refer to Dublin as the real capital of Ireland even without saying so *expressis verbis*. The same is true of Latvia, where the only constitutional reference to Riga is that this is the place where the Parliament holds its sittings. There is a fairly similar situation in Norway where, according to article 68 of the Constitution (1814), the Parliament assembles normally in the "capital" (hovedstad) of the Kingdom. Although the name is not mentioned, that standing for Oslo (at the time of Christiania) was not in doubt when the constitution was adopted and has not been ever since. (In Sweden, and Switzerland, an act of Parliament contains a similar provision.) The constitution of Moldova stipulates that the status of Chisinau shall be regulated

by an organic law, without any reference to its capital city status.

32. No particular references to the capital city are to be found in the national constitutions of Cyprus, Denmark, Estonia,⁴ Finland, France, Greece, Malta, Portugal, Sweden and the United Kingdom.⁵ In these countries, this status is attached to the relevant municipality either by other legal texts (below the level of the basic law) or by conventional rule and political consensus. Among them, there are some countries where capital status is stipulated not by the constitution but by other legal texts. This is the situation in Estonia, where the Administrative Division Act of 1995 recognised Tallinn as the capital of the country. Only in Greece is this status laid down by a decree (of the regent of that time), where an ordinance of 1834 recognised the capital city status of Athens.

33. In some countries, capital city status is based exclusively on longstanding traditions or on the importance enjoyed by the relevant city in the country concerned. Therefore, while the practice of designating the capital in European constitutions may be widespread, capital status in these states is enshrined neither by the fundamental law nor by any other statutory regulation. Thus, Nicosia in Cyprus, Copenhagen in Denmark, Helsinki in Finland, Paris in France, Lisbon in Portugal and London in Britain are, let us say, conventional capital cities without any legal recognition.

34. Occasionally, not only is the capital city designated by the constitution but also some of its structures or organs. The Armenian constitutional provisions extend to the districts of Yerevan for example.

Table 1: The source of capital city status

Constitutional recognition	Recognised only by law	Conventional rules (no written legal status)
Albania	Estonia	Cyprus
Armenia	Greece****	Denmark
Austria*	Lithuania	Finland
Azerbaijan	Moldova	France
Belgium	Sweden**	Malta
Bulgaria	Switzerland**	Portugal
Croatia		United Kingdom
Czech Republic		
Georgia		
Germany		

Hungary

Iceland

Ireland**

Italy

Latvia**

Liechtenstein

Luxembourg

"the Former Yugoslav
Republic of Macedonia"

Netherlands

Norway***

Poland

Romania

Russia

Spain

Slovakia

Slovenia

Turkey

Ukraine

* Regulated by federal constitutional law.

** Only as the seat of Parliament (and of the head of state in Ireland).

*** Referring to Oslo without mentioning it by name.

**** Regulated by decree, not by parliamentary law.

35. In theory, we can draw a distinction between those legal texts, be they constitutional or statutory laws, which relate to capital status, and those concerning the municipal government of these cities. At the level of the constitution, these different matters are intertwined, so in practice it is difficult to distinguish the particular functions of legal recognition. While, for example, in Germany a very recent constitutional amendment introduced a new provision into the Basic Law stating that the capital city of the Federal Republic of Germany is Berlin, this provision stipulates that the detailed rules governing capital city status shall be established by federal law. But it seems clear that when the constitution leaves detailed regulation to an act of Parliament, the

latter always treats the capital city as a municipal authority.

36. Finally, it is to be noted that even in many of those countries where the capital city is not in a unique position, its local government is not free of constitutional regulation since the general principles and rules relating to all local authorities extend to it too.

37. Constitutional recognition of the capital city itself makes it unnecessary to establish a special procedure for designating the capital – the title may be imposed, changed or withdrawn by constitutional amendment. The Turkish constitution is the only one stipulating that the name and location of the state capital cannot be changed and it may not even be proposed to amend the constitution.

38. Nevertheless, capital city status is no less stable when it is not fixed by the basic law – it may be far harder to change tradition or social consensus than a written rule.

2.2. The meaning of capital city status

39. The designation of the capital city in the constitution itself raises the question of what the function of constitutional recognition is. Does it establish the specific administrative status of the capital city, attributing a special place or role in the governmental system to it, or is it merely a political or symbolic act respecting the national traditions or political consensus? Moreover, does it have any significance if capital status is not guaranteed by the constitution but based “only” on laws or unwritten conventions?

40. Most constitutions do not answer the first question themselves, since they usually refrain from specifying the meaning of the capital city status. Therefore, we can conclude that whatever the national constitution says about the capital of the country, the specific meaning of this title or rank is determined by custom, tradition or social consensus. Hence, constitutional designation of the capital city has only a symbolic and procedural function; rather than producing directly applicable legal rules, it expresses the social consensus on the “first” municipality of the country, which can be changed by a special procedure, namely by constitutional amendment.

41. Nevertheless, in a few countries the constitution specifies the meaning of this status. The Belgian fundamental law says that Brussels, as the capital city of Belgium, is the seat of the federal government. There is a similar constitutional provision in Liechtenstein, Luxembourg, Turkey as well as – in a sense, see above – in Ireland, Latvia and Norway. In any case, this is the most widespread function of the capital city also in those countries where no explicit reference is made to it.⁶ Virtually all the experts underlined this role of the capital. At the same time, it is not clarified whether it is the main role of a capital city to be the seat of national government or whether government institutions are located in the capital city because it holds that title. Only one or two constitutions (eg Belgium) appear to contain an unequivocal provision stating that the government

must have its seat in the capital city.

42. The Dutch constitution attributes another function to capital city status by stipulating that the new King has to be inaugurated at a special joint sitting of both chambers of Parliament in Amsterdam.

43. In certain monarchies an additional role is played by the capital city, namely that it is the residence of the monarch. It is a general but not exclusive practice; the residence of the Dutch queen is in The Hague.

44. Alternatively, there are some other possible functions and interpretations. The Czech expert saw the meaning of capital city status in Prague's administrative standing as relating to municipal as well as regional government. A special form of organisation or set of powers can also be explained by capital city status, at least as far as Madrid is concerned.

2.3. What makes a capital city?

45. The constitutional rules do not provide any information on the manner of choosing the capital city. Why do those cities hold this title that we know today? What facts or reasons established their capital city status? Presumably, some conditions could have contributed to the designation of the capital city.⁷ Examples might be the size of population, the political, economic or scientific significance of a particular municipality, as well as its symbolic role in the national history.⁸ Originally, the central location of a larger settlement could have been an important consideration when choosing the capital. The residence of the monarch was also an important factor. The original circumstances may have become obscure and nowadays most European capitals are regarded as the traditional centres of the respective countries.

46. If we turn our attention to the role these municipalities play today, we can discover some general phenomena as well as a few specialities. The most general trend is, as already noted, that the capital city is the seat of the major governmental institutions. In specific cases, it is not always easy to decide which was the reason and the consequence; whether the city where the government institutions had been located was designated as the capital or, conversely, the parliament, government, high courts and other power institutions moved to the capital.

47. The range of European capital cities varies greatly in size (territory and population), political significance or economic weight. Nonetheless, their common feature is that they play an important role in their country in these respects.

48. Considering these factors, we can use a number of indicators demonstrating this significance. With a few exceptions, the capital cities are the largest municipalities in the country. At one extreme of the population scale is Yerevan, which is home to 34.3 % (2001 census) of Armenia's population, but more than 20 percent of all citizens reside also in Tallinn, Baku, Tbilisi and Riga, whereas in Germany the "polycentric" structure of the country was far more heavily emphasised before reunification, since Bonn, the capital city of the Federal Republic before 1990, was not among the largest cities.

49. Similarly, the capital city has a pre-eminent role in the economy in a number of countries, accounting for the greater part of industrial production, being the most important commercial centre and having a robust share of GDP. This is very much the case in Azerbaijan, where almost 93% of the entire state budget income is derived from the capital city of Baku, but it is also a strong characteristic – among others – in Estonia, Georgia or Latvia. Another distinctive feature of many capital cities is that, often with their neighbouring area, they are more developed in terms of economic capacity, infrastructure and employment than other regions of the country. This is particularly noticeable in some post-communist countries, such as the Czech Republic and Hungary, where the average GDP per capita in Prague or Budapest is much higher than in the rest of the country.

50. A number of experts stressed that the capital city is the cultural centre of their country. In some places, like Georgia, this role can hardly be underestimated – Tbilisi is an intellectual centre of the country, where – unlike the other parts of the country – a strong civil society exists, and the level of political activity is far higher than elsewhere.

