Local Self-Government in Estonia

SULEV LÄÄNE, SULEV MÄELTSEMEES & VALLO OLLE

Abstract The restoration of local self-government, initially at two levels, began in Estonia in 1989. Since 1993, the local self-government has been a single-level system comprising of cities and rural municipalities. There were about 250. The need to carry out an administrative-territorial reform was discussed for years; meanwhile, several voluntary mergers took place. However, a national reform was completed only in the autumn of 2017. The Constitution of Estonia, specifically Articles 154-160 are very much in keeping with the principles of the European Charter of Local Self-Government, although the Charter was ratified two years after the Constitution was adopted in 1992. The Charter is of great importance in legislation and in case law. The biggest problems relate to the funding of local government, which has been highlighted by CLRAE in its monitoring reports. From the point of view of local governments' economic autonomy, the very low share of local taxes in local budgets is a significant shortcoming. At the initiative of researchers focusing on local self-government issues at universities, a think tank POLIS was set up.

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

CORRESPONDENCE ADDRESS: Sulev Lääne, Tallinn University, State and Local Government Research and Development Centre, Narva mnt 27, 10120 Tallinn, Estonia; email: sul13@tlu.ee. Sulev Mäeltsemees, Ph.D., Professor Emeritus, Tallinn University of Technology School of Business and Governance, Akadeemia tee 3, 12618 Tallinn, Estonia; email: sulev.maeltsemees@ttu.ee. Vallo Olle, Senior Adviser, Office of Chancellor of Justice, Kohtu 8, 15193 Tallinn, Estonia; email: vallo.olle@oiguskantsler.ee.

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1 Introduction and History

The Republic of Estonia (Eesti Vabariik) is a state in northern Europe. Estonia declared independence 24 February 1918, after having been part of the Russian Empire since 1710. In 1940-1991, Estonia was occupied by the Soviet Union (1940-1941, 1944-1991) and Nazi Germany (1941-1944). Independence was restored 20 August 1991 and Estonia joined the European Union 1 May 2004. Estonia is a parliamentary republic.

Estonia's first Constitution was adopted by the Constituent Assembly 15 June 1920[a]. The second Constitution was adopted 24 January 1934[b], and was in force until the third Constitution was enacted 1 January 1938[c].It remained in force de facto until 16 June 1940 when the Soviet Union occupied Estonia and de jure until 28 June 1992 when the fourth and current Constitution of the Estonian Republic was adopted by referendum[d]. All the Constitutions include chapters on local self-government. In the 1992 Constitution, local self-government is mentioned in 26 articles, and Chapter XIV Articles 154 – 160 specifically regulate the institution.

The concept of local governance is as old as the history of humanity but only recently has it entered into broad discourse in the academic and practical literature. Globalization and the information revolution are forcing a re-examination of citizen-state relations and roles and the relationships of various orders of government with entities beyond government- and, thereby, an enhanced focus on local governance (Shah & Shah, 2006:2).

The traditions of self-government in Estonia are among the longest in Europe. In addition to domestic experts, it has also been highlighted by foreign academics. For example, Professor Wolfgang Drechsler, now of Tallinn University of Technology, has written in a foreword to a book: "Historically, Estonia as a state emerged from local governments and Estonians have known communal self-government as a form of community life centuries longer than almost any other nation in Europe" (Schöber, 2003:5). Renowned Estonian statesman and professor Jüri Uluots wrote: "A well-known English lawyer once said that there is no mightier institution than the English parliament in terms of age, importance and influence. This statement could be paraphrased to suit Estonia. There is no legal principle that could compete with the idea of self-government in terms of age, continuity and education in Estonia. The Estonian self-government is the cornerstone of the present times." (Uluots,1934:159). Uluots also analysed aspects of administrative division and management of power. Estonia was divided into eight counties, and into parishes and villages, with each county having its own assembly and the council of elders (Runnel,2004:39). It is worth noting that, despite the centuries-long domination of foreign powers, the principles of administrative division set out above remained largely unchanged. Even today, in Raplamaa (Raikküla), Estonia's first exercise of popular power in community governance, the assembly of elders (Estonian: kärajad), similar to those in Nordic countries, is celebrated. (Runnel, 2004:44). One of the most important historical sources of Estonia, the Livonian Chronicle, published in Rostock in 1578, also mentions this (Tarvel, 1982: 172-173). Several cities (Estonian: linn) have had a tradition of self-

governance since the Middle Ages (e.g. Lübeck Law in Tallinn from 1248 onward). Estonian cities were also very active in the Hanseatic League.

This shows that historically, the local government has been a very important institution in Estonia. A new stage of development began in the early 19th century. Rural municipalities (Estonian: vald) as institutions of local self-governance were formed in the Estonian province (Estonian: kubermang) in 1816 and in the Livonian province in 1819. Rural municipalities were originally established within the boundaries of landed estates. The rural municipalities became more independent in 1866 when a rural community governance law was enforced. Councils, executive boards and mayors were elected in rural municipalities under the law, and since then we can speak about local self-government in Estonia that is based on modern principles. Leaders of the national awakening, as well as politicians and academics rated very highly the law of 1866 and the local governments that were formed under it. In the 1890s, a radical administrative-territorial reform was carried out with only about 400 municipalities of the approximately 1,000 initially formed ones remaining. In 1877, Lübeck Law became invalid on the territory of the present-day Estonia and the 1870 Russian Cities Act was enacted. (Lääne et al.,2017)

With the Decree of the Russian Provisional Government of 5 July 1917 "On Administration and Temporary Organisation of Self-government in the Province of Estonia", Estonia was turned into an autonomous administrative unit the borders of which coincided with the area inhabited by Estonians (incl. north Livonia). On 13 June 1917, provisional regulations were issued on the election of provincial councils and rural councils in counties. The regulations stipulated that members of a county council had to be elected by the county electoral committee. One representative per 1,000 voters in the local governments was elected to the county electoral committee. In turn, the county electoral committee elected the county council. The meeting was the executive body of the county council. On 2 July 1917, the Provincial Assembly comprising representatives of local governments was convened and declared itself the supreme power in Estonia.

The Estonian local governments made an extraordinary contribution to paving the way for the statehood, which resulted in the "Manifesto to all the people of Estonia" 24 February 1918, in which Estonia was declared an independent democratic republic within its historical and ethnic borders. There were eight historical counties within the boundaries of the independent Estonian Republic. The manifesto called on the local government institutions to immediately continue their work (Manifesto to all the people of Estonia,1918.)

It is emphasised in the commentaries of Estonia's 1992 Constitution that local self-government played, and still plays, a very significant role in the emergence, restoration and development of the Estonian State. (Eesti Vabariigi põhiseadus: kommenteeritud väljaanne,2017)

In 1920, the Association of Estonian Cities was founded and, in 1921, the Association of Municipalities of Estonia, both of which contributed greatly to the development of the state and local governments. In 1924, the first nation-wide congress of local officials took place where the development of local governments and relations with state institutions were critically discussed.

The associations were very active in pursuing international relations. In 1925, the Association of Estonian Cities became a member of the International Union of Cities (IULA). In 1927, the local government associations of Estonia, Latvia and Lithuania established the Baltic Committee, which was active until 1940. The 1920 Constitution provided for directly elected local councils and their right to impose taxes. However, local self-government was largely considered to be a segment of public administration. A co-operation assembly of local governments was formed. In 1933, the Constitution was amended and rural municipalities, towns and cities were recognized as local self-government units, which meant the transition to a one-level local self-government system. The 1938 Constitution required the re-establishment of a two-level system but at the second level, it was delegated self-government. In 1938, a new county law was adopted; in 1937, a new rural municipality law came into force, and a new city law came into effect in 1938. In 1939, a rural municipality reform was carried out. As a result, only 248 rural municipalities remained instead of earlier 365; in addition, there were 33 cities. This created a new national legal and organisational basis for the development of the local self-government system and the implementation of a wealth of previous experience.

