

## Local Self-Government in Bulgaria

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**Abstract** This paper presents the implementation of the principles of the European Charter of Local Self-Government in Bulgarian legislation after 1991. It briefly follows the historical development of local self-government, the introduction of democratic principles and norms in legislation, constitutional guarantees for local self-government, the sphere of competence of its bodies, protection of local authority boundaries, the structure and functions of local administration, financial sources for local activities, the relation between local and central authorities, local authorities' right to associate, as well as the challenges in front of the implementation of ECLSG principles in Bulgaria. This paper uses sources such as: The Constitution of Republic of Bulgaria, the major acts that regulate local level relations and introduce local self-government principles, conclusions and recommendations based on Council of Europe monitoring reports on Bulgaria, regarding the implementation of the ECLSG, as well as other publications of the author and other authors.

**Keywords:** • local self-government • history • legal foundation • European Charter of Local Self-Government • Bulgaria

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## 1 Introduction and history

The history of local self-government in Bulgaria is both interesting and controversial. The local self-government was first mentioned during the debates in the Constituent Assembly (1879) after the Russian-Turkish War 1877-1878 when a part of the present territory of Bulgaria was liberated from Ottoman rule and therefore building of an independent state began. The forementioned Constituent Assembly had the task to develop and adopt the famous Turnovo Constitution (its sessions were held in Veliko Turnovo which at that time was the capital of Bulgaria). During the debates, the opinion of the future Conservatives' representatives prevailed and they advocated for self-government and decentralization. Article 3 of Turnovo Constitution claimed that "Territory is administratively divided into counties, districts and municipalities". A specific law would have been drafted for the regulation of this administrative division on the principle of the self-government of municipalities. The legislation, following the direction of Turnovo Constitution, formed two models of administrative-territorial division as a basis for administrative decentralization and self-government. In the period 1880-1934 the first model including counties- districts- municipalities division was implemented with the legislation. The next model was formed with 1934 legislation and its subsequent amendments, establishing the proportion between provinces-districts-municipalities. (Ruseva, Zl.) In 1882, a Law on Municipalities and Urban Governance was adopted, regulating local level relations, as well as interrelations between local and central authorities. Municipalities were divided into urban and rural areas and their governance was assigned to a royal-decree-appointed mayor, assistant mayors and elected municipal council, and the control was exercised by the district governor and the Minister of Interior. The mayor was elected from among the municipal councilors and chaired both the sessions of the council and the municipal court. In 1886, two laws were adopted separately for urban and rural municipalities. The aim was to improve and expand local self-government. In 1922 a Law on Sofia Municipality was adopted. It introduced the urban decentralization of the capital. Sofia Municipality "had one central council, one central bureau, six district councils and six district bureaus. The Central Council consisted of 31 people, 28 of whom were appointed by the Minister of Interior among the members of the elected district councilors, and 18 were elected by the district councils. The mayor was appointed by a Royal decree, on proposal of the Council of Ministers, from among the elected district councilors.

Members of the Central Council elected the three mayors' assistants by secret ballot. The central governance of the Sofia municipality comprised a mayor and his elected assistants, the district ones - a mayor and two assistants. The members of the district council elected by secret ballot two members of the central council, as well as the mayor and their two assistants". The Sofia Municipality Decree was refined and expanded in 1926 and 1934. The adoption of the Urban Municipalities Decree in 1934 was a significant moment in the process of local self-government legislation change in Bulgaria. After 1934, a process of centralization started and it involved a delegation of powers from municipal councils to mayors who had dual nature - from one side they were State authority bodies and from

the other- local interests' advocates. Furthermore, for the first time citizens were given the right to ask for the establishment of a municipality and this request must have been supported by more than the half of the voters in the settlement which wanted to be established as a municipality. Special laws were adopted, regarding financial provisions of the activities in municipalities.

After 1939, mainly because of the World War II break out, there were no preconditions for developing local self- government in Bulgaria. After the end of the war, communist regime was established in the country and this basically eliminated local self-government. Its building and development started again after the collapse of the communist regime in 1989.

## **2 Constitution and legal foundation for local self-government**

In 1989 late autumn, a Round Table was established in Bulgaria with the participation of existing and newly formed political parties, trade unions and public figures. The decisions of the Round table included Grand National Assembly convoking in order to draft a new Constitution, also an agreement to dismiss local authorities and to replace them with temporary municipal governments, as well as to work for introduction of local self-government. Grand National Assembly elections were held on June 10<sup>th</sup>, 1990. The new Constitution was adopted on July 12<sup>th</sup>, 1991. Its Article 2 recognizes local community's right of self- government. The local self-government is an integral and essential part of the state structure: "The Republic of Bulgaria shall be an unitary State with local self-government." The Grand National Assembly adopted a Law on Local Self-Government and Local Administration, as well as a Law on The Election of Members of Parliament, Municipal Councilors and Mayors, and in October 1991 the first elections took place.

There is a separate chapter in the Constitution regarding local self-government.