51. We cannot ignore the significance of the historic past and traditions which can justify capital city status. Copenhagen, for instance, has been regarded as the capital city of Denmark since 1417, and the title held by Lisbon in Portugal goes back to the same century, but London or Paris are also ancient capital cities in England (later, Britain) and France. In contrast to these old cities, some other municipalities became national capitals not so long ago. Their new rank was the consequence of different political events and developments, like in Turkey, where Ankara, a small Anatolian town with a population of 75,000, was declared capital city in the first quarter of the last century. Bratislava or Skopje, which, having long been regional centres, gained this title only at the end of the 20th century after the countries concerned had gained independence. The capitals of the Baltic and the CIS countries were the capital cities of the respective soviet republics before the Soviet Union was dissolved.

52. In general, these particular characteristics are interconnected and emerge simultaneously. To sum up, we can conclude from this review of the current constitutional position of European capital cities that this status is not necessarily derived from formal rules. Secondly, the relevant constitutional recognition or conventional rules generally relate to the political or symbolic role of the capital city. The next question is whether there is a special administrative status attached to capital status, whatever this may mean.

3. The status of the capital city 3.1. The administrative status of capital cities

53. Among the Council of Europe member States, Baku, capital city of Azerbaijan, is in a unique situation, since it does not have a unified municipal government, but in its territory there are 11 districts and 61 surrounding settlements, merged into 48 municipal authorities. There is a similar situation in Armenia, where local authorities exist only at district level.⁹ (It is noteworthy too that between 1985 and 1999, there was no centralised authority for London, as the Greater London Council (the strategic authority for London at the time) was abolished in 1985. Many of its functions then reverted to individual London local

authorities.) But in all other capital cities there is a municipal authority whose responsibilities extend to the whole territory of the municipality.

54. In most of those countries where the capital city has constitutional recognition, the detailed rules are laid down by law. In any case, this is the usual practice where such acknowledgment is lacking. But, as previously mentioned, these laws relate to the municipal government of the capital cities. The function of detailed regulation is to specify these municipalities' organisational structure and scope of responsibility.

55. In a number of countries these functions are covered by the general laws regulating all local authorities. In this legal construction the same rules relate to all municipal governments, possibly with some special regulations or minor modifications concerning the self-government of the capital city. This legal technique is applied when the major institutions and the powers and responsibilities of the capital city do not differ from other kinds of local government.

56. Another solution is to enact a separate law on the status of the capital city government, in those countries where it is seen as a special kind of local government. This is the case in Albania, Georgia, Germany (though the relevant federal law has not yet been passed), Italy (where this law has not yet been passed either), "the Former Yugoslav Republic of Macedonia", Moldova, Poland, Russia, Slovakia, Spain and Ukraine.

57. This difference in the formal manner of regulation does not prevail in every case; in Hungary, for example, although the capital has a special status, it is regulated in the Local Government Act (in a separate chapter), whereas until 1994 there was a special act of Parliament covering these matters.

58. Basically, the capital cities of the member States can be classified in two groups according to whether they have special administrative (local government) status or not. In the experts' replies the term "special administrative status" is used with two different meanings. Firstly, it can mean that the capital has a dual status, so it is not only a municipality, but also another entity in itself. The most salient example is Brussels which, as a result of a long sequence of state reforms dating back to the 1960s, constitutes a separate bilingual community financed and controlled by the Brussels region as a constituent part of the federal state. I have already mentioned above that Vienna and Berlin are not only municipalities but they constitute a *Land* (a federated state) in Austria and Germany. Madrid in Spain and Bratislava in Slovakia are the capital not only of the whole country, but also of a region. In the Czech Republic, Croatia, Latvia, Norway and Ukraine, the capital city has a municipal as well as a regional (or middle-level self-government) status. The municipality of Sofia in Bulgaria, in its own territory, carries out the functions of the administrative regions too. As a local government, Bucharest is a municipality but also a second-level organ of the state administration. The second possible meaning of special administrative status relates to the voting system, the internal structure of the capital city, the scope of responsibility, a diverse mode of supervision or finance.

59. In certain cases, although the internal structure of the capital city is organised differently from the other local authorities, these are only minor

differences, and these capitals are therefore not regarded as having special status. It may be assumed that a number of member States try to retain the formally equal legal position between the capital city and other local authorities, but city's size and other attributes might require special regulation or treatment.

60. Sometimes, special administrative status is not exclusive to the capital city. For example, in Turkey, following the adoption of the present constitution in 1982 (which allowed the establishment of metropolitan municipalities in larger urban settlements) a special law was enacted in 1984 on the administration of larger cities, and on that basis, the three biggest cities, including Ankara, were assigned the status of metropolitan municipality. Ankara acquired that status in 1984, not because of its capital city status but rather because it was a city with more than one district (sub-province) within its boundaries. This was the only prerequisite set by the legislation in force at the time.

61. A similar phenomenon can be observed in Spain, where there is also a law granting special status to the big cities (with more than 250,000 inhabitants), and in Greece, where cities with over 150,000 citizens are divided into districts.

62. In France, Paris was divided into districts a long time ago, but a law of 1982 extended this possibility to other big cities too, so Paris' exclusive status has disappeared.

63. These examples demonstrate that special status is not linked to the city's standing as the capital but is provided for simply with a view to managing the municipal governing authorities of the larger cities.

64. Nonetheless, in most countries, the capital city has no special administrative or legal status and its administrative rank is equivalent to that of other municipalities. This would suggest that the symbolic or political roles played by capital cities do not give grounds for a special legal status or any other privilege.

Table 2: The grouping of the capital cities according to whether or not they have special status *

Special status	No special status	
	Minimal difference	Uniform administrative statu
Berlin (D)**	Athens (GR)	Amsterdam (NL)
Bratislava (SK)	Copenhagen (DK)	Ankara (TR)
Brussels (B)	Luxembourg (LUX)	Bern (CH)
Budapest (H)	Paris (F)	Dublin (IRL)
Bucharest (R)	Stockholm (S)	Helsinki (FIN)

Kyiv (U)	Tallinn (EST)	Lisbon (P)
London (UK)		Ljubljana (SLO)
Madrid (E)		Nicosia (CY)
Moscow (RUS)		Reykjavik (IS)
Oslo (NOR)		Sofia (BG)
Prague (CZ)		Vaduz (FL)
Riga (LR)		Valetta (M)
Rome (I)**		Vilnius (LT)
Tbilisi (GE)		
Tirana (AL)		
Sofia (BG)		
Skopje (MAC)		
Vienna (A)		
Warsaw (PL)		
Zagreb (HR)		

* The relevant countries are marked by their accepted country identification. In the cases of Yerevan (AM) and Baku (AZ) the capital city does not have separate municipal government status, and they are not listed here.

** The law establishing special status has not yet been passed.

65. The comparison shows (see Table 2) that whereas in the Nordic and Baltic countries the capital cities do not have special administrative status, in several central and east European countries and in the CIS region these cities are entitled to work under different rules. Another phenomenon is that the composite states also provide for special legal standing for their capital cities but, as we have seen above, this can be explained by their parallel statuses and functions.

66. In summary, if the capital has any special administrative (legal) status, it is debatable whether it is because of its constitutional recognition or for other reasons. The latter is likely to hold true.

3.2. Unified versus divided systems

67. Usually, the individual local authorities are single units but there might be an internal division of powers and responsibilities as well as financial resources within the same local government. The Charter does not rule out divided structures for municipalities either. In certain cases, where justified by the size and capacity of a municipality, it may be appropriate to apply the subsidiarity

principle, bringing public service delivery closer to the citizens. Moreover, according to the Charter, local authorities must be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management. This means that they have the power – within the limits of the law – to determine their own structure. Thus, since capitals are normally large municipalities with a high population density and large territory, a number of them will probably have a divided local authority system. One might imagine a correlation between the internal structure of capital cities and their size, with the bigger cities obviously likely to contain districts. The larger European capital cities are actually divided into two tiers, but the logic is not absolute, as some smaller capitals also have districts.

68. Certainly, it matters whether the suburban units are themselves local authorities or they are only administrative structures created by the municipal government or ultimately devolved units of central government carrying out delegated functions of state administration.

69. Table 3 shows the capital cities according to their internal structure, whether they have a one- or two-tier system.

Table 3: One- and two-tier municipal governments in European capital cities

Uniform systems	<i>Divided systems (number of subdivisions)</i>		
	District self-governments	Administrative districts established by law or the capital city	
		With elected council	No elected council
Bern	Ankara (16)	Amsterdam (14)	Athens (7)
Brussels	Budapest (23)	Bratislava (17)	Chisinau (5)
	London (33)	Berlin (12)	Copenhagen
Dublin	Moscow (123)*	Bucharest (6)	Madrid 21
Helsinki	Skopje (10)	Kyiv (10)	Oslo (n. a.)**
Nicosia	Tirana (11)	Paris (20)	Sofia (24)
Lisbon	Zagreb (17)	Prague (22)	Stockholm (18)
Ljubljana		Rome (20)	Tbilisi (6)
Luxembourg		Tallinn (8)	Vilnius (21)
Reykjavik		Vienna (23)	
Riga		Warsaw (18)	

Vaduz

Valletta

*The 123 districts are grouped into 10 (state) administrative districts.