The events that unfolded 21 June 1940, which followed the secret protocols of the Molotov-Ribbentrop Pact, brought along a fundamental but, unfortunately, negative change. Along with the liquidation of the Estonian Republic, the Soviet occupation regime commenced with the abolishment of the local self-government system in summer 1940. Many former local government leaders were deported to Siberia. In August 1940, the Association of Estonian Cities and the Association of Municipalities of Estonia were closed down. In August 1940, the Constitution of the Estonian Soviet Socialist Republic (ESSR) was adopted which stipulated, for example, that all power in the ESSR belonged to rural and urban working people through councils of people's representatives (Article 3). In 1950, rural municipalities, cities and counties were also formally abolished and an administrative-territorial reform was carried out. The regime tried to erase the memory of the earlier self-governing way of life from the minds of the people, both in substance and in form.

General changes in society in the second half of the 1980s gave rise to the idea to restore the local-self-government system and facilitated the subsequent steps to realize it. In August 1989, the Supreme Council of the ESSR adopted a decision of utmost significance titled "Implementation of Administrative Reform in Estonian SSR." The decision stipulated that, based on experience gained prior to 1940 and on the knowledge gained from democratic countries, an administrative reform was to be carried out in 1990–1994. On 10 November 1989, the Local Government Act was adopted which, as far as we know,

was the first law in Central and Eastern Europe to restore local democracy. On 10 December 1989, representative councils were elected in villages, towns, regional towns, republican cities and counties. Following the election, the actual restoration of local self-government began.

On 19 September 1989, representatives of towns and cities gathered in the town hall of Estonia's second largest city Tartu in order to restore the Association of Estonian Cities (ELL) on the basis of legal continuity. The same principle was followed when the Association of Municipalities of Estonia (EMOL) was restored. In February 2018, ELL and EMOL merged into a single national association. Both national and international co-operation between local governments had once again become part of a democratic society. Also, a third local government association was founded but it was short-lived. Local authorities began to establish county associations of local governments that formed the Union of Estonian Local Government Associations. On 1 January 1990, Estonian districts which had been reorganized into counties and so-called republican cities began functioning as local self-government units. In 1989-93, the restoration of local self-government took place at the first level of the self-government system: All villages, townships and district cities were required to draw up socio-economic development plans and statutes that had to undergo a hearing in the administrative reform expert committee set up by the Presidium of the Supreme Council; after a successful hearing, the Supreme Council Presidium granted the administrative units self-governing status. On behalf of the government, the Administrative Reform Committee coordinated the administrative reform. In addition to government representatives, the committee consisted of leaders of the local government associations and academics. Colleagues from Finland, Sweden, Denmark, Germany and other countries (Vakkuri & Stenvall, 2010; Schenk, 2010; Kaldmäe, 1992; Franzke, 2010), as well as the Council of Europe and the IULA, provided assistance in restoring local self-government in Estonia. Representatives of the Association of Finnish Cities and the Association of Finnish Municipalities played a particularly important role. Estonia became a special guest in the Council of Europe in 1991, and then had the opportunity to participate in the work of CLRAE.

In May 1993, the Estonian Parliament Riigikogu decided that the local self-government system is a single-level one. In June 1993, the Local Government Organisation Act (CODE) was adopted. In terms of protecting the local governments' rights, the 2002 Constitutional Review Court Procedure Act is of great significance because it allows local councils to directly turn to the Supreme Court. The local councils have exercised the right fairly frequently, also in connection with the administrative reform launched in 2016-2017. Until 2017, mergers of local governments only took place on a voluntary basis. In 2016, the Administrative Reform Act was passed under which, following the local election in October 2017, 79 local governments (64 rural municipalities and 15 cities) were formed instead of earlier 213 rural municipalities and cities.

Research-driven decisions, analyses of activities and their outcomes have become increasingly important for local government. NGO Polis, established in 2004, and

conferences, forums and discussions organised by the Polis network (which comprises local government associations, universities, politicians and officials of the central government, as well as other institutions) have become the forums for discussing important issues of the development of the state and local self-government. For example, a discussion on state and local government partnerships was jointly prepared for the parliament to ponder as a matter of national importance. The Assembly of Local Governments has become a new form of cooperation. The First Assembly of Local Governments took place in the parliament building 4 October 2016 where a resolution addressed to the leaders of the country and local governments was adopted (Lääne et al.,2017:82). A bill on declaring 1 October a national holiday, the day of local governments, was submitted to the parliament by participants of the Second Assembly of Local Governments, and is being discussed in the parliament. On 19 February 2018, a meeting with the parliament speaker and a forum "The Estonian State and Self-government – 100" took place in the parliament building. Ten proposals regarding the direction of development of the local governments and the regional level were presented at the forum by Polis, attracting a lot of attention among politicians, academics and experts. (Lääne et al.,2018).

Estonia joined the European Union in 2004, and the Estonian local governments sent their representatives to the EU Committee of the Regions. Representatives of Estonian local governments and their associations actively participate in international co-operation, e.g. through CLRAE and CEMR. CLRAE has adopted three reports on local democracy in Estonia, following monitoring visits in 2000, 2010 and 2017.

2 Constitutional and Legal Foundation for Local Self-government

The Estonian Constitution guarantees significant rights to local governments. Local self-government is mentioned in 26 articles of the Constitution and Chapter XIV Articles 154 – 160 specifically regulate the institution. It is important to add, that articles of the European Charter of Local Self-government were incorporated into the Constitution before the Estonian Parliament ratified the Charter 28 September 1994[e]. This was possible because Estonian experts and politicians used the Charter's provisions in the Constitutional Assembly when the 1992 Constitution was drawn up. For example, in 1991, Assembly's expert Sulev Lääne emphasized in his report to the Assembly: "At this stage of development, we are unlikely to be able to formulate more precisely the place and structure of local self-government in the Estonian society and, therefore, we must agree to leave as much room for improvement as possible, both in terms of practical activities and regulating the relevant social relations in the future, which Article 2 of the Charter allows. However, regarding Article 117 of the draft constitution, we ought to compare the wording with the Charter's Article 3 (1)" (Lääne, 2015:56).

The section on local self-government of the final report by the committee, that had been set up by the government to formulate a legal opinion on the draft constitution, ties in with the above: "Despite a long dispute, the committee, similar to the Constitutional

Assembly, did not reach consensus on the question of whether local self-government in Estonia has been given a status based on the state-oriented or the community-based local government theory. The text of the Constitution represents a compromise. Article 154 (1) refers to the community-based theory while Section 2 refers to the state-oriented one. The European Charter of Local Self-government that Estonia has ratified does not determine which approach is preferred. (Eesti Vabariigi põhiseaduse juriidilise ekspertiisi komisjoni lõpparuanne, 1998:1-2). German lawyer Professor Rolf Stober, who submitted a thorough analysis of the sections regulating local self-government of the Estonian draft constitution, said among other things: "Chapter XIV of the Estonian Constitution is devoted to local self-government. The organization of the Estonian Constitution differs from the German one, which only mentions local self-government in Article 28 of the Constitution "The Federation and States". A separate indication in the Constitution shows the special appreciation that the Estonian parliament has of local self-government. (Stober,1997:4).