The territory of the Republic of Bulgaria shall be divided into municipalities and regions. Other administrative territorial units and bodies of self-government shall be establishable by law. The territorial division and the prerogatives of the capital city and the other major cities shall be established by law. A municipality shall be the basic administrative territorial unit at the level of which self-government shall be practiced. Citizens shall participate in the government of the municipality both through their elective bodies of local self-government and directly, through a referendum or a general meeting of the populace. Borders of a municipality shall be established following a referendum of the populace. A municipality is a legal entity. The right of municipalities to associate in order to solve common problems is recognized and constitutionally guaranteed. The local self-government body within the municipality is the municipal council elected directly by populace in direct, equal, secret and general elections for a term of four years. Elections rules are defined by The Electoral Code. The mayor shall be the executive power within the municipality and shall be elected for a term of four years either by populace or by municipal council in a manner established by law. However, since 1991 the election

legislation has determined direct election of mayors of municipalities with a majority in two rounds. The winner after the first round is the candidate who received more than 50 % of the votes cast. The first two candidates are eligible for the second round.

The municipality is entitled to its own property which is used to the interest of the territorial community. The budget of the municipality is autonomous, and since 2007, when an amendment to the Constitution was made, municipal councils acquired the right to determine the amount of local taxes and fees under conditions, by a procedure and within the frames, established by law. Permanent financial sources of the municipality are determined by law. The State supports normal functioning of the municipality through budget funds and other means.

Constitution of Republic of Bulgaria allows central bodies of State to have control over the legality of the acts of the local government bodies only when this is provided by law. Legality control is carried out by the regional governor.

A Municipal council shall be free to challenge before a court any act which infringes its rights and this might include a referral to the Constitutional Court when there is a competence dispute between them and the central executive bodies.

In 1991, a Law on Local Self-Government and Local Administration was adopted. It indicated the definition of local self-government and its sphere of influence, as well as municipal authorities, their powers, incompatibility with positions that can be occupied by authorities' members, local authorities' right to associate, and other basic principles of local self-government. This law has undergone numerous amendments since 1991, dictated by the development of local self-government and practice of its implementation.

Separate laws regulate fields such as financing activities of local authorities, the management and disposal of municipal property, assumption of municipal debt and the participation of citizens in local self-government. The Electoral Code regulates rules and procedures for electing citizen representatives in local authorities.

### **3 Scope of local self-government**

The Law on Local Self-government and Local Administration gives a legal definition of the local self-government and outlines spheres of competence of local authorities. Understandably, the definition corresponds to the text of Art. 3 of The European Charter of Local Self- Government and confirms the right and actual opportunity of citizens and bodes elected by them to independently resolve on their own all issues of local importance but only those provided by law as their competence. The recognition of the general power of competence of municipal councils gives the chance for overcoming the suspicion that some matters of local importance are not provided as local authorities` competence- " the municipal council shall resolve other matters of local importance that do not fall within the exclusive competence of other bodies"

There is no explicit definition of "a matter of local importance" in Bulgarian legislation. Furthermore, there is no understanding of the idea that there are areas of shared responsibility between local and central authorities- there is a practice of delegating activities instead, which is controversial from theoretical point of view.

Local self-government shall be expressed in the right and actual opportunity for citizens and bodies elected by them to decide independently all issues of local importance which the law has empowered them to resolve in the spheres of:

1. municipal properties, municipal enterprises, municipal finances, taxes and fees, municipal administration
2. planning and development of the territory of the municipality and of the settlements therein;
3. education
4. health care
5. culture
6. public works and utilities
7. social welfare services
8. protection of the environment and rational use of the natural resources
9. maintenance and conservation of cultural, historical and architectural monuments
10. development of sports, recreation and tourism
11. disaster protection.

Citizens shall participate in the government of municipalities either through the bodies elected by them or directly by means of a referendum or a general assembly of the populace.

Legal definitions do not clarify which areas of these spheres of competence are municipal/local activities and which are not. Specific laws regulate numerous details but an ordinary citizen can hardly understand it.

**Table:** Distribution of responsibilities between local and central authorities in Bulgaria in 2016 by public governance sectors

Public governance sector	Governance and control	Financing	Ownership on assets	Human resources control
Education	C/L	C/L	C/L	C/L
Health care	C/L	C/L	C/L	C/L
Social services	C/L	C/L	C/L	C/L
Environment	C/L	C/L	C/L	C/L
Public works and utilities	L	C/L	L	L
Culture	C/L	C/L	C/L	C/L
Security	C/L	C/L	C/L	C/L
Agriculture	C/L	C/L	C/L	C/L

<b>Public governance sector</b>	<b>Governance and control</b>	<b>Financing</b>	<b>Ownership on assests</b>	<b>Human resourses control</b>
<b>Transport</b>				
<b>Tourism</b>	C/L	C/L	C/L	C/L
<b>Public administration</b>	C/L	C/L	C/L	C/L

Source: Stefanova, M. (2017)

All sectors of public governance in Bulgaria are shared responsibility between central and local authorities. The balance between powers and competencies of municipalities and other central authorities' institutions varies from one sector to another.