**Some districts are elected, others have appointed members.

70. Baku is not listed in the table, since municipal government exists only at district level and therefore, although it has a two-level administration, in the absence of a "central" municipal government of the capital city, it is neither a "uniform" nor a "divided" system. The other exceptional case is that of Yerevan where, above the municipal authorities of the districts, the city-level administration is subordinate directly to the central government. This means that local self-government exists only at suburban level.

71. It can be seen that nearly two-thirds of the municipalities discussed here have a divided administrative structure. But it is also clear from Table 3 that in some capital cities the districts are not separate local governments; their existence depends on the decision of the capital city, which may establish, change or abolish them. Under standard conditions, the capital city is entitled by law to establish suburban districts in order to contribute towards a more effective and efficient administration and public service delivery, as well as closer involvement of citizens in local democracy. This empowerment can be limited, as in Greece where, under the local government act, 5, 6 or 7 districts may be created in Athens. The exact number of districts is determined by a decree of the head of state on the proposal of the Minister of the Interior, in cooperation with the city council. This legal option is provided in Belgium too, but not only for the capital; all municipalities with more than 100,000 inhabitants may establish districts, but only one municipality (Anvers) has adopted such an internal structure to date.

72. In the light of these considerations, Athens, Chisinau, Copenhagen, Madrid, Oslo, Sofia, Stockholm, Tbilisi and Vilnius are actually unified systems in terms of local self-government, but they may share their own functions with suburban units.

73. The situation is more complicated in those countries where the municipality of the capital city also establishes the districts, but these suburban units have a directly elected council, like in Amsterdam, Berlin, Bratislava, Bucharest, Kyiv, Paris, Prague, Rome and Tallinn. In practical terms, there is a very similar arrangement in Vienna, but it is to be stressed that the representative body of this capital city may decide on the districts on the strength of its status as one of the *Länder* and not as the municipality (although, as we saw earlier, both statuses are conferred on the same institutions). In Norway, the council of Oslo may delegate some of its own powers to "district" councils, some of which are directly elected on an experimental basis, while the others are appointed by the municipal council. There is also a special division of tasks and functions in the municipal government of Tbilisi, because its six districts exercise so-called devolved powers delegated by the central government. Since, in these cases, the existence of the district units, their scope of responsibilities and their resources depend on the decision of the municipality of the capital city, they can hardly be regarded as separate local authorities. In Romania, the relevant law on local administration of 2001 states that the 6 districts of Bucharest are themselves not

local authorities, even if each also has an elected body and a mayor.

74. In the "pure" one-tier systems, the capital city is governed by a unified municipal government, as in Bern, Brussels, Dublin, Helsinki, Nicosia, Lisbon, Luxembourg, Reykjavik, Riga and Vaduz.

75. In the "real" two-tier systems, that is, where both levels are municipal governments, the division of the capital city is determined by law, so their establishment does not fall within the discretionary power of the capital city government but is a legal requirement. As a rule, not only the number of suburban units, but their boundaries, internal organisation, voting system and financial resources are also established by law, as in Hungary or "the Former Yugoslav Republic of Macedonia".

76. Although some of the experts' replies did not detail the legal and financial guarantees of district self-governments, the most significant conclusion from the information available is that the basic principles and norms of the Charter prevail, from legal safeguards of district boundaries to districts' disposal of their own resources – at least, the experts did not indicate any serious problems or shortcomings in this sphere.

77. In some countries, the establishment of suburban units is required not only in the capital city, but in other large municipalities as well. It means that certain types of municipalities (eg municipal governments with county rights) or cities whose population is above a specified level (usually more than 100-150,000 inhabitants) are entitled or obliged to establish suburban units.

78. The size of the capital districts usually varies; their boundaries may follow an administrative rationale or other considerations – in Bratislava or Budapest, a number of districts are former independent municipalities which were gradually integrated into the capital city over the last decades.

79. On the whole, the councils of the districts are elected in the same way as the representative body of the whole capital city, with the self-evident distinction that only the individuals resident in them are eligible.

80. Whatever the status of the capital city, districts with their own local government usually hold the same status as other local authorities.

4. Institutional frameworks 4.1. The major institutions of capital city municipalities

81. Since the Group of Independent Experts has already studied the institutional frameworks of the local government systems of the member States in various research work and reports, only the distinctive elements of the capital cities will be discussed here. Where the administrative status of the capital does not differ from the other municipalities, these structural issues have no particular importance for this analysis.

82. By and large, the basic institutional features of the capital cities' self-governing authorities are very similar to those of other local authorities.

83. The deliberative body is the main organ of these municipalities, with legislative and policy-making functions. The very few exceptions are those capital cities which do not have unified municipal governments. In Yerevan, the Armenian expert tells us, although there is a council, composed of the mayor of Yerevan and the heads of the district municipalities, local self-governing authorities exist only at district level. There is no deliberative body of local government either in Azerbaijan's capital city, Baku. In the federal states, the dual status of the capital city (as municipality and federated state) does not entail a parallel organisational structure, so the deliberative body of the municipal government in Vienna is also the Viennese *Land* Parliament, as in Germany where the House of Representatives (*Abgeordnetenhaus*) is the legislative organ of the *Land* as well as the deliberative body of the municipal government of Berlin. This duality has other consequences, one of the most important being that such a representative body may be dissolved only through a procedure laid down by the federal constitution applying to the parliament of a *Land* – as in the case of all other *Länder*. Presumably, the dissolution procedure would be different if they were only municipalities and not *Länder* as well.

84. The dominant voting system for electing councillors is the proportional method, but in some countries a mixed system is used.

85. The size of the deliberative body varies considerably, with the number of local representatives ranging from 15 to 150. This is likely to depend on the size of the city they represent, the range of functions of the capital and its internal structure. [10](#)

86. As for the executive, in about half of the capital city governments, a mayor exercises this function, while in the other half of the municipalities these tasks are performed by a collegial body. But this distinction relates primarily to political accountability; in day-to-day work, the mayor is assisted by several different bodies and organs. In London, for example, the role of the Mayor is to develop strategies to make London a better city, and in doing so, he works with the functional bodies to achieve these objectives. Certainly, the specific features resulting from the dual status of capital cities which are themselves federated states apply equally to the local executive. For example, the mayor of Vienna is not only the main executive organ of the municipality but the *Land* Governor of Vienna at the same time. In contrast to other municipalities, where the mayor is elected directly by local citizens, the mayor of Vienna (as *Land* governor of Vienna) is elected by the local assembly.

87. The replies to the questionnaire provide ample evidence of the diversity of institutional arrangements. In Ireland, for example, Dublin City Council elects annually its own chairman, the Lord Mayor; in Bern, the members of the executive board also have direct legitimacy since they are elected by the people, just as the councillors; in some countries the committees of the council have wide-ranging executive powers etc.

Table 4: The type of local executive in the capital cities

Individual

Albania, Armenia,* Austria, Bulgaria, Cyprus, France, Hungary, Greece, Ireland, Italy, Latvia, "the Former Yugoslav Republic of Macedonia", Moldova, Poland, Romania, Russia, Slovenia, Spain, Turkey, Ukraine, United Kingdom

Collective

Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, Georgia, Germany, Iceland, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Norway, Sweden, Switzerland

88. In the capital cities where executive functions are exercised by a body, that body is always elected by the council, usually from among its own members but not in every case; in the Netherlands, the members of the executive board (aldermen) may not be members of the council at the same time. Therefore, if a councillor is elected as alderman, he may not retain his seat on the council. Members of the executive board may come from outside the council too. If there is a collegial executive, its members are usually responsible for a branch of the local executive, sometimes holding posts of deputy mayors as well (as in the municipality of Prague). In some countries, such as Croatia, the executive functions are performed by the mayor and an executive body together.

4.2. Municipal legislative–executive relations in the capital cities of Europe

89. For the purposes of cross-European comparison and drawing conclusions, the experts were asked to characterise local legislative–executive relations as fitting patterns of quasi-parliamentary, quasi-presidential or mixed government. This analytical framework for understanding power-sharing at local level was devised by the Group of Independent Experts a few years ago. Although these models – taken from the widely accepted classification of types of central governments – cannot be applied to local authorities precisely, it can be of use in comparing relations between the major local government institutions.

90. According to this analytical framework, in "quasi-presidential" systems the local executive – mostly the mayor – is not accountable to the representative body. Certainly, the lack of accountability is true only in political terms, in the sense that the mandate of the executive does not depend on the majority of the council. But in general practice the main function of the local executive is to prepare and implement the decisions of the elected council of the municipal government. Since the mayor cannot be dismissed by the majority of the local council, they are in a strong position within the municipal government, which is often further strengthened by direct election. In this model, the head of the local executive chairs the meetings of the representative body; their main function is to execute the council's decisions and they run the local administration. They are the spokesman of the municipal government, representing local interests vis-à-vis the central government and other local authorities. Nevertheless, the deliberative body in this institutional context is also in a core position, shaping the local government policy and taking the most important decisions.