The strong representation of local self-government in the Estonian Constitution has also been noted by other foreign experts. For example, Finnish Professor Aimo Ryynänen and statesman Juhani Nummela have stated that Estonia, moving from dictatorship to democracy, has wished to ensure the transition of society with strong local self-government and, along with it, has also provided constitutional guarantees to local governments. The authors even say that the guarantees provided to the local governments by the Estonian Constitution are a showpiece of the Charter's principles. (Nummela&Ryynänen,1993:186,199-200).

Chapter XIV of the Constitution establishes the principles of representative democracy in local governments (Article 156), the basis for relationship with the state (Articles 154, 157, 158 and 160) and between local governments themselves (Article 159). Articles 154 and 157-160 of the Constitution along with the European Charter of Local Self-government grant various rights to local authorities (i.e. they provide constitutional guarantees). The obligated subject of the rights is the state, and in this context it means, first of all, the legislative and the executive branches.

The second sentence in Article 3 (1) of the Constitution states that generally recognised principles and rules of international law are an inseparable part of the Estonian legal system. In principle, the generally recognised principles and rules of international law are directly applicable in the Estonian legal system. Cases taken to Estonian courts may be based upon them. Chapter XIV of the Constitution regulating local self-government is in accordance with the principles established in the Charter which Estonia ratified without reservations.

Some other articles of the Constitution also mention local self-government. One of the constitutional guarantees granted to local governments results from Article 65 which states that the parliament manages the affairs of the state over which the president, the government, other national authorities or local governments hold no power of decision.

Article 79 of the Constitution prescribes that if the president is not elected by the parliament even in the third round of voting, the parliament speaker will convene an electoral body. The electoral body comprises members of the parliament and representatives of local councils. Article 14 stipulates that it is the duty of the legislative, the executive and the judiciary branches, and local authorities to guarantee the rights and freedoms provided in the Constitution etc.

According to the Local Self-government Organisation Act, adopted 2 June 1993[f] local self-government is based on the following principles: 1) independent and final resolution of local issues, and organisation thereof; 2) mandatory guarantee of everyone's lawful rights and freedoms in the rural municipality or city; 3) observance of law in the performance of functions and duties; 4) the right of the residents of a rural municipality or city to participate in the exercise of local self-government; 5) responsibility for the performance of functions; 6) transparency of activities; 7) provision of public services under the most favourable terms. One of the principles of local self-government is the right of residents of local governments to participate in the exercise of local self-governance. According to the Local Self-Government Organisation Act, at least 1% of the residents of a local government with the right to vote, but no less than five such people have the right to initiate adoption, amendment or revocation of local legislation. The local council has the right to conduct opinion polls on essential issues among the residents of the local government. Carrying out an opinion poll is obligatory if redrawing the boundaries of the local government is considered. The results, however, are but of an advisory nature. The budget must be based on the local government development plan. The draft development plan must be made available to the public before it is approved by the local council. Starting from 2003, the law on permanently inhabited small islands establishes that a general meeting of the islanders has to be convened once a year; the decisions adopted at the meeting are recommendatory for the local council.

All local governments – cities and rural municipalities – are equal in their legal status. There are but two exceptions. Local elections in capital Tallinn are held by city districts (as of 1993, Tallinn consists of eight districts). Under the Local Self-government Council Election Act[g], half of the mandates (40 mandates since 2009) are equally divided between the districts (5 mandates each) irrespective of the number of population, and the other half (39 mandates) is divided according to the number of population. Under a 2003 amendment of the Permanently Inhabited Small Islands Act[h], a mandatory meeting of residents has to be held on small islands at least once a year.

Under the Administrative Reform Act[i], an administrative reform was completed in October 2017. The number of local council members was reduced from 2,026 to 1,019.

A very important provision allowing local governments to protect their rights is found in the Constitutional Review Court Procedure Act[j], especially in Article 7: "A local government council may submit a request to the Supreme Court to declare an Act, which has been promulgated but which has not yet entered into force or a regulation of the

Government of the Republic or a minister which has not yet entered into force, to be in conflict with the Constitution or to repeal an Act which has entered into force, a regulation of the Government of the Republic or a minister or a provision thereof if it is in conflict with constitutional guarantees of the local government." For example, 26 local councils lodged complaints with the Supreme Court's Chamber of Constitutional Supervision to challenge the constitutionality of the Administrative Reform Act. The ruling of 20 December 2016 declared the law to be in conformity with the Constitution, except for the provision which set up a limit on the compensation for merger costs (100,000 euros). Also, the regulations of the Government on mergers of local governments were challenged by several local councils, but the Chamber of Constitutional Supervision declared all challenged regulations to be in conformity with legislation and the Constitution. There are much more case-law concerning the Charter and Constitution. The local governments may also turn to administrative and civil courts.

Estonia actively participates in the work of CLRAE and contributes to the development of the legal environment and practices pertinent to local self-government. The reports and recommendations prepared by CLRAE on local democracy in Estonia are also significant. The main focus of these documents has been on the compliance with the provisions of the Charter in Estonia. Three reports have been drawn up on Estonia – in 2000, 2010 and 2017. The paragraphs below outline some of the most important recommendations from different years.

The report of 2000 highlighted (and offered recommendations on the matter) that the reform of Estonia's administrative-territorial organisation should not focus only on local governments but also include the central government and counties, and also pointed out that larger local governments are more capable of providing public services at a higher level. Administrative reform was touched upon in all the reports because the territorial organisation of Estonia had required improvements and changes for quite some time, and the CLRAE analyses also emphasised this. Several Estonian Governments drew up plans to carry out an administrative reform but, for various reasons, they were not executed until 2017.

The report of 2010 addressed the situation of local democracy in Estonia with the aim of assessing the activities that had been carried out. In the opinion of the CLRAE delegation, there were certain issues that needed reforming in Estonia: The status of capital Tallinn, the financial resources allocated to local governments, and the process of holding consultations with local and national associations of local governments. Following the report of 2010, the 2011 local government forum insisted that the government fully implement the CLRAE recommendations promptly. Such an attitude and show of initiative express the interest of the forum attendees in improving Estonian policies and society, and attest to their determination to do it.

The report of 2017 highlights points with which CLRAE is satisfied. These include, for example, amendments to the State Budget Act and the Estonian institutions initiating a

comprehensive reform to change the country's territorial organisation at the national and local levels. However, CLRAE still recommends changing the strategy and implementing changes regarding several issues: For example, distinguishing between local and national tasks, the lack of financial resources to fulfil the tasks assigned to local governments, and their excessive dependence on state subsidies and allocations. The report recommended that the legislation which regulates the distribution of responsibilities between local governments and the state, and the consolidation of democracy be amended, and financial inconsistencies in the legislation and in the performance of joint tasks be resolved.

Despite the Constitution and the current legal system generally being in good harmony with the principles of the Charter, there are still several important local self-government-related issues in Estonia. The most important issues have to do with the realisation of the Charter's Article 9 and the overall compliance with the fiscal autonomy principle, including the matter of local taxes. The issues of regional governance and development, alongside with ensuring the balanced development of all parts of the country, continue to be a major issue.

3 Scope of Local Self-government

Estonia began to build democratic institutions (political parties and multiparty elections, the cabinet system, autonomous local governments) and a market economy while still a part of the Soviet Union (Sootla & Lääne, 2013). At the end of the 1980s, Estonia established a dual system (Bennett, 1993) of municipal government. It presumed a strong autonomy of local authorities.