The highest extent of centralization can be found in the Security sector, while the Public works and utilities sector is entirely decentralized, except for the way its activity is financed. Centralized sectors include 'Education', 'Health care' and 'Social services', as a significant part of the activities that municipalities perform are delegated not local which retains the leading part of the central authorities. A specific model for the allocation of functions and activities can be found in the sectors of 'Agriculture', 'Tourism' and 'Transport'. First specificity is the fact that powers are allocated according to assets ownership. For example, forests are municipal and state owned, but in the sphere of tourism responsibility could be state, municipal and private. The situation in the "Transport" sector is similar. It is true that education, health care and culture have both municipal and state ownership, as well as private, but in these three sectors state control and decision-making is highly centralized. And whilst in education and health care sectors this situation could be explained by their crucial role in national security, understood in broad sense, it is incomprehensible in cultural sphere. (Stefanova, M;2017)

The European Charter for Local Self-Government also sets conditions for determining the scope of local self-government. Does the legal regulation in the Law on the Local Self-Government and Local Administration comply with these conditions? The main powers of the local self-government bodies are indeed defined in the Constitution of the Republic of Bulgaria, as well as on the legal level. There are also no obstacles to the granting of powers to meet specific objectives. From a legal point of view, there is no problem with the freedom of local authorities to take an initiative on any matter that is not excluded from their sphere of competence or which is within the sphere of competence of other bodies and that is guaranteed by the general competence of the municipal council. However, a serious problem is observed in the implementation of item 3 of Art. 4 of the Charter - "the performance of public duties should be entrusted to the authorities closest to the citizens. The assignment of duties to another authority must be consistent with the scale and nature of the task and the requirements of efficiency and economy." This condition is closely related to the stage of decentralization of government and Bulgaria is still a highly centralized state. The implementation of this condition from the Charter is reported as an issue in the Report on the Status of Local and Regional

Democracy in Bulgaria on the The Council of Europe Congress of Local and Regional Authorities (2011).

„70. According to the principle of subsidiarity laid down in the Charter, responsibilities must be allocated in accordance with the specific tasks of local authorities, not those that are delegated to them. The recognition of competences must be seen not in terms of transferring responsibility away from the centre towards the territorial entities, but in terms of verifying that each public function, from the lowest level of governance (that closest to citizens) upwards, is allocated judiciously.

71. Under the Bulgarian system, the large majority of functions performed by the local authorities, relating to areas of great importance for citizens (education, public health and welfare), are delegated tasks, while in most European countries the relevant tasks are specifically attributed to the local authorities.

72. The imbalance between specific and delegated functions has negative repercussions for certain key aspects of local self-government.

73. The first aspect concerns the financing of the municipalities. A delegation of tasks implies that the funding is based on a transfer of resources from the central government. The strengthening of the power to determine local taxes and fees – which is to be welcomed – will only concern the funding of “local functions”.

74. A second aspect concerns supervision. For delegated functions, more in-depth monitoring, including that of expediency, remains valid. As long as the municipalities are accustomed to most of their activities being subjected to extensive oversight, the system generates an unacceptable degree of subordination to the State which is not in conformity with the provisions of the Charter in this regard.“( Monitoring Committee, 2011)

These five points of the report contain conclusions but they also raise several questions, both scientific and practical.

First, we still don` t have a clear answer of what municipalities do and what their specific local activity is. Moreover, what the central authorities count on by delegating certain activities to them. This is likely to raise negative reactions in practitioners in municipalities who carry out their work on a daily basis but if they are asked to answer the question, they will find it difficult, as long as they don` t distinguish local from delegated activities. At present, Bulgarian legislation does not answer unequivocally to the question of what specific local activity, matter of local importance or a local problem is.

In order to meet the requirements of the European Charter of Local Self Government, we will probably have to move to building a model for allocation of competencies between levels of governance that does not decentralize or delegate. Furthermore, the allocation

of functions is justified by arguments that prove the need and reasonability of provision of competencies at the corresponding level.

The requirement of Art 4, point 3 of ECLSG that activities of great importance should be provided as competencies at governmental levels as close to citizens as possible is obviously not applied in the Bulgarian model, given the fact that activities carried out by municipalities in the spheres of education, health care and social issues are in fact delegated activities not specific local ones. Moreover, the activities carried out by municipalities are not that many which provokes further negative assessments.

Therefore, we are very close to the question whether there is a real self-government in Bulgaria. If the number of the delegated activities exceeds the specific local activities one, then what kind of self- government have we built?

Second, if there is any ambiguity regarding the understanding of spheres of competence, then who is responsible for what is happening and who is protecting citizens` rights in the process of public services provision? How are we going to assess whether local authorities work to protect public interest?

Third, the conclusions of Council of Europe Report show an alarming trend.

The effect of the imbalance between local and delegated activities, which is in favour of delegated, is that the environment in which local authorities work, generates daily financial dependence and subordination, as well as it keeps the ability of central authorities to control the work of local authorities, including where appropriate. So, where is the application of constitutional guarantee for non-interference as appropriate in the activity of local authorities, which is proclaimed by Art. 144 of the Constitution of Republic of Bulgaria? We do not even talk about control as appropriate, but just about legality control. Indeed, here is the control of the acts, not the enforcement activity. For delegated activities, local authorities do not make decisions. The executive authority only organizes the implementation of the activities.

These conclusions also meet some of the recommendations addressed to Bulgaria regarding the implementation of ECLSG, which will be the subject of next monitoring on Charter implementation in Bulgaria.

Local authorities in Bulgaria have legally regulated consultation mechanisms in the planning and decision-making process. However, legal regulations and practice differ significantly. Central authorities` obligation to advise local authorities on all matters related to them is guaranteed by law. The representative functions of local authorities in their dialogue with central authorities are carried out by the National Association of Municipalities in Republic of Bulgaria.



- (2) To protect their common interests, and to promote and develop local self-government, municipalities may form a national association and regional associations.
- (3) The National Association of Municipalities shall have the right to:
  1. Act as its members' legal representative before government agencies.
  2. Draft proposals for the amendment and improvement of local self-government regulations.
  3. Draft opinions and proposals respecting the section of the Draft National Budget on municipalities.