91. We can use the term "quasi-parliamentary" to describe local legislative–executive relationships in which the mayor or the executive board is accountable to the deliberative body (the council) in political terms. Our survey shows that the quasi-parliamentary model with the local executive answering to the directly elected council is the most widespread institutional arrangement in the European capital cities reviewed. But it is worth noting that the legislative–executive

relations of the municipal authorities of capital cities generally do not differ from the model followed in other local authorities. So, even if the capital city's government enjoys greater political significance than the other municipalities, the pattern of political accountability follows the usual lines.

92. Strictly speaking, the quasi-parliamentary–quasi-presidential dichotomy is not always applicable, hence the existence of the “mixed” system of local legislative–executive relations. This is the case in Cyprus where, according to the national expert, the relationship between the municipal council and the mayor follows a quasi-parliamentary system for the majority of affairs, but where the range of responsibilities entrusted to the mayor is concerned, the system is more of a quasi-presidential type. Another special institutional arrangement exists in Finland, since there the mayor is not the chair of the City Board but acts as the chief executive of the municipal staff. The system is based on a modified parliamentary system though, since all the political groups receive their proportionate share of seats on the city board and the city committees. The Georgian capital city government can be labelled as quasi-parliamentary, but some provisions of the relevant law and routine procedures, according to the Georgian expert, give the mayor decisive power over the representative body. The mayor's independence from the council is strengthened by the central government because of the political importance of this position; thus, reality overrules the formal provisions. In Moscow, despite the chief executive being formally accountable to the municipal assembly (at district level), in view of the weak and limited legislative authority of the council the Russian system may be classified as a mixed construction, as the Russian expert says.

93. To sum up, as other cases also show, the formal legislative–executive relationships are frequently overruled by the real power relations between the deliberative body and the local executive.

94. Another issue to be examined is whether the internal structure of capital city governments and the districts differ or mirror one another's institutional arrangements. Of course, this question may arise only in the two-tier or divided systems. In fact, the second-level institutions and their relationships by and large resemble those of the capital city authorities. If the local legislative–executive relations are modelled on the quasi-presidential system in the capital, as in Skopje, the same arrangement prevails at district level too, and vice versa. Certainly, there are differences in the number of district councillors, the committee structure or other details. But these are not key distinctions. The real differences are in their scope of responsibilities and their resources, points that will be discussed in the next section.

95. Certainly, there are some special cases at district level too. Although usually the district self-governments do not differ from other local authorities, the City of London, has a unique status even within London, for example, because, unlike other boroughs, it operates on a non-party political basis, with the Lord Mayor of the City of London, the Aldermen and the members of the Court of Common Council standing as independent members carrying out their work voluntarily.

4.3. Finance

96. The questionnaire also covered financial matters. The aim of a survey of the

financial relations of capital cities was to examine whether these municipalities dispose of relevant resources or they are dependent on the political will of central governments. From this point of view, we can investigate the revenue structure of the capital city authorities and possible differences compared with the financial system of the other municipalities. Since the financing of the local government systems in the member States has already been researched by our Group, it seems sufficient to examine the latter. Another relevant issue is the dividing of revenues between the capital city government and the districts – where there is a two-tier system, of course.

97. Almost all the experts reported that there is no difference between the municipality of the capital city and the other local authorities in terms of finance, although in Germany or Austria this comment relates to the other *Länder*, not to the other local authorities. If there are special circumstances, or they emerge, where the capital is concerned, they are rooted in the greater economic capacity of the capital city, not in the financial system. In Kyiv for instance, which is the country's main centre of business activity, the per capita revenue is several times higher than in any other municipality.

98. Thus, although this hypothesis requires further evidence, it may be said that the local government financial systems beneficial for capital cities are those where the share of local tax revenues is high, ie the degree of the central redistribution is low – provided that the capital city's economic potential is higher than the country average.

99. It is remarkable that some experts stressed the disadvantageous financial conditions of their capital city. The financial transfer policy pursued by the central government in Georgia is politically motivated, since the government has often discriminated against municipalities controlled by opposition forces in recent years. In Armenia, since municipal governments exist only at district level, there is no separate city-level budget; the administrative functions extending to the entire capital city of Yerevan are financed directly by the state budget. But notably, although these conditions may adversely affect the capital cities, they are probably not closely linked to capital city status but rather problems underlying the entire local government system.

100. As for the financial equalisation process, this issue can be approached in two ways. On the one hand it may be dealt with at national level, and on the other hand it may be interpreted between the two levels of capital city government or possibly between the richer and poorer districts.

101. Although the situation is not studied in-depth in this research, some generalisations can be made. In theory, the district self-governing authorities may receive equalisation grants in most countries under the same procedure as other municipalities. No evidence is available to show that capital city governments could obtain central support on these grounds but the main reason for this appears to be their superior economic and financial situation. Nevertheless, under the Austrian Financial Equalisation Act, Vienna receives revenues both as a *Land* and as a municipality, whereas the Viennese districts have no involvement in financial equalisation.

5. Relations between the self-governing authorities of the capital city

and the districts (where there is a two-tier system)

102. It is self-evident that this section of the report deals only with those capital cities which have a two-level system.

103. In investigating the relationship between the municipality of the capital city and the self-governing authorities of the districts, we can basically identify two different cases.

104. The first group comprises the capital cities where there is a well-balanced, non-hierarchical relationship between the two levels, based on their own independent status and on their mutual interests. These connections would seem to be of a complex nature; in certain cases, their respective responsibilities seem to run parallel, whereas in other areas their activities complement one another. A third kind of relationship is when the municipality of the capital may lay down so-called "framework action"; although this imposes limits on the districts, the district authorities may – within those limits – take decisions autonomously, and their own actions cannot be supplemented by decision of the capital authorities. But basically, both the capital city and the districts are local governments, not subordinate to one another, each having specific responsibilities and powers specified by law. Both are eligible to exercise the basic rights of local governments. Consequently, and within the framework of the law, the districts independently exercise the powers and rights granted to them. In structural terms, the relationship between the two levels may be characterised by negotiation procedures and joint bodies in all areas where both tiers have responsibilities. These mechanisms can vary tremendously, but in essence, since the districts have separate local governments, there is no pattern of hierarchy between the capital city government and the suburban units. Usually, this kind of relationship is regulated by law. In a few rare cases, the district-level municipalities are mentioned in constitutional texts, underlining mutual, inter-municipal relations.

105. The other group comprises the capital cities where there are hierarchical relationships between the two levels. This is the case when the districts themselves are not local authorities but are established by the municipality of the capital city in order to spread functions or workload. The district-level institutions are subordinate to the municipal government of the entire capital city. Again, this type of relationship has several different sub-types, depending on the degree of subordination. Since it is usually the council that establishes the suburban units, it has the discretion to decide what degree of autonomy it leaves to the districts. At one extreme of the scale of dependency, the municipality of the capital city

- determines the number and boundaries of the suburban units;
- decides on their tasks and powers;
- transfers the necessary financial resources to them.

106. In legal terms, the districts perform delegated tasks, and the capital city retains its own control over the exercise of these conferred responsibilities.

107. But the links between the capital city government and its districts can also be hierarchical, to a degree, at least, if the latter constitute separate local authorities too. Nonetheless, as a rule, the degree of subordination is always much weaker in these cases, since they cannot be deprived of basic guarantees of self-government by the "central" authority of the capital.

108. In the case of hierarchical relationships, within the framework of the law, the capital city has a wide-ranging regulatory role; it may issue its own statutes or decrees specifying procedures for delegation, revenue transfer or control.

109. In practice, the intermunicipal relations discussed here are frequently more complex in nature. This is true both when the districts are separate self-governing authorities and when the central government delegates functions to them. In the latter cases, the municipality of the capital city may not instruct or control them, even if they have such powers in other matters. In Prague, for example, this dichotomy means that some of the district units pursuing a self-administration agenda (for example the office of the district mayor) are subordinate to the district council, whereas other departments dealing with decentralised/devolved matters are subject to either the municipal authority of the City of Prague or certain central ministries.

110. Looking at the division of tasks and functions between the two levels, we may draw some general conclusions. The first important question is how the powers and responsibilities are distributed between the "central" authority of the capital and the districts or, more precisely, what rules govern the division of tasks and functions between them. Another interesting topic concerns which tasks are mainly performed by the municipality of the capital city and which by the districts.

111. In technical terms, this distribution is regulated by the relevant law or by the decree of the municipal government of the capital city. In practical terms, this entails the same procedure in Vienna and Berlin, where the *Land* legislation – the legal acts of the capital city government – sets out the tasks and functions of the districts. Where the districts are themselves separate local authorities, the relevant law distributes the responsibilities between the two tiers.