The Estonian Constitution distinguishes between self-governmental tasks ("local matters") (Article 154 (1)) and national tasks ("duties of the national government") (Article 154 (2)). The local government has general authority to make decisions on self-governmental tasks and organize them, i.e. to decide and administer all issues of local life without a special authorisation. It is impossible to establish an exhausting list of self-governmental tasks, i.e. their closed catalogue c). Delegated authority (national tasks) comes from the law or from an agreement between the state and the local government (contract under public law). Qualification of public tasks performed by the local governments emanates from the dualistic theory.

Local matters, following from the substantive criterion, are matters which spring up from the local community, concern it and, following from the formal criterion, are not within the competence of any national body, or upon which no national body has been conferred competence under the Constitution.

Self-governmental tasks may be classified in many ways. The classification into voluntary and mandatory self-governmental tasks is the most important one[1].

Voluntary self-governmental tasks are tasks which the local government is not obliged to perform but which it can choose to perform any time. This comes from the above fact that the local government has a so-called right of discovery of new tasks in the sphere of local matters. Regarding voluntary self-governmental tasks, the local government has the right to decide whether, when and how the tasks are performed. The law does not require the local government to perform voluntary self-governmental tasks[2]. For example, voluntary self-governmental tasks are as follows: Cooperation with other (incl. foreign) local governments, the organisation of various cultural events, the provision of opportunities for recreational activities, and the establishment of certain structural units, etc.

Mandatory self-governmental tasks are tasks which the local government is required to perform by the state due to increased public interest. The legislator has the right to turn the performance of a voluntary self-governmental task into a mandatory one (a statutory self-governmental task) if – taking into consideration the right to self-management – this is a proportionate measure to meet the objective allowed by the Constitution[2].

The requirement to perform the task may be unconditional (the task must be performed in any case) or conditional (the task must be performed if necessary or under certain conditions). In principle, in case of mandatory self-governmental tasks, the local government is only free to decide how to perform the task, and not whether to do it. Mandatory self-governmental tasks have been specified, for example, in Article 6 (1) and (2) of the Local Government Organisation Act: To organise the provision of social services in the local government, to pay welfare benefits and provide other types of social assistance, to offer welfare services for the elderly, to organize cultural, sports and youth activities, to manage housing and utilities, to ensure local government maintenance and waste management, to coordinate spatial planning, local public transportation and the construction and maintenance of local streets and roads unless these tasks have been assigned to other bodies by law (Article 6(1)); to organise the maintenance of pre-schools, primary and middle schools, secondary schools, schools offering after-school programmes, libraries, community centres, museums, sports facilities, shelters, care homes, health care institutions and other local agencies if such agencies are owned by the local government. Law may prescribe that specified expenses of such agencies are covered from the state budget or other sources (Article 6(2)). Pursuant to Article 6 (3) (1), the local governments also performs and organises the performance of tasks that are assigned to them by other laws. For example, deriving from Article 13 of the now invalid Building Act, the obligation to ensure the construction of public roads, the development of public green spaces, the installation of street lighting and the construction of surface water drainage to the boundary of a land unit specified in a building permit on the basis of a detailed land use plan are essentially obligatory tasks that are within the competence of the local governments for the purposes of Article 6(3))1) of the Local Government Organisation Act[3]; also, somewhat more extensive tasks deriving from Article 131 (1) and (3) of the valid Building Code are obligatory self-governmental tasks[4]. Also, covering the operational expenditure of the local council is a mandatory self-governmental task for the purposes of Article 6(3)(1) of the Local Government Organisation Act[5]. National

(non-local, supra-local) tasks are the public tasks which do not highlight any relation, or predominantly any relation, to particular interests of the local community.

Pursuant to the first sentence of the Constitution's Article 154 (2), obligations may be imposed on a local government only pursuant to the law or by agreement with the local government. "Pursuant to the law" may mean under a law, decree and, in certain cases, also a regulation (if it is a less intensive restriction of the local government's right to self-management, and if there is a precise and clear provision delegating authority in the law which corresponds to the intensity of the restriction)[6].

Provided that the requirement of adequate financing from the state budget, legal reservation and the principle of proportionality are observed when the national task(s) are delegated, prescribing local governments legislatively the way of performing the tasks and the form of it or some other parameter do not constitute a violation of their constitutional guarantee. In principle, the local government's right to self-management, that is provided in the Constitution's Article 154 (1), does not extend to the performance of the national tasks[5&7]. However, this does not mean that the legislator may not grant the local government a certain right of discretion when performing the national tasks. The stronger the impact related to the performance of a national task, the more valid granting such right of discretion is, and vice versa.

The delegation of the national tasks to the local governments requires a specific legislative provision to delegate authority. The delegation of both individual matters and sub-domains is possible. The possibility of an infringement of the local governments' (and other persons') rights must be born in mind when performing national tasks[1]. The fact that it is a national task does not exclude the involvement of the local governments in the decision-making process. In each specific case, such an involvement should provide the local governments with an opportunity to present their positions as well as ensure that balanced and reasoned decisions are made[1].

The Ministry of Internal Affairs drew up guidelines for defining mandatory self-governmental tasks and the national tasks performed by local governments. The document contains well-known criteria presented in legal literature for defining such tasks. It employes the exclusion method: The task, which is not self-governmental in nature, is considered to be a national one performed by the local government (Kohustuslike kohaliku omavalitsuse ülesannete ja kohaliku omavalitsuse üksuste täidetavate riiklike ülesannete piiritlemise juhend, 2009).

In the rulings on cases involving constitutional review proceedings, the Supreme Court has qualified the following issues as local matters:

- The restriction of driving vehicles into the Old Town of Tallinn[8];
- The obligation to ensure the construction of public roads, the development of public green spaces, the installation of street lighting and the construction of surface water

drainage to the boundary of a land unit specified in a building permit on the basis of a detailed land use plan that derive from Article 13 of the now invalid Building Act[3];
- The organisation of internal work of the local government, incl. the establishment of an organisation necessary for the provision of public services[9&10] ;
- The organization of local elections[5];
- The covering of the operational expenditure of the local council[5];
- The determination of land use[11];
- The possession, use and disposition of local government property[11];
- Making decisions to assume debt obligations (e.g. a loan, capital lease, issuing of bonds, other long-term obligations requiring payment in the future)[2&12].

The Supreme Court has qualified the following issues as national matters:
- The formation of a national-territorial autonomous unit[13];
- Everything to do with national borders and border regime[14&15];
- The formulation of a health policy, including alcohol policy[16];
- All issues related to monuments and markers of war graves[1];
- The establishment of detailed procedures for elections, based on the principles of the electoral system[5&7];
- The setting of the minimum number of local council members[5];
- The establishment of the requirements for the institute of representation in civil cases[17];
- Making final decisions on the exploration and extraction of mineral resources[18];
- The establishment of titles of intended purposes for nationwide uniform cadastral units[19];
- The statutory obligation of local governments to ensure that primary education is acquired in private general education schools, incl. covering the schools' operational expenditures[20];
- The regulation of the principles of national waste management[21];
- The changing of the country's administrative-territorial organisation on the initiative of a local government or the national government[22];
- The establishment of the basic principles for determining the capabilities of the local governments[22];
- The obligation of a local government to contribute to the financing of a general education school of another local government on behalf of their resident pupils who have places in a school of their local government but choose to attend another one[23].

The Supreme Court has qualified the locking a wheel of a motor vehicle that has been parked without a valid parking ticket or in an area not specifically designated for parking as both a local matter and a restriction of the right of ownership[24].

