



Ministry of the Interior and
Kingdom Relations

> Return address The Netherlands

The Congress of Local and Regional Authorities of the
Council of Europe
President of the Congress
Mr. Herwig van Staa

STRASBOURG cedex
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Ministry of the Interior and
Kingdom Relations

Turfmarkt 147
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Contact

Reference
2013-0000652478

Your reference

Date October 17, 2013
Subject Reaction draft report

Dear President,

It was with interest that I examined the draft report on the third monitoring of the Netherlands by the Congress, concerning the implementation of the European Charter of Local Self-Government. I would like to thank you for giving me the opportunity to respond to this draft report. I also do so on behalf of my colleague Mr Weekers, State Secretary for Finance. In this response, we would like to consider the conclusions and recommendations of the report.

The monitoring of the European Charter of Local Self-Government has taken place at a time of significance and dynamic change. The public administration in the Netherlands is in a state of flux. This is also evidenced from the draft report that you have presented and the conclusions drawn in it.

The Netherlands attaches great value to the principles of local autonomy. As your report states: "local self-government is enshrined in the national constitutional tradition and is an essential part of the Dutch political landscape".

The principles of local and regional autonomy are defined in the Constitution: regulation and administration in respect of the "household" (internal affairs) of municipalities and provinces are left to their administrative bodies. It is only by or pursuant to an Act of Parliament that it is possible to lay a claim to the regulation and administration of decentralised authorities, also referred to as joint governance ('medebewind' in Dutch). These core principles concerning the organisation of local and regional authorities are also contained in the Municipalities Act and the Provinces Act. When the legislature withdraws tasks from the household of municipalities and provinces (centralisation of duties), such decisions should be supported by means of substantiating justifications and should be weighed against the principles of decentralisation and local autonomy. Furthermore, I would like to point out that in many joint-governance duties, a high degree of policy freedom is granted in the relevant joint-governance legislation. As a result, this policy freedom is embedded in law.

The Dualisation Act of Municipal Administrations, the independent academic evaluation of Chapter 7 of the Constitution (2010) and the coordinating responsibility of the Minister of the Interior and Kingdom Relations for the central government policy to promote the policy freedom of municipalities and provinces, do not point to a direct "potential risk that political considerations of the moment could – through legislation – severely restrict or reduce the intensity or extension of the autonomy enjoyed by provinces and municipalities". I would like to add that, because of the existing culture of consultation in the Netherlands, the representative organisations for municipalities and provinces (the Association of Netherlands Municipalities (VNG) and the Association of Provincial Authorities (IPO)) play such an important role that unilateral incursion on municipal and provincial autonomy is difficult to conceive.

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The importance that the Dutch government attaches to local and regional autonomy is also evident from the policy intentions of the present Cabinet of Ministers. As you also signal in your report, the movement towards decentralisation within the social domain plays a key role in this regard. A distinction should be made here between two types of movement. Firstly, due to joint-governance legislation, wide-ranging public-sector duties are being ascribed to municipalities with a great deal of policy freedom. Secondly, the government is taking a step back insofar as the extent of this government interference is concerned. This will result in services being provided in a different way: specifically, closer to the citizens and with a higher level of participation, as well as with a larger degree of municipal autonomy – a development that ties in with your recommendation to strengthen municipalities' autonomous duties.

This major movement towards decentralisation requires a careful approach. A specially organised transitional process needs to ensure that municipalities are able to prepare themselves properly for the decentralisations and that they are supported where necessary. The concerns that you express in your conclusions about the financial compensation are also a part of this careful approach. However, the Cabinet is of the view that implementation at the municipal level will mean an efficiency drive due, in part, to greater responsibility being invested in citizens themselves.

The Cabinet wishes to ensure that the intermediate level of governance does not become wedged between an increasingly demanding Europe and a more dominant local administration. It is for that reason that the Cabinet wishes to strengthen the provinces. The Cabinet believes that there must be a greater separation of the provinces from the municipalities in order to achieve this. This structural adjustment follows substantive considerations. Regarding areas such as spatial planning, regional economy, and traffic and transport, many duties have already been transferred from central government to the provinces, resulting in more (policy) freedom. This has resulted in the provinces acquiring a more robust profile in the spacial-economic domain. Consequently, discussions on strengthening the intermediate level of governance relate in part to the transfer of duties and responsibilities, the granting of freedom for legitimate decisions at the provincial level, the reduction of responsibility where possible and the reduction of prescribed frameworks.

Developments in public administration are proceeding hand-in-hand with continuous dialogue among the parties concerned. These negotiations do not take place ad hoc but are structural in character. The report observes rightly that inter-

administrative relations are a significant priority for the Dutch government, particularly with regard to decentralisation. Furthermore, the valuable reports by the Council of State are also mentioned. It has been agreed in the Consultation between Local, Regional and Central Government Authorities ('Overhedenoverleg' in Dutch) to hold regular meetings between the parties concerning the shape, financial consequences and progress of decentralisation. In addition to this, the Inter-administrative Relationships Code provides for timely involvement in the development of new policy intentions and problem areas that affect another tier of government. Observance of the Code is also discussed in the Consultation between Local, Regional and Central Government Authorities.

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The Netherlands has made four reservations and an interpretative statement when signing the European Charter. These cannot be withdrawn for the time being. In the conclusions of your report you pay attention to the reservation to Article 11 in respect of a judicial procedure for municipalities. The Cabinet feels it worth emphasising that municipalities can bring what they consider an unacceptable decision before the administrative law court and, in the second instance, before the Council of State. They also have recourse to the civil courts among their options.

In addition, the current Cabinet adopts the same position as in recent years regarding the discussion about expanding the scope of local taxation: it has no intention of expanding the scope of local taxation for individual decentralised authorities. That is not to say that there is no question of decentralised autonomy. Despite the fact that municipalities levy only a relatively small portion of their own revenue themselves, broad policy freedom exists in terms of spending the General Grant from the Municipalities Fund. Moreover, the number of specific-purpose grants has been further decreased in line with policy over the recent past. The 2012 Specific-Purpose Grants Maintenance Report (OSU 2012) showed that central government furnished 55 specific-purpose grants in that year. This downward trend is continuing in 2013. Presently, there are 45 specific-purpose grants in existence (2013). This is a reduction of 18% compared with 2012.

In that context, I also refer to the letter I recently sent to the House of Representatives "Design of the Constituent Fund for the Social Domain" dated 9 October 2013. In this letter the parliament is informed about the to be realised sub-fund for the financial compensation of the future decentralized responsibilities of the municipalities in the social domain. For this new responsibility a general budget without separate divisions, aimed at increasing participation in society, is suitable. With the design for this fund the Cabinet sought for a balance between on the one hand the policy freedom for municipalities to provide local services and on the other hand measures necessary in the first transitional years to guarantee a successful implementation.

Finally, there is one further development worth mentioning concerning a topic that has been a point of particular interest for the Congress in previous reports about the Netherlands: the manner of mayoral appointments. In your report you referred to the Schouw legislative proposal. This subject has cleared a new hurdle: the House of Representatives has adopted the legislative proposal.

Public administration in the Netherlands is in a state of flux. At a time of change, it is thus also important to consider the principles of the European Charter of Local Self-Government. I will also discuss the conclusions with the representative bodies of municipalities and provinces.

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Yours faithfully,
The Minister of the Interior and Kingdom Relations,

A handwritten signature in black ink, appearing to read 'R.H.A. Plasterk', written in a cursive style.

dr. R.H.A. Plasterk