According to the Law on Normative Acts of Republic of Bulgaria, the central executive body that submits the bill is also obliged to obtain an opinion from NAMBR if the bill concerns municipalities. According to the Public Finance Act, mechanisms for allocating general equalizing subsidy and the target subsidy are coordinated with NAMBR. Standards for support of the delegated by state activities are developed together with NAMBR.

Bulgarian legislation makes provision for the participation of NAMBR representatives in various structures of central institutions with consultative functions for multiple public spheres in the process of policy making. According to Art. 37 of the Municipal Budgets Act, the Minister of Finance is obliged to consult with NAMBR representatives on the drafting of the state budget in its part regarding municipalities. In order to determine the state policy in the sphere of social assistance, the Social Assistance Act is established by a Social Assistance Council which is a public advisory body to the Ministry of Labor and Social Policy. It comprises representatives from various ministries, such as: the Ministry of Labor and Social Policy, the Ministry of Finance, the Ministry of Health, the Ministry of Education and Science, the Ministry of Regional Development and Public Works, as well as representatives from the National Association of Municipalities in the Republic of Bulgaria, representatives of the employers 'and employees' organizations represented at national level and representatives of non-profit charity and other humanitarian organizations working in the field of social assistance. The National Tourist Council was established by the Tourism Act which also includes a representative by NAMBR. According to the Regional Development Act, regional governors and a NAMBR representative participate in the Regional Development Council meetings in an advisory capacity. According to the Law on Small and Medium-sized enterprises, NAMBR has the right to propose two representatives in the established Consultative Council on promotion of SMEs who are approved by the Council of Ministers. Representatives of the Association are also involved in the process of developing child protection state policy, development of cultural policy, medicinal plants, disaster protection etc.

#### **4 Protection of local authority boundaries**

Local authority boundaries are constitutionally guaranteed by an explicit provision stipulating that a change can only take place after a consultation with the population. Rules and procedures for changing the boundaries of the municipalities are provided by

law. In this procedure, citizens` will plays a major role, as at least 25 percent of the electorate of one or a group of settlements that want to be established as a municipality must express this via subscription. If all conditions and requirements laid down in law are met, a local referendum must necessarily take place on the territory of the municipality, from which one or a group of settlements is to be separated in a new municipality. The rules and procedures for conducting a local referendum are laid down in a special law.

Administrative territorial units in Bulgaria are municipalities and regions. The right of local self-government is recognized only within the boundaries of municipalities. Composite administrative territorial units of the municipalities are the mayoralties and quarters in the cities with a population of over 300 000. At present, there are 28 regions and 265 municipalities in Republic of Bulgaria. The municipality consists of one or more neighbouring settlements. The requirements for establishment of a new municipality shall be:

- available population over a total of 6000 people in the settlements to be included in the municipality
- presence of a settlement - a traditional uniting centre with created social and technical infrastructure providing the servicing of the population
- inclusion of all neighbouring settlements for which there are not conditions for establishing an individual municipality or which cannot be acceded to another neighbouring municipality
- a maximal road and transport remoteness of the settlements from the centre of the municipality no more than 40 km.
- proven ability of financing the expenses of the newly created municipality by own resources amounting to no less than half of the average for the municipalities stipulated by the republican budget approved for the respective year

The requirements shall also be valid for the municipality from which settlements are separated.

In the cases when geographic, economic, communication, historic and other reasons make impossible the fulfilment of some of the requirements, the Council of Ministers may take a decision for establishment of a new municipality.

The order of establishing a municipality shall be:

- A request for establishment of a municipality by one or more settlements, expressed by a subscription of at least 25 percent of the electorate of these settlements to the respective municipal council. The request shall be accompanied by statements of the mayors of the settlements for the presence of the requirements
- The municipal council, within one month, shall establish the presence of the requirements for establishing a municipality and shall announce a motivated decision to be sent to the regional governor
- The regional governor, within one month, shall verify the lawfulness of the request and, if the requirements of the law have been met, shall propose to the municipal

council to take a decision for holding a general referendum in the settlements to form the new municipality, in compliance with the requirements

- The referendum shall be held under conditions and by an order determined by a law
- On a positive vote of the electorate the regional governor within two months, shall present a written report to the Council of Ministers
- The Council of Ministers shall adopt a decision upon a written statement of the Minister of Regional Development and Public Works
- The decision of the Council of Ministers for establishing a new municipality shall be sent to the President of the Republic of Bulgaria for approval

Initiative for establishing a new municipality shall have the respective municipal council, the regional governor or the Council of Ministers, in compliance with the procedure. In the cases when the results from the referendum in one or more settlements, make impossible the establishment of a new municipality, due to non-compliance with the requirement or some of the requirements of art. 8, para 1, the Council of Ministers may take a decision for its establishment, including these settlements within its boundaries under the following conditions:

- positive voters for establishment of the new municipality must have been more than half of the voters of all settlements where the referendum has taken place
- a positive statement of the regional governor
- a positive statement of the Minister of Regional Development and Public Work

The referendum is valid if not less than 40 per cent of citizens with electoral rights in the relevant municipality took part in it and more than half of the voters participating have answered “yes”. If the referendum is conducted simultaneously with elections of local self-government bodies, it is valid if more than half of the voters who participated in municipal council elections took part in it and more than half of them voted in favor of the referendum proposal.