The Administrative Law Chamber of the Supreme Court (ALChSC) has ruled that the local government determining the intended use of a land unit in proceedings initiated with a purpose of keeping the land unit state property, is a local matter[25].

The right to self-management (independence, autonomy, self-liability, discretion in decision-making and freedom of judgement -- Article 154 (1) of the Constitution entitles the local government to decide and administer local matters freely, i.e. without the state's guidelines on expediency, and ensures an ability to make decisions according to one's political ideas. It means the right of the local government to decide when and how, or whether, to deal with the matters within its competence. For this purpose, all legal ways of performing the public tasks – those of public law and private law in nature, direct and indirect, planned, spontaneous and routine ones – may be employed. The right to self-management includes also the right of the local government to adopt regulations and issue administrative acts.

The Supreme Court has stated that the independent resolution of issues means autonomy of the local governments, which is a central principle of the Charter[26]. The Court has also said that independent resolution of local issues means that members of a local council may make decisions independently from the central government and put local interests first. In case of a conflict between state and local interests, a local council member must have a possibility to resolve local issues independently and in the interests of the community[26]. At the same time, the Supreme Court declared two laws to be compatible with the Constitution which enable parliament members and local council members to carry out two mandates at the same time: The Status of the Members of the Riigikogu Act and the Local Government Organisation Act Amendment Act, which were adopted in June 2017 and entered into force on the day of the local election in October 2017[27].

The local governments' right to self-management is not unlimited. The legislator may impose restrictions on the local governments' right to self-management. The restrictions may be direct or indirect. For instance, a restriction on the right to self-management may be:

- A general restriction put on the sphere of matters within the competence of the local government;
- A one-time transfer of a matter into the competence of the state (Article 65 (6), CRE);
- The imposition of an obligation to resolve a certain local issue;
- A prescription of the way mandatory local tasks must be performed (Madise, 2001:55).

Seeing that the purpose of the constitutional guarantees established in Chapter 14 of the Constitution is to ensure the position of the local governments within the national administrative organisation as well as their inherent competence, the Supreme Court has stated that the right to self-management can only be infringed upon when a legislative measure specifically infringes on the rights of the local governments, not on those of all participants in legal relationships in the same manner[28&29].

The right of the local governments to be heard during an administrative procedure derives from the Administrative Procedure Act (APA) as a general act (Article 40; a special

regulation in the open procedure – Article 49) but also from special laws. For instance, the Planning Act establishes that a national spatial plan is drawn up in cooperation with ministries and the national associations of local authorities. The parliament, the local governments as well as individuals and agencies that may have a legitimate interest in the significant environmental impact that may be presumed to result from the implementation of the national spatial plan or in the spatial development of the planning area, including non-governmental environmental organizations represented by an organization uniting them, are invited to participate in drawing up of the national spatial plan (Article 15 (1) and (2)).

A hearing is informal (Article 5 (1), APA). The local government is able to exercise the right the fullest when it has an opportunity to be informed about the eventual resolution of the act and its recitals[30]. Opinions and objections regarding legal and factual conditions that are presented by a participant in the proceedings must be relevant, concrete and clear. Also, the participant in the proceedings must be set a reasonable deadline for the provision of the opinions and objections. If the representative(s) of the local government does not attend the hearing or fails to provide the objections within the set time-limit, the state administrative body may decide the matter without hearing the local government, provided that it has otherwise established essential facts.

Issuing an administrative act or taking measures without a hearing is legal only in the cases provided by law. To ensure the effectiveness of the proceedings, Article 40 (3) of the APA lists grounds granting a state administrative body the right to exercise discretion in handling the case without hearing a participant in the proceedings (prompt action is needed to prevent damage arising from a delay or to protect public interests; the resolution is not made against the participant in the proceeding not present at the hearing, etc.).

Failure to give an opportunity to be heard is such a gross violation of the requirements of the administrative procedure that, irrespective of the judgement rendered on the content of the administrative act, it will result in the administrative act being abrogated[31], especially in case of discretionary decisions and in cases when the decision is the harshest one possible[32&33]. If the right to be heard is violated, the court may refrain from declaring the administrative act null and void only when it is convinced that an appropriate hearing of the person (incl. a local government) would not have resulted in an administrative act more favourable for the person. The administrative body has the burden of proving that even a lawful hearing would not have resulted in a different administrative act, taking into account the circumstances presented by the person[34].

Pursuant to Article 158 of the Constitution, the boundaries of a local government may not be changed without hearing the opinion of the local government.

4 Protection of local authority boundaries

In the early 1990s when local self-government was restored in Estonia, there were 250 local governments (rural municipalities and cities) in the country with the population of 1.5 million residents. Many politicians and academics expressed the opinion that local governments were too small and their number ought to be significantly reduced.

Article 158 of the Constitution provides that the administrative area of a local government may not be changed without hearing the opinion of the local authority. The requirement complied with Article 5 of the European Charter of Local Self-Government, under which changes in local authority boundaries cannot be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

On 22 February 1995, the parliament passed the Territory of Estonia Administrative Division Act[k]. Before the said law was enacted, it had not been possible to merge local governments without a decision of the parliament. Although even at the time the need for a radical administrative-territorial reform and merging of small rural municipalities and cities were discussed and written about, the parliament decided in 1993 to divide (not geometrically but in principle) five rural municipalities into two[l].

The Territory of Estonia Administrative Division Act stipulated that a local government cannot be abolished, or its boundaries or name changed without hearing the opinion of the local council concerned. The council has the right to carry out polls on important issues on the territory of the local government. The local government has the right to protect its legal rights and resolve disputes in court. A change in the administrative-territorial organization may be initiated by the Government or a local government. The final decision lies with the Government.

The first merger of local governments under the law – that of the town of Pärnu-Jaagupi and the rural municipality of Halinga – took place in 1996. The merging local governments received a special subsidy from the Government, which has been allocated to merging local governments ever since. In subsequent years, mandatory mergers of local governments on the initiative of the central government were also discussed but, until 2017, only voluntary mergers took place.

At first, changes in the administrative-territorial organization were possible only during regular local elections. These were held every three years. As a short-lived exception, a law amendment allowed for mergers prior to the 1999 local election but then the amendment was invalidated. It was found that, without changing the Constitution, no mergers can be carried out in between regular local elections. At the same time, it was also decided that local elections be held every four years and, as said above, changes in the administrative-territorial organization be allowed between elections.

Relevant amendments to the Constitution were introduced in 2003, and according to Article 156, the council, which is elected in a free election for a period of four years, is the representative body of the local government. The law allows the council's term of office to be shortened in case of a merger or a division of the local government, or in case the council cannot perform its functions.

The Promotion of Local Government Merger Act[m] was adopted in 2004. According to Article 1, the purpose of the Act was to facilitate mergers of local governments and to improve the administrative organization of said areas, which would bring along improved administrative capacity and capacity to write successful project applications, as well as better availability and quality of public services provided by the local governments, and the development of the capacity for local government cooperation.

Overall, 72 rural municipalities and cities voluntarily merged to form 30 rural municipalities in 1996-2016 (Table 1).

Table 1: Number of Estonian local governments in 1993-2018 after local elections

Year	Rural municipalities	Urban local governments	Total number of local governments
1993	193	62	255
1996	193	61	254
1999[x]	205	42	247
2002	202	39	241
2005	194	33	227
2009	193	33	226
2013	185	30	215
2017[xx]	64	15	79

x In this case, one rural municipality (Abja) and one urban settlement (Abja-Paluoja) in Viljandi County merged in 1998.
xx In this case, three rural municipalities on the island of Saaremaa merged in 2016.