112. In cases where the districts are established by the capital city and there is a hierarchical relationship between them, the "central" authority has wide discretionary powers in these matters. It is standard practice to allow the districts to make proposals in this procedure. For example, in Vienna the district bodies may also suggest concepts, issue statements and offer consultation regarding a large number of tasks concerning the district and its infrastructure. In addition, the relevant law usually leaves the capital little room for manoeuvre, stipulating, for instance, that the districts must be involved in the preparation of the relevant municipal regulations and so on. Sometimes the capital city may delegate its own responsibilities to the districts only if permitted to do so by the law.

113. Reviewing the national situations, we can see a wide variety of cases. In general, the most important tasks and functions are performed by the municipality of the capital city, whereas the districts carry out a number of tasks related to the day-to-day administration. In another formula, the municipality of

the capital city performs tasks and functions which concern the whole of the capital or more than one district or tasks relating to the special role of the capital in the country. Within this logic, the district self-governing authorities may also have wide-ranging responsibilities, relating to the administrative tasks and public services that can be performed and delivered efficiently within the district boundaries. Authorities operate more or less along these lines even if the division of powers and responsibilities in the particular case is solely at the discretion of the capital city government.

114. As far as the distribution of responsibilities is concerned, the real question is what principles are applied in this respect. Legal regulations use various techniques to determine and separate the range of powers and responsibilities of the two levels. One method is to define guiding principles for the distribution of tasks and functions between the municipalities of the capital city and the districts. The other possible solution is simply to list the responsibilities in the relevant legal articles.

115. Although it is particularly risky, an assessment of typical city-level and district-level responsibilities might be made as follows:

Table 5: The most typical responsibilities of the levels of the capital city government

Core functions of the "central authority" of the capital city government	Typical responsibilities of the district self-go
Development plan for the entire capital city	Social care
Public transport	Basic health services
Road maintenance	Basic-level education
Public utilities	Environment management
Hospitals, special health services	Culture, sport and leisure
Public order, police	

116. It should be noted that there may also be different ways of dividing up tasks. As the Slovakian expert points out, the districts, with some exceptions, have the same powers and responsibilities for their own territory as the capital city. Furthermore, a number of responsibilities, such as public housing, waste management, welfare services or tax administration are carried out either at capital city-level or by the districts, whereas certain tasks (eg budget planning, institution maintenance) are performed at both tiers.

117. As for the financial relations between the capital city government and the districts, in some countries there exists a redistribution of revenues between the two tiers, as in Prague or Budapest. In both countries, a substantial amount of revenue remains at the level of the capital city, because of the high degree of fiscal centralisation, like in Prague, or the complicated negotiation system which favours its municipality, as in Budapest. In Skopje, there is a joint fund for the capital and the districts. The fund is sourced from revenues from personal

income tax, municipal business tax and other kinds of taxes in accordance with the law. The fund revenues are allocated using a methodology defined by the minister of finance. However, the most widespread practice draws on the dominant model of the relationship between the capital city government and the districts, with the municipal government of the capital determining the revenues of the self-governing authorities of the districts, in theory in proportion to their functions and tasks.

6. Relationships between the capital city and other public authorities

118. Within the relationships between the capital and other public authorities, the mode of supervision of the capital city and its connections with the central government, the second-tier (regional, county, provincial, metropolitan) governments and the neighbouring municipalities (namely those which belong to its agglomeration) are particularly important. These external relationships are likely to be the strongest and to most heavily influence the autonomy of capital city municipalities.

6.1 Supervision of capital city governments

119. Supervision of local authorities has already been covered in two reports of the Group of Independent Experts. The aim of the present research in this area was therefore to reveal divergences from the general patterns of central control in the case of capital cities. The presumption was, that if the central government wishes to exert stronger influence over capital city governments, in respect of their political or economic importance for example, it may do so through closer and more intrusive legal or administrative supervision. But this hypothesis has not been borne out. The major trend suggests that the formal means of central government control do not differ from those used for the other municipalities. Only a few exceptions can be found, but these ensue from the special status of the capital city. In Yerevan, for example, the mayor of Yerevan implements legal and specialised controls of district municipalities on the basis of the annual working plan adopted by the Ministry of Territorial Administration. But this is due to the fact that no municipal government exists at capital city level in Yerevan.

120. In both the cases where the capital city is also a *Land* (ie Vienna and Berlin), the capital city government is not supervised by the central government in the same way as all the other municipalities. The simple reason is that both in Austria and Germany the legal (administrative) control of local authorities is not federal but is conducted by the *Land* authority and, as the Austrian expert points out, it would be "impossible to ask Vienna as a *Land* to supervise Vienna as a municipality". However, in Vienna financial supervision is exercised by the Federal Court of Auditors, which regularly examines the budgets of the federation, the *Länder*, large municipalities and other public law bodies, whereas in the German case, pursuant to federal laws, control is exercised mainly by the upper chamber of the federal Parliament (*Bundesrat*) which itself represents the *Länder*.

6.2 Central–local government relations

121. Another issue is the relationship between the capital city and the central government. The question can be interpreted in two different ways. In one

respect it relates to the legal and administrative channels of contact between the capital city and the ministries and other central government agencies. From this point of view, it was generally reported that no special types of channel were available for this purpose; the municipalities of the capital cities may use the same channels open to all local governments, such as the various coordination or petition procedures instituted in the different countries. Nevertheless, some experts referred to certain informal links and means of communication, though these are generally used for cooperation in the organisation of international events, diplomatic occasions or national ceremonies. Therefore, these cannot be regarded as special administrative channels within the framework of central–local government relations.

122. In another sense, we can observe the relationship between the capital city and the central government from a political point of view, on the assumption that the greater the role and significance of the capital city in a country, the more political effort will be made by the central government to influence its leadership and management. In other words, the political importance of the capital might encourage the government of the day to put it under stronger pressure, intervening in its internal relations even beyond the limits laid down by the written rules.

123. Certainly, if the capital city does not have such an outstanding role in the country, or it is only a *primus inter pares*, this issue will be without importance. But, as we have seen, this is not the case in most Council of Europe member States, and so this question appeared to be justified.

124. In the area of formalised relations, the legal instrument most frequently applied entails individual agreements between the capital city and the government of the country. The law allows this practice in a number of countries, and some experts referred to it as an existing practice. For example, certain infrastructure investments – particularly if they serve not only the population of the capital city – may require close cooperation between the municipality and the State within the framework of a bilateral agreement.

125. There might be other legal forms of relations, such as the involvement of the capital city municipality in the relevant policy-making of the central government, the right to initiate a decision, to lodge a petition etc, but these mechanisms and opportunities are usually open to all municipalities too. A very curious rule exists in Liechtenstein, which, in theory, might crucially impact on the legal relationship of the central government and the capital city. There, the constitution guarantees the right of self-determination of the municipalities, which have the right to resign from the alliance on which the State is based. But this peculiarity is not linked to the capital status of Vaduz – it is the right of all 11 local authorities.

126. As for the informal connections between capital city and central government in relation to political significance, the city-states of the federal countries, Berlin and Vienna, cannot be left unmentioned. As discussed above, they are themselves constituent entities of the federation, so they are equal not only with the other municipalities but might be said to be “higher among equals”, since they are also on an equal footing with the other *Länder*. Moreover, they carry additional political weight as most federal institutions are located on their

territory. The case is somewhat similar in those countries where capitals also hold regional status, like Prague in the Czech Republic. Not surprisingly, central–local government relations are stronger and contacts more numerous if the capital city is not only an individual local authority but holds another status as well, such as representing an entire region or another middle-level unit.

127. Relations may move onto another plane, that of “major politics”, if the position of the capital city's mayor as the political leader of the largest municipality entails an eminent political role and/or the mayor is a popular politician (possibly the leader of the opposition), who also wields considerable influence in national politics. If party affiliations differ, the political “cohabitation” between the mayor or the ruling coalition in the capital city government and central government may become a hostile one. This was the situation in Romania between 2001 and 2004, but there are other precedents (eg in Greece). This may result in changes in the division of tasks or resources, such as a transfer of responsibilities to the districts at the expense of the capital city municipality (as in Romania) or the withdrawal of central government support for investment in the capital city, which happened in Hungary between 1998 and 2002.

128. There may be times when the central government considers an activity, responsibility or public service so important that it is reluctant to hand it over to the capital city government or, in worse cases, it tries to take it over from the municipal government. The Irish expert mentions an example when, in 1998, the overseeing and running of local transport was established as a function not of the city council but of the Dublin Transport Authority, a special independent authority. Of course, this may be down to an effective and rational division of tasks and powers, as in London where the responsibility for the road network is shared between various bodies: local roads are managed by individual London boroughs; main roads are managed by Transport for London, one of the functional bodies of the Greater London Authority; and motorways in London are run by the Highways agency, a central government function, which is also responsible for overall government policy on motorways and trunk roads in England.

129. Such regular cooperation can have a number of forms and subjects, not only in the classic local government functions but as regards national ceremonies, organisation of international meetings or state visits etc.