## **5 Administrative structures and resources for the tasks of local authorities**

The work of local authorities shall be supported by local administration. Municipal administration structure is determined by municipal council on a proposal of the mayor of the municipality. Within the structure of administration, a unit is formed to serve the work of the municipal council. The employees of this unit are appointed by the mayor of the municipality on a proposal of the chairman of the municipal council. Following the adoption of the Law on Administration and the Civil Servant Act in 1999, general principles of building the administration of the governmental bodies are transferred to the municipal administration. The municipal administration shall be organized in directorates, departments and sectors. Departments and sectors may be organized also as independent structural entities without being included in the structure of directorates or departments.

Regulations of the municipal administration shall be approved by the mayor of the municipality. It outlines not only the structure of the administration but also responsibilities of the individual units. According to Bulgarian legislation, civil servants (under official employment relationship) and persons under an employment relationship who do not have the status of civil servants may be appointed in the administration. Governing positions are held by civil servants.

An inspectorate directly subordinate to the mayor of the municipality shall be established in order to carry out control and inspection under the Law of Anti-Corruption and deprivation of illegally acquired property. When the number of the municipal administration is not sufficient for the establishment of an inspectorate, its functions shall be carried out by a committee of employees explicitly empowered by the mayor to carry out these functions.

The municipal administration may operate without being organized in structural entities.

The Municipal Council may establish services of the municipal administration in individual wards, mayoralities and settlements or parts thereof, and define their function.

The mayor of the municipality shall appoint a secretary of the municipality without a fixed term who must be a person with a Master's degree.

The secretary of the municipality shall organize and be responsible for:

1. the activity of the municipal administration, the working conditions of the employees and for the organisational – technical provision of their activity
2. the record services, the document circulation and the municipal archive
3. the activity of the units for civil registration and administrative servicing
4. announcement and promulgation of the acts of municipal council and of the mayor of municipality
5. the work with claims, appeals, notifications and proposals of the citizens and legal persons
6. organization and technical preparation and holding the elections and local referendums

The secretary of the municipality shall also perform other functions, assigned to them by the mayor of municipality, with a law or any other legal act.

The selection and appointment of the persons in the municipal administrations, their training, qualification and development are regulated by norms in the Civil Servants Act, for the persons under official employment relationship these are regulated by the Labor Code. Civil servants are appointed by a publicly announced competition.

The mayor of the municipality is entirely responsible for the municipal administration employees' training, qualifications upgrading and development.

## **6 Conditions under which responsibilities at local level are exercised**

Municipal councils in Republic of Bulgaria are not permanently acting bodies. Any Bulgarian citizen who is over 18 years old and is not convicted of a premeditated common crime can be nominated for a municipal councilor. The electoral system is proportional and preferential, formed by a political party or a coalition of parties, allowing independent candidates or candidates nominated by initiative committees to participate in elections.

The Law on Local Self-Government and Local Administration introduces an obligation for the municipal administration and State authorities to support, when necessary, municipal councilors in exercising their powers.

For the time he is engaged, the Municipal Councilor is entitled to unpaid leave and his work as a municipal councilor is paid. The Municipal Councilor's employment shall not be terminated for the term of his mandate.

In 1994, Bulgaria signed the European Charter for Local Self-Government, with a particular opinion exactly under Art. 7 of the Charter and did not accept to pay for the work of municipal councilors. This was changed in 2003 when, through amendments to the Law on Local Self-Government and Local Administration, a procedure for determining the remuneration of municipal councilors was established. Bulgaria withdrew its reservations to Art. 7 of the Charter in 2012.

The remuneration amount shall be determined by a decision of the Municipal Council adopted by a majority of more than half of the total number of councillors. The remuneration is for their participation in sessions of the Municipal Council and its commissions.

The legislator set a framework for Municipal councilors monthly wage.

The total amount of the remuneration of a municipal councillor for one month may not exceed 70 percent of:

1. the gross salary of the chairman of the municipal council for the corresponding month – in the municipalities with population over 100 000.
2. the average gross salary of the municipal council for the corresponding month - in the municipalities with population below 100 000.

The remuneration does not include other payments that municipal councillors may receive for their participation in specialized bodies of the municipal council. The travelling and the other expenses, made by the municipal councillor in connection with his work in the council, shall be taken by the municipal budget.

The chairman of the municipal council also receives remuneration and its amount shall be determined by the municipal council depending on the working time. The amount of

the remuneration in case the chairman works under reduced hours shall be calculated pro rata to their duration, determined by the council of ministers.

The amount of the remuneration of the chairman of the municipal council may not exceed 90% of the amount of the remuneration of the mayor of the municipality.

The chairman of the municipal council shall have all rights under legal terms of employment, besides those contradicting or incompatible with his legal status. The chairman of the municipal council shall be entitled to:

- social security and additional social security under the terms and following the procedures laid down in the Code of Social Insurance and to health insurance according to the Health Insurance Act;
- leaves and compensation for unused paid annual leave, to supplementary benefits and other payments under the terms of the Labour Code

The mayor of the municipality, the mayor of the mayoralty and the mayor of the ward are permanently acting bodies of the executive power in the municipality. Any Bulgarian citizen who is over 18 years old and is not convicted of a premeditated common crime can be nominated for a mayor of a municipality, mayor of a mayoralty or a mayor of a ward. Mayors of municipalities, mayoralties and wards are directly elected by citizens for a term of four years. Candidates for mayors may be elected by parties, coalitions or initiative committees. During the term of office, mayors receive remuneration and enjoy all rights under the employment relationship. The amount of the mayors` remuneration shall be determined by a decision of the municipal council but within the limits specified in the Ordinance on the salaries of the state administration and according to the determined levels for the respective positions in the decree of the Council of Ministers. The decision of the municipal council shall also take into account the available funds in the wage fund of the municipality, which are State responsibility and are transferred to each municipality for the maintenance of the municipal administration according to the Law on the State budget.