A radical administrative-territorial reform was carried out in October 2017 in connection with a local election; for the first time since the restoration of independence, along with voluntary mergers, mergers were also initiated by the central government.

There were 213 local governments in Estonia before the latest local election but only 79 local government remained after the election, including 64 rural municipalities and 15 cities.

Although many small rural municipalities and cities had merged since 1996 (in particular, cities and their surrounding rural municipalities), it was found in the 2000s that the pace of the recent mergers of small municipalities was too slow. The Government prepared several projects to accelerate the process. For example, a map of 100-110 local

governments was drawn up by 2002. At the same time, it was suggested that an administrative-territorial reform be carried out based on counties, which would have left Estonia with 15 rural municipalities and about 5-10 large cities (Tallinn, Tartu, Narva, Kohtla-Järve, Pärnu, and some other county centers). In 2013, then Regional Affairs Minister Siim-Valmar Kiisler proposed to introduce an administrative reform which would be based on poles of attraction and initially set their number at 30-50 but soon their number was increased to 60-70 as proposed by the counties.

By 2016, the Government had drawn up an administrative reform bill which was adopted by the parliament in June 2016[i]. The law was implemented during the local election 15 October 2017. One of the most important criteria set out in the Administrative Reform Act was the size of the population in the local governments.

Although the Act also allowed exceptions (for example, on small islands), it is important to note that the Territory of Estonia Administrative Division Act[n] adopted more than 20 years earlier in 1995, approached this complex issue in a more diverse way. Article 7 (5) of the 1995 Act stipulated that the following circumstances be taken into account when initiating a change in the administrative-territorial organization:

1) Historical justification;
2) Ane impact on the residents' living conditions;
3) People's sense of cohesiveness;
4) An impact on the quality of public services;
5) An impact on administrative capacity;
6) An impact on the demographic situation;
7) An impact on the organization of transport and communications;
8) An impact on the business environment;
9) An impact on the local education system;
10) Integrity of the local government.

The objectives of the Administrative Reform Act of 2016[i] were relatively broad but, unfortunately, the Act only affected the administrative-territorial division. At the first reading of the bill in parliament 6 April 2016, then Public Administration Minister Arto Aas said: "... The purpose of the administrative reform is to facilitate the growth of local governments' capacities, the competitiveness of regions and, thus, the more equalized development of Estonia. The purpose is to create a new qualitative level of local self-government in order to be ready to face the challenges of the future. One of the important goals is to provide better services for people ...." The Act did not at all address the issue of the capital region, although nearly half of the Estonian population lives in the area and more than half of the country's GDP is produced here. For a long time it has been said that local authorities have little interest in boosting business activity in their areas (for example, 35% of corporate income tax was received into local budgets until 2002), but this very important issue was not mentioned in the Administrative Reform Act.

The Administrative Reform Act[i] paid little attention to the issue of decentralization and the right to form local government districts when the administrative-territorial organization of a local government is changed if it had been agreed upon in the merger agreement. A district formed on the basis of a merger agreement could commence its activities the day the results of a local election became official.

The Administrative Reform Act[i] stipulated that, in general, a local government should have a population of minimum 5,000 residents, although the formation of local governments with a population of at least 11,000 people was recommended to meet the objective of the administrative reform. At the time, 80% of the Estonian local governments had less than 5,000 residents. The Government had set aside up to 80 million euros to stimulate voluntary mergers. It was also stipulated that if there are local governments after the period of voluntary mergers that fail to meet the criteria, the Government will merge them. Opinions on obligatory mergers differed in many regions, and 26 local governments turned to the Supreme Court. The Supreme Court did not rule in their favor.
The approach of proceeding only from the size of the local population was quite actively criticized not only by the local governments but also by some academics. The Estonian co-operation assembly (an institution set up by the president years ago) drew up a plan in 2014 ("Trends and Scenarios of Local and Regional Governance") in 2014, which stated the following: "In the search for the most efficient administrative unit, the local government cannot lose sight of the purpose of its existence. ... Although the merging of small local governments into large ones has been the main content of the waves of major local self-government reforms around the world, the economic merits of local government mergers have increasingly been questioned in academic literature. ... there is no single and correct size of the local government ... "

The new Government, which took office in autumn 2016, have acknowledged on a number of occasions that substance must be brought to the administrative-territorial reform, which means, among other things, defining the responsibilities of the central and local governments, and the principles of financing the discharge of the said responsibilities. In 2018, the tasks of former county governments, i.e. regional tasks, were divided between the local governments and central government agencies

5 Administrative structures and resources for the tasks of local authorities

The Charter's Article 6 (1) has been integrated into the first paragraph of Article 154 of the Constitution, which states the following: "All local matters are determined and administered by local authorities, who discharge their duties autonomously in accordance with the law." Regarding the independence of the local government, i.e. the right of self-management, it is the exercise of discretion in local issues. In order to exercise the right of self-management, the local government wields, for example, organizational power as an instrument of power, which includes the right to determine its internal organization; it also includes the power to hire staff and to pursue cooperation. (Eesti Vabariigi

põhiseadus: kommenteeritud väljaanne, 2017). The same constitutional provision also grants local governments the right to have adequate financial resources to perform their tasks and a stable funding system which is aimed at ensuring the independent decision-making and management of local issues. Also, Article 160 of the Constitution stipulates: " The organization of work of local authorities and oversight of their activities is provided by law." The said law is, above all, the Local Government Organization Act[f]. Under the Constitution's paragraph 1 of Article 154, the local governments must be able to establish an organizational structure that ensures the performance of dynamically developing tasks which take local peculiarities (Eesti Vabariigi põhiseadus: kommenteeritud väljaanne. 2017).

Pursuant to Article 156 of the Constitution, the representative body of the local government is the local council which is elected in a free election for a term of four years. The council's term of office may be reduced by law due to a merger or division of local governments, or due to inability to perform its functions. Local elections are general, uniform and direct. Voting is secret. People, who are at least 16 years old and permanently reside on the territory of the local government under conditions established by law, have the right to vote in local elections. The council has the right, within statutory limits, to make decisions on every issue within the competence of local governments unless it has been assigned to the local executive body pursuant to law[o]. As the political representative body of the people with the right to vote residing on the territory of the local government, the council fulfils the most significant management and supervisory tasks: Pursuant to law, it formulates the principles of the local government's administrative organisation; it also monitors and supervises the activities of the local executive body and the implementation of its decisions. Above all, it is current administrative issues that fall within the competence of the executive body.

The local executive body has functional relations with the council as the representative body. The council forms the executive body. The council approves the statutes of the local government, establishing, for example, the procedures for forming the executive body and for electing the mayor, the scope of powers of the executive body and the procedure for establishing local administrative agencies. The powers of a council member will be prematurely terminated, if he/she is, for example, appointed as an official of the same local government. The powers of a council member are suspended, if he/she is, for example, appointed as the mayor or a member of the executive body, or appointed to a remunerative position as a member of the executive body in the same local government. For example, making decisions on the following issues falls within the exclusive competence of the local council: The election of the mayor; the approval of the size of the executive body and the organization under it; the confirmation of the appointment to and release from office of executive body members, and the appointment to and release from remunerative positions of members of the executive body; the movement of a no-confidence motion against the executive body, the mayor or a member of the executive body; decisions on remuneration paid to the mayor and members of the executive body who work in remunerative positions, and decisions on payment of

compensation to other executive body member and the amount of compensation; the foundation, restructuring and termination of activities of local administrative agencies, and the approval of the statutes of such agencies; the establishment of social guarantees for local government officials; the approval of the organization of local administrative agencies, the composition of their staff, salary rates and wage conditions. Decisions on matters placed within the scope of powers of the local government or its bodies by law are made by the local council that has the right to delegate the decision-making to the executive body. The law establishes, for example, the rights of the executive body and council committees, including the audit committee.