130. Finally, in extreme cases, political will may be dangerous for the autonomy or local government of the capital. Remarkably, in Yerevan and Baku, no municipal government exists at the level of the capital city, and the municipality of Tbilisi is kept under strong central government control. Although the capital has had an elected mayor since October 2006 (instead of having one appointed by the head of state as before), as the Georgian expert reported, the representative body of the capital city has only a minimal influence on local self-government policy. But there are precedents of drastic central intervention in traditional democracies too, as demonstrated by the abolition of the Greater London Council in 1985.

6.3 Relationship between the capital city municipalities and middle-level (or regional) self-governing authorities

131. Another segment of the external relations of capital cities concerns their connections with middle-level or regional governments. It is certain that these relations do not have a significant impact on the existence of capital cities. In fact, most of the capitals reviewed here do not come under any regional-level self-governing authorities. In most cases they themselves enjoy regional status or have tacit "extra-territorial" standing. Moreover, where this is not the case, as in Denmark or Sweden, the division of powers and resources between the capital city and the region is similar to the pattern of distribution between all other municipalities and the regions and does not involve any hierarchical element.

132. Some capital cities without such connections belong to a regional development area (or development region), which is not a regional self-governing authority but was established for general or specific planning or development activities. This linkage does not directly affect the status of the capital city but may affect its capacity to receive additional financial resources and implement development projects.

6.4. Inter-municipal relations with municipalities of the agglomeration

133. The situation varies substantially across the board if we compare the relationships of the capital city governments with their agglomeration. These neighbouring relations are usually established by a law which provides for frameworks for cooperation between the parties on the basis of an agreement. In general, the municipal governments of capital cities are free to enter into partnerships with other local authorities. This can be very practical for serving mutual interests – when the capital city exploits its considerable public service delivery capability and the neighbouring municipalities receive those services easily.

134. The most common focal points for such cooperation are:

- waste disposal and management;
- inter-municipal public transport;
- environment protection;
- public utilities (gas, electricity, water supply);
- development planning.

135. These partnership agreements may be geared to performing a particular task or multifunctional, longstanding cooperation. An example of the former is the joint public transport corporations run by some capital cities with the adjoining municipalities. An example of multifunctional cooperation is given by the Finnish expert, referring to the Helsinki Metropolitan Area, which provides a framework for a large number of joint projects for Helsinki and other participating local authorities.

136. The possibility of integrating neighbouring municipalities into the capital city is a fairly topical part of these relationships. In Ukraine, for example, there is talk of setting up a so-called "capital region", since the capital city government proposes annexing the neighbouring sub-regional territories. In some cases, the present territory of the capital city comprises a number of districts which used to be separate or autonomous municipalities. In theory, such mergers might be the final step of a long process but, basically, this is not the aim of the accustomed

forms of cooperation between the capital city's municipal authorities and the neighbouring municipalities.

137. Another kind of inter-municipal relations entails the capital city's membership of local government associations in order to promote municipal interests and influence the relevant central government policy.

7. Problems and pending reforms

138. The questionnaire asked the experts to describe in detail the problems and public concerns which have arisen in connection with the status of capital city or are on the public agenda in their country. There was another question about proposals or reform schemes aimed at meeting these challenges, also asking the experts for their assessment of the prospects of change in the near future. Although some experts reported back on general local government reform proposals and developments which are expected to affect the municipality of the capital city too, here we are only considering the plans related specifically to the capital city municipalities. As these schemes and reform proposals are closely geared to the special situation of the capital city in question, it is difficult to identify general or prevailing trends. Even so, the planned changes and proposals under discussion may be classified by type, as follows:

- In certain countries the status of the capital city government itself is controversial, and its current standing is likely to change. This seems to be the case in the two countries where, at present, there is no municipal government for the capital city as a whole: Baku and Yerevan do not have city municipality status. In Armenia, Yerevan's status as a separate municipality is recognised by the amendment of the Constitution in November 2005. Under the transitional provisions of the amended Constitution, local self-government bodies in Yerevan should be formed no later than two years after the adoption of the appropriate law. But this law has not yet been adopted and there is not even a draft version of it. This means that local self-government bodies will probably not be established in Yerevan until 2008. The situation in Azerbaijan is trickier, since there is no constitutional or legal recognition of the municipality of Baku. It is to be noted that the Congress of Local and Regional Authorities passed two recommendations on this matter in 2003, calling for the establishment of an effective local and regional government system in the country. In general, the status of Baku is on the public agenda, and there are expectations from the state programme "On rapid social and economic development of the surrounding settlements of the Baku city area for the period 2006-2007".

- Another type of pending reform relates to institutional changes of the capital city government. Certainly, the extent and significance of these structural innovations in the different countries can hardly be compared. In some cases, implementation of these proposals could affect the entire system of the local separation of powers, since they would change the internal relationships of the local institutions.

This is the case in Georgia, where there is a public call for directly elected mayors, including Tbilisi.

- Quite different problems arise from the shortcomings or failings of the financial

system in some countries, which place their capital cities in an unfavourable situation. In Germany, for example, the Basic Law provides for special equalisation grants for *Länder* under special circumstances (eg for the City-States, like Berlin). (Notwithstanding this, Berlin is in a situation of financial emergency.) In Budapest, the financial equalisation process between the capital city government and the district self-governing authorities has been a fiercely disputed issue for a number of years, yielding only several failed attempts to change the allocation mechanisms. Sometimes, to meet the requirements of the special role played by the capital, additional financial sources are needed (eg to maintain and improve the historic heritage in Valletta and in other traditional capital cities).

- The next category includes the changes or reform efforts aimed at modifying the current status of the capital city, mainly by enacting a new law on the capital city.

Some capital cities have sought to be regulated by a separate law recognising the special conditions under which they exist and laying claim to special treatment or status on these grounds. Tallinn, for example, has been trying unsuccessfully to have a separate law on its own status enacted since 1994.

Even so, constitutional recognition of special status and reference to a separate law as an instrument for detailed regulation is not enough in every case. In Germany and Italy, the relevant law has not yet been enacted, although this is likely to be only a temporary situation.

- Another innovation relates to the inter-municipal relations of the capital city, where planned changes will have various implications:

Over the last few years, there has been discussion in Romania of a special law on Bucharest's status, aimed at establishing a metropolitan zone which would embrace Bucharest and the neighbouring municipalities in a unified administrative structure.

There are a number of ideas about how to merge the municipalities of the Brussels-Capital Region (consisting of Brussels and a further 18 municipalities) into one or more units, the realisation of which would inevitably affect the status of Brussels.

In case of Helsinki, a specific problem is caused by the territorial limits of the capital city's geographic growth. Similar claims also resurface in Oslo from time to time.

In Germany, the proposed unification of Berlin with Brandenburg (which proved to be unsuccessful in 1995) would have resulted in significant changes in Berlin's constitutional status as well as its position as capital city (abolishing its city-state standing).

Territorial (re)organisations of the capital city may cause newly emerging problems, as in case of Skopje since, on the last occasion, according to the Macedonian expert, when the city's territory was extended to rural areas in 2004

no objective criteria were used for that merger and the citizens' views were not taken into account.

- Some reform attempts have focused on the relations between the "central" authority of the capital city and its districts. Simultaneously exercised, undivided competences, mutually exclusive interests and sub-regional economic and social discrepancies can prompt calls for structural reform. Oslo is one example, where some of the district councils are directly elected on an experimental basis. Other potential changes are exemplified by proposals in France or in Poland, arguing for the transfer of certain responsibilities to the districts from the municipality of Paris and Warsaw respectively. Some experts pointed to social and environmental problems, such as the considerable differences in the quality of life in the different districts or territories of the capital city, or traffic jams, although these problems can hardly be solved merely by structural reforms of the municipal government of capital cities.

- In some countries, planned changes would affect central–local government relationships. In Iceland, for example, there is a tendency to transfer tasks from central government to local authorities. Such a devolution process is not rare in the member States, neither is the controversy over the proper level of revenue transfer coming from the central government to finance these new local government functions.

- Finally, many experts reported minor changes, organisational rationalisation and other efforts in particular areas of activity, launching anti-corruption programmes, establishing a more transparent system of city management, clarifying the competences of the bodies and officials of the municipality and so on.

139. Notably, the future of the capital city's status can emerge within a wider political context, as in Cyprus, where the possible unification of Nicosia depends on a more general solution connected to the relationship of the Greek and Turkish communities.

8. Some conclusions and proposals

140. First and foremost, it is a direct requirement of the European Charter of Local Self-Government that the capital city, as a municipality holding a pre-eminent role and place in so many member States of the Council of Europe, must have the right to self-government, with public responsibilities exercised by democratically constituted authorities. Management of the capital by centrally appointed authorities or even by sub-municipal local authorities without an elected municipal government at the level of the capital city does not comply with the fundamental principles of the Charter. In all cases where no municipal government exists at this level, the Council of Europe encourages the national authorities to establish conditions for setting up a democratically elected municipality in the capital, enshrining the principle of local self-government of the capital city in written law. Where this process has begun – as in Armenia –, the Council of Europe warmly supports it, drawing attention to legal and material guarantees for the autonomy of the new capital city government.