Functions and activities incompatible with the performance of the functions of a municipal councillor, a mayor of a municipality, a mayor of a mayoralty, a mayor of a ward, as well as their deputies, are defined in the Law on Local Self-Government and Local Administration.

A Municipal Councillor shall not:

- be a member of managing, supervisory or control board, board of directors, controller, manager, procurator, commercial agent, trustee of bankruptcy or liquidator of commercial companies with municipal participation or a manager of municipal company
- occupy a position of a municipal councillor or a similar one in another EU member State

- be a sole proprietor, associate, and shareholder, member of managing, supervisory or control board of commercial companies that have contract with the municipality in which he is a municipal councilor, as well as commercial companies with municipal participation or municipal companies.
- work in the administration of the respective municipality
- be a member of the Parliament, minister, regional governor or mayor, deputy minister, deputy regional governor, deputy mayor or mayor of mayoralty

Municipal Councillors may represent the State on the management or supervisory bodies of any commercial corporations wherein the State holds an interest in the capital or of any legal entities established by a law, for which they shall not receive any remuneration.

The mayors of municipalities, wards and mayoralties, the deputy mayors of municipalities and wards and municipal secretaries shall not be engaged in any business activity within the meaning of the Commerce Act, serve as controllers, managers or procurators in commercial companies, be commercial agents, commercial representatives commercial brokers, trustees in bankruptcy, liquidators or participate in supervisory, managerial or control bodies of commercial companies and cooperatives for the duration of their term of office.

They shall not be members of the Parliament, ministers or regional governors, deputy ministers or deputy regional governors, or take up another position under a labor or employment relationship.

The powers of the mayors shall be terminated ahead of term in case of entry into force of an act ascertaining conflict of interest under the Law for Anti-Corruption and deprivation of illegally acquired property.

## **7 Administrative supervision of local authorities' activities**

Administrative supervision of local authorities' activities is determined by the Constitution of Republic of Bulgaria, The Law on Local Self-Government and Local Administration, as well as by other laws. By recognizing the right to local self-government, the Constitution ensures that the only control over local authorities' activities is the legality control. The central state bodies and their local representatives carry out legality control on the local government bodies acts only when this is provided by law. The acts of the municipal councils and the mayor of municipality can be appealed before the respective administrative court, and the acts of the mayor of municipality can be appealed under administrative procedure before the regional governor, unless otherwise provided in law.

The first step of administrative supervision is between the mayor and the municipal council. The mayor has the power of one time veto over the decision of the Municipal Council. The mayor can contest both the lawfulness and the expedience of the decisions

of the Council. Upon reconsideration of the decision, the municipal council may confirm, amend or revoke it.

The municipal council can revoke administrative acts, issued by the mayor of municipality, which disagree with acts, adopted by the council, within 14 days after their acceptance. Within the same term, the council can dispute the unlawful administrative acts, issued by the mayor of municipality, before the respective administrative court.

The mayor of municipality can bring back for re-consideration unlawful or inappropriate acts of the municipal council or to dispute the unlawful acts before the respective administrative court and to claim suspension of implementation of general administrative acts and the application of sub-legislative normative acts. The brought back for re-consideration act along with the reasons for its bringing back shall be sent to the chairperson of the municipal council within 7 days after its receipt. The act, brought back for re-consideration, shall be adopted again with the majority, provided in a law, but not less than more than the half of the total number of the municipal councillors. The amended or re-adopted act of the municipal council can be disputed before the respected administrative court pursuant to the provisions of the Code of Administrative Procedure. To all matters concerning issuing, appealing and implementation of acts of municipal councils and mayors, not covered herein, the provisions of administrative procedure, set in a law, shall be applied.

The legality control by central executive authorities is carried out by Regional Governor, who is a deconcentrated body of central executive authorities on the territory of the region as administrative-territorial unit. Municipal councils shall send to the Regional Governor their acts within seven days, so that legality control shall be exercised. He/she may refer back illegal acts for new consideration by the Municipal Council or contest them before the respective administrative court. The contestation shall suspend the implementation of the individual and general administrative acts and the action of sub-legislative normative acts unless the court rules otherwise.

## **8 Financial resources of local authorities and financial transfer system**

The matters of financing local authorities' activities are among the most important for the development of local self-government. They are directly related to the processes of decentralization of powers and resources for their implementation. The sufficiency of municipalities' own funds is directly related to the scope of their powers. In 1991, the Constitution of Republic of Bulgaria and the Law on Local Self-Government and Local Administration provided for the right of municipalities to separate budgets, which are tied to the Republican budget only through state transfers. The municipal budget is adopted by the municipal council at the suggestion of the mayor. The municipal council also controls the implementation of the budget and accepts the report on its implementation. The municipal budget is public and is controlled by local community in an order determined by the municipal council and the competent authorities designated by law.