The relations between local government bodies and government agencies are based on the law and contracts. Local government bodies cannot delegate their responsibilities, powers or statutory resources for discharging the tasks to government agencies.

The Local Government Organization Act establishes the tasks, responsibility and organization of local governments, as well as the relations between the local governments and government agencies, incl. statutory obligations. The division of tasks within the local government, the tasks and the administrative organization of local government bodies are established by local government statutes. The universal competence of the Riigikogu on matters of national affairs (Article 65 point 16 of the Constitution) is correlated with the universal competence of local governments in matters of local life ((Article 154 (1) of the Constitution)(Kohustuslike kohaliku omavalitsuse ülesannete ja kohaliku omavalitsuse üksuste täidetavate riiklike ülesannete piiritlemise juhend, 2009))

Revenues of Estonian local governments are largely dependent on state revenues and, in many ways, it is up to government agencies to decide the allocation of financial sources to local governments. According to a report of the State Audit Office, in 2017, 17% of the income of local governments depended on the local governments to some extent while 83% of their revenues was decided by the central government (Riigikontrolli audit, 2017). Under the Local Taxes Act, the local government has the right to impose taxes to increase its revenue[p].However, there is minimal possibility to do that and local taxes account for less than 1% of local revenues. It is difficult to find a way out of the situation. The State Audit Office audit also points it out. For example, it states that "If, after the administrative reform, local governments are financed similarly to the present, the gap between local governments in terms of financial resources available to them will remain high." (Riigikontrolli audit, 2017).

Chapter 8 of the Local Government Organization Act provides for the establishment and routine of work of local government districts. Article 56 (1) of the Act stipulates that a local government district is an entity which, under the district statutes enacted by the local council, operates on the territory of and within a local government aiming to encourage local initiative, maintain local identity, involve residents in the decision-making, and represent district interests in performing local government tasks. Article 56 (5) stipulates that it is within the scope of powers of the district council to represent the local

government in matters concerning the district as well as make relevant decisions within the scope of powers granted to it by the law, the local government statutes, the district statutes or decisions of the local council. The formation of a district may be initiated by: 1) one quarter of the members of the local council; 2) at least one percent of the local government residents with a right to vote but not less than five residents with a right to vote; 3) the local executive body.

There have been a number of legal, organizational and financing changes in capital Tallinn. Tallinn City Council decided to form eight districts in September 1993. In each district, the district council acts as the community representative and the district executive body led by the district elders acts as the executive power. The district councils have limited powers and they can make proposals to the City Council on matters concerning their district. For example, the district development plan is approved by the district council but it is enacted by the City Council. The district executive bodies are not collegial bodies but act as district offices. The city of Kohtla-Järve and a few rural municipalities have also chosen to establish districts.

Decentralization has become much more important ever since the administrative-territorial reform was carried out in 2017. Some county-size rural municipalities, such as the islands of Saaremaa and Hiiumaa, have also decided to use the model of districts. Here and there, for example in Hiiumaa, the areas which operated as rural municipalities before the mergers during the reform, have been granted the rights of local government districts.

Major changes have taken place in the remuneration of local officials. Up to 1996, three different models were in use. Until 1992-1993, all local governments had to comply with wage rates established by the Government. After the adoption of the 1992 Constitution which ensured local governments budgetary autonomy, local councils (in particular in Tallinn) began to set their own wage levels for their officials. Soon, the Government accepted this approach in these local governments that were not subsidized by the central government. The remaining approximately 95% of local governments had to continue to apply the wage levels aligned with those of civil servants. Pursuant to the Public Service Act which entered into force 1 January 1996, all local councils have the exclusive power to approve the wage rates for the members of their executive bodies. These remuneration arrangements have been in force ever since.

In principle, Estonia has a uniform public service system for both central government and local government officials. The Public Service Act is the principal law regulating the field[q] with certain provisions of the Local Government Organization Act also being relevant.

6 Conditions under which responsibilities at local level are exercised

A free mandate would become meaningless if the council member could not effectively carry it out. The Local Government Organization Act establishes the necessary prerequisites for it.

1. The right to be exempted from employment.
A council member is not a public servant. Article 2 (3) (9) of the Public Service Act stipulates that, unless otherwise provided by the Act, it does not apply to a member of the local council. Whether his office is considered to be public one, i.e. an honorary position, depends on what is meant by it. As a rule, nowadays members of local representative bodies no longer work without remuneration. However, unlike for a member of parliament, the position in a representative body is not the main job of council members. This chimes with the tradition of self-governance tasks being performed by people simultaneously gainfully employed elsewhere. Such carrying out a mandate is inherent in citizens' self-government, which emphasizes the citizens' co-responsibility for the welfare of their local government.

As a member of the council takes part in the work of the representative body while doing his/her professional work, there may be instances where he/she cannot attend council meetings and/or committee meetings without abstaining from work. The right to be excused from work is fundamental in order to enable broad groups of citizens to be involved in the democratic and political life. In the absence of this right, elected representatives may disproportionately comprise people whose position allows them to use their time at their own discretion.

According to Article 25 of the Local Government Organization Act, the employer is obligated to allow a council member to attend council and committee meetings, and to perform tasks assigned to him/her by the council. According to Article 19 (6) of the Employment Contracts Act, an employee has the right to refuse to perform a job, above all, if he/she has a reason for doing so under an employment contract, a collective agreement or some other statutory reason (i.e. a reason not specified elsewhere in the same provision). The Government does not monitor compliance with the requirement of the law (Employment Contracts Act Article 115) and there is no effective way for the employee to force the employer to comply with the requirement during working hours if necessary.

2. The right to remuneration and reimbursement
Article 17 (3) of the Local Government Organization Act provides that the council may pay remuneration to council members for participating in the work of the council and, based on submitted documents, reimburse the expenses incurred in carrying out council duties in the amount and following the procedure established by the council. Article 22 (1) (22) of the Local Government Organization Act provides that the establishment of the amount of remuneration to be paid to council members for council work and the

establishment of a procedure for reimbursing the expenses incurred in the performance of council work fall within the exclusive powers of the local council. The currently valid provisions have been in force since 17 November 2005. Previously, the law stipulated that the council had the right to reimburse council members for the expenses incurred in carrying out council duties and to compensate the salary lost at the council member's main place of employment at the rate and following the procedure established by the council. The changes were motivated by the fact that the system had not been in line with the general principles of remuneration for work.

The Local Government Organization Act does not impose specific upper or lower limits for remuneration and reimbursement. It would be problematic, and obviously against the principle of democracy, if council members were entirely left without remuneration/reimbursement. The arbitrary differentiation of remuneration and/or reimbursement would violate the formal principle of equality. At the same time, for example, the council chairman or deputy chairman receiving higher remuneration compared with rank-and-file council members is not unlawful as such.