141. There is no reason to condemn the divergence of national situations where

the status of the capital city is concerned. The principles and rules of the Charter may be implemented in different ways, in accordance with national traditions, political conditions and social climate. Accordingly, there are no uniform patterns for the organisation of municipal government of a large city bearing major symbolic meaning and political significance. Given the great variety of the European local government systems this is not surprising. In some member States, the constitution-makers and legislators saw no reason to provide for special status for the capital city, which is therefore in the same position as the other municipalities. Nevertheless, the fulfilling of special functions in the capacity of national capital¹¹ is rewarded in certain countries by a special constitutional or legal status empowering the municipality of the capital city with regional or provincial standing or enacting specific regulations. This may also be justified by the singular problems these cities have to face, such as substantial differences in quality of life in the various areas of the city, traffic jams or environmental pollution.

142. Taking account of all these circumstances, it may be proposed to consider the option of providing for special status for the capital city in those member States where it does not have such a status, although the same problems exist. This requirement does not arise directly from the Charter, but it must be considered whether or not the size and capacity of the capital city and also its specific functions warrant special regulation or status.

143. In the process of establishing a special status for the capital city (this is ongoing in certain countries), the municipal government of the capital must be involved in the decision-making process guaranteeing the possibility of prior consultation, as stipulated by Article 4.6 of the Charter. Certainly, the consultation process ought to extend to every piece of new legislation affecting the capital city.

144. There is no less variation in the internal structure and institutional order of capital city governments. Although, there are basically capitals where two levels of self-government exist and others, where a unified municipal government performs the same function, as we have seen, there are also a number of sub-types of two-tier division, depending on the extent of the districts' autonomy and their relationship with the "central" authority of the capital city. To sum up, it seems that in almost every case it is sought to maintain a relatively centralised system but, at the same time, distribute the tasks and functions between the capital and its subdivided units, so that these may be carried out more effectively, efficiently and – perhaps – democratically. It may also be said that none of the Charter's provisions requires the establishment of separate local authorities or any other autonomous entity within a municipal government. But it is worth drawing attention to the fact that the subsidiarity principle, enshrined in Article 4, Section 3 of the Charter, may be interpreted as supporting the transfer of public responsibilities to the authorities which are closest to the citizens. Improvements to the democratic aspects (elections, accountability, referendum) of the district authorities of capitals can also be recommended.

145. Whether the district authorities have their own elected council or not, there should be a clear and transparent division of responsibilities between the different levels of the capital city. It is equally important to provide adequate financial resources allowing the suburban units to manage their own or delegated

functions.

146. The capital cities should be given enough capacity to raise their revenues in order to run their administration, fulfilling their functions as national capitals. The system of finance of the capital city, including tax reductions or other financial restrictions cannot be used for political "punishment" of the capital just because it is governed by an opposition politician or coalition, as sometimes happens according to some national reports. The relationship between central government and the capital city should be free of political hostilities stemming merely from the differing party affiliations of their leadership.

147. If we checked the implementation of the Charter's principles at district level, we would discover a number of problems, ranging from the protection of local authority boundaries to the financial resources of local government. Nevertheless, while the Charter does not require the member States to divide their municipal governments into parts (districts) - so no objection may be raised to the limited autonomy of most capital city districts - it does not refer to the case where the entire capital city, although obviously a separate entity whose population constitutes a local community, does not have its own self-governing authority. This can hardly be counterbalanced by establishing local authorities at district level, particularly if those units are so strictly controlled by the central government, as was reported by the Armenian and Azerbaijani experts. The Council of Europe should therefore vigorously encourage these countries to recognise the municipal government status of their capitals.

148. The Council of Europe could offer the possibility of exchanging experiences of the member States, exploiting its own capacity for coordination and expertise to the countries and capital cities concerned.[12](#)

Appendix 1

Questionnaire

"Status of capital cities"

by Prof. Zoltan SZENTE,

**Senior Research Fellow, Hungarian Institute of Public Administration,
Hungary**

Introductory remarks

The capital cities play an important role and have a distinguished place in a number of member States. They are often political, economic and cultural centres, and, as the seat of the central government, they frequently bear symbolic meaning. Nevertheless, the capital cities are themselves municipal governments, governed by their elected representatives. Thus, whatever their actual function in a country is, all principles which are entrenched in the European Charter of Local Self-Government should prevail in them.

Presumably, the status, the structure or the scope of authority of the capital cities may vary substantially in the different countries. Some capitals have a

unified, others have a two-tier administrative system, some are governed in a parliamentary fashion, others in a quasi-presidential way, etc. Possibly, the status of the capital city itself is based only on tradition and not on statute books.

In this case, the assistance of the Group of Independent Experts can be highly valuable in studying the status and structure of European capital cities, since the experts from the member States may be able to provide relevant information and explanation of how the different national solutions operate, and, their contributions may give opportunity to make cross European comparison.

It is a peculiarity of the topic that the study of the status of capital cities is not connected to a particular article of the Charter, but rather, we should bear in mind the whole Charter when analysing this type of local governments.

The aim of the questionnaire is to get relevant information on the legal and administrative status of the local government of the capital cities of member States, in order to provide inputs to a wide-ranging comparison. Supposedly, the capital cities have considerable political weight in each country, therefore it makes sense to monitor whether the safeguards of local autonomy, as described and required in the Charter, prevails also in this special kind of local government.

It is to be noted that our study relates only to the capital city of the whole country, but it does not extend to the capitals of federated states, autonomous communities, regions or any other subnational units.

There can be a lot of specific cases. The status of the city-states and the capitals of 'mini-states' is special not for their nature as capital cities but rather because of the particular territorial division of their countries. In other cases, the special administrative status of the capital city is assigned to it as a regional centre rather than as its symbolic or political role. But whatever the reason for the special status of the capitals, if any, it is the entire legal or administrative status that we are examining.

The questionnaire consists of six parts. The first section of the questions relates to the general situation, the basic circumstances in which the capital cities exist. It is the place where you can describe and characterize the role that the capital plays in your country. The next section comprises a set of questions on the legal and administrative status of it, examining whether it has a special status or not. To reply this part of the questionnaire, please clarify whether the special status of the capital city is connected to it as the capital of the country, or, is independent of it. The third part concerns the institutional frameworks of the capital city, applying those analytical tools (e.g. the quasi-parliamentary or quasi-presidential relationship between the legislative body and the local executive) which were set up by our Group in the past few years. Receiving the information from the replies of the next section we will be able to compare the patterns of relationships between the "central" authority of the capital city government and the district authorities. After that we will examine the supervision of the capital city exercised by the central government, and, in wider context, the central-local relations between the central government and the self-government of the capital city. Finally, a few questions are formulated on the specific problems or issues connected to the present status of the capital city.

You are asked to give information on those proposals and possibilities which can be effective instruments or processes to solve these shortcomings.

Having regard to our earlier studies and research, as far as the institutional features of the capital city are concerned, please concentrate on the specialities of the capital city government, or the differences from the other municipalities.

I. General situation

1. What is the legal foundation of the capital city status in your country, or, does it have any legal recognition? Does the capital city have a constitutional recognition, or, is it regulated by other legal instrument? What is the procedure of designating the capital of the country?

2. What is the exact meaning of this status?

3. Please characterize briefly the place and role of the capital city in your country. Which facts or reasons establish its capital city status? Although we are studying only the capitals of whole member States, please indicate here if there are any other kinds of capitals (capitals of federated states, regions, etc.).

II. The status of the capital city

4. Does the capital city have a special administrative (or legal) status, or, is its administrative rank equivalent to that of other municipalities?

5. Is the local government of the capital city unified, or is it divided into different tiers? In case of a two-tier system, which levels exist? By what procedure are the suburban (district) units determined or established?

III. Institutional frameworks

6. What is the deliberative body of the local government of the capital city? (If there is a two-tier system of the capital, please specify the way of choosing the local representatives at both levels.)

7. Please describe the basic features of the local executive. Which body or who is the major executive organ?

8. As to the relationship between the local legislative and executive bodies, is there a quasi-parliamentary or a quasi-presidential system, or other (mixed) construction? Please indicate, whether this structure differs from the other municipalities' institutional structures.

9. What are the most important revenues of the capital city as well as the district self-governments? Please use, if possible, the conceptual framework of distinguishing the "central" and the "own" resources. What is the structure of these revenues? Are there any financial equalisation processes between the tiers of the capital city or between the district units?

IV. The relations between the self-governments of the capital city and the districts (if there is a two-tier system in the capital city)

10. Which legal instruments regulate the relationships between the two tiers of the capital city? What are the basic principles governing these relations?

11. How are the powers and duties distributed between the "central" authority of the capital city, and the districts? What rules govern the division of tasks and functions between them? Which responsibilities are conferred on the "central" authority, and which on the districts (or suburban) units?