Until the adoption of the Municipal Budgets Act in 1996, this procedure was established in a specific chapter in the Law on Local Self-Government and Local Administration. Since 2014, the Public Finance Act has been in place. According to its provisions, the municipal budget includes a revenue and expenditure component. The revenues of the municipalities are formed from a variety of sources:

- local taxes - as per conditions, procedures and ranges laid down by law;
- fees - as per conditions and procedures laid down by law;
- services and rights granted by the municipality
- disposal of municipal property
- fines and pecuniary sanctions;
- interest and penalties
- other proceeds
- aid and donations

Municipal budgets cover expenditure for activities delegated by the state and for local activities, such as:

- staff
- subsistence
- interest
- household benefits and compensations
- current subsidies
- capital expenditure

“Delegated by the state activities” are the public service provision activities to which the population should have equal access in accordance with current legislation and which are financed entirely or partially by the state budget through municipal budgets. The state finances the state-delegated municipalities with a general subsidy for these activities at the expense of the central budget as well as at the expense of the budgets of the primary budget spending units that implement the relevant policy areas. The total subsidy for financing the activities delegated by the state is determined on the basis of the financing standards and the natural indicators adopted by the Council of Ministers for the respective activity. By decision of the municipal council, the activities delegated by the state can be financed additionally with funds from the own revenues and from the equalizing subsidy of the municipalities.

Mechanisms for financial support to local government activities include different types of transfers from central to municipal budgets, the amount of which is determined by the State Budget Act after consultation with the National Association of Municipalities in Bulgaria. These transfers are:

- General subsidy for financing of delegated by state activities
- Local activities - general equalization subsidy and for winter maintenance and snow cleaning of municipal roads
- Target subsidy for capital expenditure

- Other target expenditures, including these for local activities
- Financial compensation from the state
- Interest free temporary loans

Municipalities have the freedom to finance the implementation of their policies and by temporarily using the funds available in the municipal budget for the current financing of the approved by the budget of the municipality expenses and other payments, provided that the timely financing of the activities delegated by the state in the defined amounts, as well as local activities, and the fiscal rules are respected.

Between 1991- 2007, the municipal councils could only determine the amount of local fees within the limits set by law. After Constitution amendments in 2007, municipal councils determine also the amount of local taxes, again within the limits set by law.

The types of sources of own revenues for local authorities are defined by the Public Finance Act, the Local Taxes and Fees Act, the Municipal Debt Act, the Municipal Property Act, the Concessions Act. Municipalities have access to national capital markets, and by the decision to adopt the municipal budget for the respective year the municipal council determines:

- the maximum amount of the new municipal debt;
- municipal guarantees that may be issued during the year;
- the maximum amount of municipal debt and municipal guarantees at the end of the budget year.

Local taxes in Bulgaria are:

- Real estate tax
- Succession tax
- Donation tax
- Tax on acquisition of property for consideration
- Transport vehicle tax
- License tax
- Tourist tax
- Taxi transportation of passengers tax

Local fees in Bulgaria are:

- household waste disposal
- retail markets, wholesale markets, fairs, sidewalks, squares and street roadways
- the usage of nurseries, kindergartens, specialized social services institutions, camps, dormitories, and other municipal social services usage;
- child food services in compulsory pre- school education outside of state funded
- technical services
- administrative services
- graveyard paces purchase

- for general support activities within the meaning of the Preschool and School Education Act, which are not financed by the state budget and are implemented by the centers for support of personal development.

Municipalities' own revenues are also those from sale, privatization or lease of municipal real estate. Privatization proceeds can only be spent on acquisition and overhaul of fixed assets, costs related to the privatization process, and repayment of used loans to finance social and technical infrastructure projects. Proceeds from the sale of municipal non-financial assets are spent solely on financing the construction, basic and ongoing repair of social and technical infrastructure and repayment of used loans to finance social and technical infrastructure projects and repayment of temporary non-interest-bearing loans.

The municipalities have a legal opportunity to develop their investment policy, provided that capital expenditures, other than those financed at the expense of the target subsidy for capital expenditures and other transfers from the state budget, can be made at the expense of municipal budget revenues, as well as by taking over the debt under the Municipal Debt Law, in compliance with the applicable fiscal rules and restrictions under the Public Finance Act.

In 2016, a procedure for supporting municipalities with financial difficulties has been regulated by law, whereby the State ensures the support of such municipalities to deal with financial obligations, but also monitors the law and order of public funds spending.

## **9 Local authorities' right to associate**

The statute and structure of national and regional associations of local authorities comply with the specific legislation in each country. These are non-profit organizations that unite local government institutions, not specific individuals. Membership is voluntary and each body of local authorities has the right to decide whether or not to participate in such an association and, therefore, to appoint municipal representatives in it. Associations have their own statutes defining the objectives and tasks of the organization, mechanisms for their fulfilment, procedures for joining and removing members, their governing bodies and rules for managing the property and financial revenues of the association.

Regional and national associations of local authorities also play an extremely important role as a mediator in relations with other levels of public authority in the process of solving problems of mutual interest. Mediator's main purpose is to ensure cooperation between central and local authorities and the main direction of action is the legislation related to local governance and financing of municipal activities.

In 1991, the Law on Local Self-Government and Local Administration in Bulgaria recognized the right of municipalities to voluntary associate but did not regulate the cases in which municipal associations could play the role of mediator in relations with the central government and other international associations of a similar nature. Art. 9 then

said: "Administrative- territorial units may form voluntary associations to solve common problems and achieve goals of mutual interest". It was in 1995 when some substantial additions were made which, however, do not yet regulate to the necessary extent mechanisms and procedures for the interaction between central authorities and municipality associations.

"(2) To protect their common interests, and to promote and develop local self-government, municipalities may form a national association and regional associations

(3) The National Association of Municipalities shall have the right to:

1. Act as its members' legal representative before government agencies
2. Draft proposals for the amendment and improvement of local self-government regulations.
3. Draft opinions and proposals respecting the section of the Draft National Budget on municipalities.
4. Establish contacts and interaction with similar organisations in other countries, and become a member of international associations.
5. Perform any other functions under the law and its Articles of Association

(4) The rights under the foregoing paragraph may only be exercised if more than two-thirds of all the municipalities in the country are members of the Association."

The National Association of Municipalities in the Republic of Bulgaria was established in 1996 by 94 municipalities. Since mid-1997, more than two-thirds of municipalities have become members, allowing the Association to exercise legal powers as the only national representative body of local authorities. Since 1999, all municipalities in the country have been members of NAMRB.

Besides the National Association of Municipalities in the Republic of Bulgaria, there are regional associations as well as the Association of Bulgarian Cities and Regions, but they do not have a recognized national representation.

In 2006, the sphere of municipal cooperation was extended. Municipalities may cooperate with each other, with executive bodies, with legal or natural persons, and set up associations to achieve objectives of mutual interest and to entrust the performance of activities deriving from their powers. Cooperation may also take place between budget spenders on the budget of a municipality.

Municipal cooperation aims to:

- Improve the quality of provided services of mutual interest
- Achieve more efficient spending of financial and administrative resources of the municipality
- Optimize municipal expenses and improve the financial status of the municipality

- Standardize and optimize the work process by delivering economic benefits from economies of scale and/or division of labor
- Improve financial control and transparency; fulfilment of projects that contribute to overcoming significant problems at regional and local level

Main principles for the achievement of municipal cooperation are:

- Voluntary
- Mutual interest
- Active choice
- Flexibility and dynamism
- Transparency and responsibility

Municipal councils approve the cooperation agreement which determines the parties to the agreement, their rights and obligations, scope and subject of the agreement, share of the parties with financial means, ownership and / or other forms of participation in achieving the common goal, distribution of risks and responsibilities between the parties, guarantees for fulfillment the terms of the agreement and responsibility for not meeting these obligations, including penalties, duration of the agreement and its termination procedures, the aim of the cooperation and forms under which it is carried out:

- Fulfilment of a specific project or activity between two or more municipalities or between one or more municipalities and an executive body, as well as between budget spenders on the budget of one municipality
- Establishing a non-profit legal entities between municipalities
- Establishing a legal entites for profit between two or more municipalities
- Execution of a specific project or activity or for the establishment of a profit or non-profit legal entities between one or more municipalities and legal and/or natural persons

Areas where municipal cooperation can take place include the fulfilment of shared services and/ or activities - management of IT services, financial accounting and legal activities, human resources management, construction and / or management, and / or maintenance of:

1. Objects of technical infrastructure:
  - a) In urbanized areas: parking lots, garages, public transport sites, surveillance and security systems, street lighting systems, green areas, parks and gardens
  - b) car parks, garages, parks and gardens in separate land plots outside urbanized areas
2. objects of social infrastructure used for:
  - a) health care
  - b) education
  - c) culture
  - d) sport, recreation and tourism
  - e) social support

## **10 Legal protection of local self –government**

Possibilities for judicial protection of the local self-government bodies in Bulgaria are fully regulated, both through the Constitution and legislation. The Constitution of the Republic of Bulgaria confirms the right of the municipal councils to challenge before a court any act or action which infringes its rights. They can also refer to the Constitutional Court when there is a competence dispute between them and the central executive bodies. All disputes over administrative acts are carried out within the framework of the administrative jurisdiction. According to the Administrative Procedure Code, parties in the administrative process can be the administrative body, the prosecutor, and any citizen or organization whose rights, freedoms, or legitimate interests are or would be affected by the administrative act or the court order or would emerge rights or obligations. Competence disputes between administrative bodies could also be settled by a ruling of the relevant administrative court and, if they are from different regions, by the Administrative court- Sofia

## **11 Future challenges of the implementation of the European Charter of Local Self-Government in Bulgarian legislation**

Since Bulgaria is still a centralized state, a major issue for the development of local self-government is the lack of a legislative definition of "a matter of local significance". In this respect, as well as due to the radical change in the environment in which the local self-government bodies work today, it is imperative to develop and adopt an entirely new Local Self-Government Act. It should define "a matter of local significance" as well as establish a relationship between local and central government on the basis of the principle of subsidiarity. To some extent, this will give a chance for a more precise settlement of the areas of local competence because they need legal clarification and mechanisms through which decentralization of powers from central to local government is carried out and resources for their implementation. So far, two Strategies for Decentralization have been adopted in Bulgaria, which are documents of the Bulgarian government. The first Strategy (2006-2014) was adopted nearly under pressure in connection with the forthcoming membership/January 1<sup>st</sup>, 2007/ of Bulgaria in the European Union. Although it was updated in 2010, the implementation of the targets and measures was only half of the projected. The new Strategy for Decentralization (2015-2025) also does not foresee any substantial progress in the process of decentralization. If an Act defines the principles of decentralization in accordance with the requirements of Art. 4 of the European Charter of Local Self-Government to empower municipalities with the responsibility to implement public obligations that are fundamental to citizens and provide resources for their putting into action, we can expect the process of decentralization to be more guaranteed than it is today. The challenges in front of Bulgaria regarding the future implementation of the Charter are related to these processes and legislative decisions.

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