12. In which way are the revenues divided between the two tiers of the self-government of the capital city?

V. The relationships between the capital city and other public authorities

13. In which way is the capital city's self-government supervised? Is this supervision confined only to legal control, or does it extend also to the financial supervision or any other kind of administrative oversight (e.g. audit-like supervision, credit approvals).

14. What is the relationship between the municipal government of the capital city and the central government? What political significance does the capital bear?

15. Please describe the basic rules and major characteristics of the relations between the capital city and the second-tier (regional, county, provincial, metropolitan) governments (whatever they are called). What are the legal bases of these relationships? Please specify the division of powers and resources between them.

16. Is there an institutional/administrative or other specialized (e.g. consortia for public service delivery) relationship of the capital city with its agglomeration or the neighbouring municipalities?

VI. Problems and pending reforms

17. Please set out in detail those problems and public concerns which have arisen in connection with the status of capital city, or are in the public agenda in your country.

18. What kind of proposals or reform conceptions have been worked out to meet the challenges described above? Are there any prospective changes in the near future?

1 The report is based on the replies from Albania, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, "the Former Yugoslav Republic of Macedonia", Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom.

2 In some cases, the practice of locating certain national authorities (eg high courts) outside the capital embodies the principle of separation of powers and symbolises the independence of those bodies.

3 The constitution of Liechtenstein calls Vaduz the “main municipality”, which seems to be equivalent to capital status.

4 The Estonian constitution makes special reference to Tallinn, stating that local elections in that city must be held in district constituencies. But this provision refers only to Tallinn’s special administrative status, without mentioning that it is the capital of the state.

5 As is well known, there is no written constitution in the United Kingdom.

6 For example, the Russian federal law on the status of the capital provides for possibilities of concluding special agreements between Moscow and the federal bodies on issues concerning those functions emanating from Moscow’s capital city status.

7 As indicated above, this report does not examine the status of the capital cities of the entities below the national level. But it may be pointed out here that not only the federated states can have capitals; this concept is applied to many regions and other entities. Thus, in the United Kingdom, Wales, Scotland and Northern Ireland also have their own capital cities, and in this sense London is also the capital of England, as well as the capital city of the UK. One very special case is Azerbaijan where, although Baku is the single capital city of the state, there is another official centre of the Nakhchivan Autonomous Republic. Another curious example concerns the Netherlands, with the overseas parts of the Kingdom, ie Aruba and the Dutch Antilles, having their own governmental seats in Oranjestad for the Aruban government, and in Willemstad for the Antillian government (Curacao, Saba, Bonaire, St Maarten and St Eustatius). In addition, it is quite accepted that other subnational entities, like counties, provinces or other middle-level self-governing structures might have their so-called capital cities.

8 From this point of view, the Swiss case is special, since the creator of the 1848 constitution assumed that a federal state could not have a “capital city” at all, if this meant the political, cultural and economic centre of a country as, say, Paris is in France. When the constitution was debated in 1848, a proposal was rejected whereby the federal authorities would move their base around the largest cities in the country in a rotation system. Presumably, the effort to emphasise the equality of the cantons might have been the reason why the city of Bern is usually referred to as the “federal capital” (Bundesstadt) rather than the “capital” (Hauptstadt). Up to now, it has never been described formally as the capital city in any legal statute.

9 According to the Russian report, “there is no unified local government of the capital city” [of Moscow], and local governments exist only at district level in the capital. The Russian expert states that the deliberative body of the city (Moscow Duma) is a “state body”, referring to the status of the capital as a constituent entity of the Federation. To a certain degree, this case is similar to the dual status of Berlin and Vienna, where the city-state is also seen as a municipal

government of the capital city. Therefore, hereinafter, the government of Moscow will be regarded as a two-tier system.

[10](#) Whereas the London Assembly consists of 25 members for example, 60 councillors sit on the council of Riga. But London also has 32 boroughs (plus the City of London) whereas the municipality of Riga is not divided into districts.

[11](#) Such as laying on logistics for embassies and state institutions, organising national and international events, maintaining transport infrastructure of national importance etc, which is not in the capital's own interests.

[12](#) See also Congress Recommendation 133 (2003) on management of capital cities, proposing "frequent contacts between capital cities, particularly in order to exchange good practice with regard to the management of capital cities".

The Congress of Local and Regional Authorities



14th PLENARY SESSION
(Strasbourg, 30 May – 1st June 2007)

Status of capital cities

Recommendation 219 (2007)¹

The Congress, acting upon a proposal from the Chamber of Local Authorities,

1. Having regard to:

a. Article 2, paragraph 1.b., of Committee of Ministers Resolution (2000) 1 relating to the Congress of Local and Regional Authorities, which states that one of the aims of the Congress is to submit proposals to the Committee of Ministers in order to promote local democracy;

b. Article 2, paragraph 3, of the same resolution, which states that the Congress must ensure that the principles of the European Charter of Local Self-Government (referred to below as "the Charter") are implemented;

c. Several Recommendations and Reports on the situation of local democracy in the Council of Europe member states;

d. The Explanatory Memorandum (CPL(14)4REP) on the Status of capital cities presented by Emin YERITSYAN (Armenia, EPP/CD) and prepared with the help of the Group of Independent Experts on the basis of a contribution from Professor Zoltan SZENTE, Hungary;

2. Emphasizes that the capital city, as a municipality with a pre-eminent role in most states must have the right to self-government and exercise of public responsibilities by democratically constituted authorities, in conformity with the Charter²;

3. Considers that the management of the capital city by centrally appointed authorities or by sub-municipal local authorities, without an elected municipal government at the level of the capital city, does not comply with the fundamental principles of the Charter;

4. Acknowledges that there exists a variety of situations at national level regarding the status of the capital city and that this diversity is not in

¹ Debated and approved by the Chamber of Local Authorities on 31 May 2007 and adopted by the Congress on 1st June 2007, 3rd sitting (see document CPL(14)4RECREV, draft recommendation presented by E. Yeritsyan (Armenia, L, EPP/CD), rapporteur).

² See Article 3 of the Charter and the corresponding paragraph of the Explanatory Report.

contradiction with the principles and the rules of the Charter, which can be implemented in different ways, in accordance with the national traditions, political conditions and social climate;

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

6. Notes with regret that the financial system of a capital city is occasionally misused - serving as an instrument of conflicts caused by differing party affiliations of the leadership of the capital city and the central government;

7. Notes that at the level of subdivided units of a capital city the principles of the Charter are often not implemented in a satisfactory manner;

8. Considers that the existence of subdivided units in a capital city cannot compensate for the absence of a self-government structure, especially since subdivided units are themselves often strictly controlled by the central state governments;

9. Believes that sharing information about the experience of different member states on the status of their respective capital cities would be very useful for those member states which are in the process of modifying the status of their capital cities;³

10. In the light of the foregoing, the Congress:

a. Recommends that member states - represented by the competent national, federal and/or federated authorities:

i. establish the conditions for setting up a democratically elected municipality in the capital city, particularly in countries where no municipal government exists at the level of the capital city, enshrining the principles of local self-government of the capital city in written law;

ii. put particular emphasis on the legal and material guarantees of the autonomy of the new capital city government in those member states where the process of setting up a democratically elected municipality in the capital has begun;

iii. involve the municipal government of the capital city, which is in the process of being granted a special status, in the decision-making process, guaranteeing the possibility of prior consultation, according to Article 4.6 of the Charter (as it should be the case with every new legislation with an impact on the capital city);

iv. provide clear and transparent division of responsibilities between the municipal and possible district levels of local government in a capital city;

³ See also the Congress Recommendation 133 (2003) on management of capital cities, proposing „frequent contacts between capital cities, particularly in order to exchange good practice with regard to the management of capital cities“.

v. recognize the municipal government status of capitals in member states where this is not yet the case;

vi. provide the capital cities with sufficient capacity to raise their revenues in order to run their administration, fulfilling their functions as national capitals;

vii. ensure that suburban units of the capital city have sufficient financial resources to manage their own or delegated functions;

viii. take the necessary steps in order to prevent the misuse of the financial system of a capital city, namely tax reductions or other financial restrictions, as a political instrument;

ix. ensure ways of promoting proper co-operation between the central government and the leadership of a capital city, independently of diverse party affiliations of the sides;

b. Recommends that local authorities of capital cities in Council of Europe member states take note of this recommendation and the explanatory memorandum to it, and encourage its implementation;

c. Invites the Committee of Ministers of the Council of Europe:

i. to forward this recommendation and its explanatory memorandum to the authorities of the Council of Europe member states;

ii. to forward this recommendation and its explanatory memorandum to the Steering Committee on Local and Regional Democracy (CDLR) for information;

iii. to recognise the need to provide, particularly through the Centre of Expertise for Local Government Reform, intergovernmental co-operation in this field and the Congress, special technical assistance to countries where capital cities do not have a special status or their own self-government structure;

d. Invites the Council of Europe Parliamentary Assembly to bear the above comments and recommendations in mind in the context of its own activities in the area of local democracy and the monitoring of the honouring of commitments entered into by Council of Europe member states.