In short, it appears from the by-laws adopted by the local governments that:

- Prevalently, a fee for attending council meetings has been established, with its size varying considerably;
- They provide for reimbursement of the expenses incurred in carrying out council tasks (e.g. for the use of a personal car, for business trips, for transportation and communication expenses) upon submission of expense reimbursement reports per the guidelines regarding the amount and procedure established by the council;
- They provide for additional remuneration if the council member is involved in the work of a council committee, takes minutes of committee meetings, etc.

Unlike the parliament, which is prohibited under Article 75 of the Constitution from changing the remuneration of parliament members during its parliamentary term, the local council can do so during its council term.

Article 17 (4) of the Local Government Organization Act stipulates that the positions of the council chairman or deputy chairman may be paid positions if the council so decides. The council chairman and the deputy chairman who hold paid positions may not be paid additional remuneration, receive reimbursement or subsidies; also, they may not receive benefits which the council has not introduced. If the council chairman or the deputy chairman are also members of parliament during a council term, they may not be paid salaries for holding the positions of the council chairman or the deputy chairman. The paid position of the council chairman or that of one deputy chairman means that it is the holder's main occupation.

The local council may decide to pay the council chairman or the deputy chairman, who hold paid positions, compensation for dismissal in the amount of up to three months'

salary if they have held the position for two to eight years, and up to six months' salary if they have held the position for more than eight years, and the dismissal takes place:

1. Due to the expiry of the council's mandate;
2. On his/her own initiative due to a medical condition which prevents the official permanently from performing his/her duties;
3. Due to a vote of no confidence (Article 541 (1) of the Local Government Organization Act).

No compensation is paid if the council chairman or the deputy chairman:

1. Is dismissed from office on his own initiative, except due to a medical condition which prevents the official permanently from performing his/her duties;
2. Is elected or appointed by the council for a new term (Article 541 (2) of the Local Government Organization Act).

Upon expiration of his/her powers, the council chairman who is paid a remuneration or compensation based on a decision of the council under Article 22 (1) (21) of the Local Government Organization Act, will be paid a compensation in the amount of six times his/her average monthly salary or a compensation in the amount of an average salary of two years preceding the date when the results of the local election were announced if the powers of the council chairman expire as a result of an alteration of the administrative-territorial organization of the local governments at the initiative of local councils, and he/she has worked as council chairman for at least one year before the date when the local election results of a new local government that was formed as the result of a merger were announced[f]. In that case, the council chairman will not be compensated for the expiration of his/her powers. The above compensation will not be paid if the council elects the incumbent chairman for a new term[g].

3. The right to work conditions permitting the effective performance of tasks

The council member's right to have work conditions that permit effective performance of his/her tasks is the greater the more administrative services are at his/her disposal: Premises, the copying service, laptops, and training courses, etc. For example, a member of Tallinn City Council may use the premises of the district executive body to meet city residents and get technical assistance in organizing the meetings (the Rules of Procedure of the Tallinn City Council, p. 4.3.9).

Allocating additional resources to assist factions of the council cannot be considered unreasonable as such if unaffiliated council members are offered similar assistance to perform their tasks efficiently.

Although electronic document management is already widely spread in the local governments, and council committees are known to hold electronic meetings, while council members are known to have attended council meetings using Skype (on islands), the local government information system VOLIS as a multifunctional software solution has the potential to bring cities and rural municipalities vigorously into the information technology era. For example, the solution allows council members to attend council

meetings or meetings of council committees without being physically present: He/she must only have a computer with an Internet connection where he/she can identify himself/herself using an identification card. Voting, which can be done online via VOLIS, and revising documents, etc. is also easier. In principle, it is possible to replace the forms of work of the local government representative body and its committees which require physical presence in the same room, with effective long-distance communication. The system brings together electronic governance, participatory democracy and document management.

The Local Government Organization Act lists positions incompatible with the position of a local council member. The grounds for early termination of the council member's powers are prescribed by Article 18 (1) of the Local Government Organization Act. These include:

- Being elected the president of the republic or a member of the European Parliament, being appointed the state secretary, the auditor general, the chancellor of justice, a judge or a prosecutor;
- Being appointed as an official of the same local government or being employed by an administrative agency of the local government under an employment contract. These restrictions do not apply to a council member whose powers have been suspended in connection with he/she being elected the mayor of the same local government or being appointed as a member of the local executive body, a district elder or a paid member of a district executive body.

Until 31 March 2013, the Local Government Organization Act stipulated that the powers of a council member will expire before the due date if he/she becomes an official of the same local government. The legislator wished to avoid a conflict of interests when it prohibited council members from being hired by a local government agency of the same local government under the Local Government Organization Act by introducing an amendment to the Civil Service Act. It was necessary to avoid a situation where one person working for his/her local government could not be a council member but another person working for another local government could. In practice, the law amendment has had electoral committees assess civil law contracts. If necessary, the electoral committees have to interpret the contract concluded with a council member. The wording of the law amendment is not the best (it is too broad)[35]. The Supreme Court has also held that the early termination of a council member's powers due to his/her appointment as a local government official does not disproportionately restrict his/her right to carry out his/her mandate[36].

The Local Government Organization Act associates the early termination of a council member's powers with the legal fact specified in Article 18 (1) of the Act and does not provide for the early termination of a council member's powers with a decision of an electoral committee. Thus, the powers of a council member are automatically terminated in the case of a legal fact specified in Article 18 (1) of the Act. Such regulation ensures

that the early termination of a council member's powers does not depend on the activities or inaction of an electoral committee[36].

The suspension of a council member's powers is regulated by Article 19 of the Local Government Organization Act. The suspension of a council member's powers is the temporary release of the council member from the performance of his/her duties as a council member. The powers of a council member are suspended in the following cases:

- The council member has been appointed as mayor of his/her local government, a member of the local executive body or the district elder of a local government district, or appointed to a paid position of a member of the executive board. The restriction does not apply to the mayor, an appointed executive body member and an appointed district elder who had been elected or appointed by the previous council but have now been elected to the new one and continue to discharge their responsibilities until the new council designates a new executive body.
- He/she becomes a minister of the Government until his/her powers as a Government minister expire.

The Supreme Court has held that the prohibition to combine positions serves the purpose of organizational strengthening of the separation of local government tasks and responsibility in the face of risks that may result from the combining of the office and a mandate in the representative body. This is a legitimate objective for the meeting of which there are no means, except for the suspension of the council member's powers who accepts a position in the local government executive body or becomes an official of the local government agency, or the early termination of the council member's powers who accepts a position as a local government official. Different treatment of a local executive body member and a local government official is justified by the fact that a member of the executive board is politically accountable to the council, but a local government official bears responsibility under the Civil Service Act[36].

In June 2016, the parliament passed the Status of Members of the Riigikogu Act (Riigikogu is the Estonian Parliament) and the law amending the Local Government Organization Act, which abolished the earlier prohibition to combine positions of a parliament member and a local council member. The law was to come into force on 16 October 2017, i.e. the day a local election was held. Four rural municipality councils then filed a complaint with the Supreme Court maintaining that the law contradicts the local governments' right of self-governance arising from Article 154 (1) of the Constitution and, in essence, also the principle of separation and balance of powers arising from Article 4 of the Constitution as well as the principle of incompatibility of the position of a parliament member and that of officials of other government agencies arising from Article 63 of the Constitution. However, the Supreme Court found that one cannot conclude from the fact that a parliament member carries out his/her mandate in parliament as a representative of all people that he should make decisions in a local council which are contrary to local interests[37]. The principle of a free mandate ensures that a person, who simultaneously belongs to both representative bodies, has the opportunity to decide on

the basis of his/her conscience what is in the best interest of the local government and its residents. The court believes that the combining of mandates will ensure greater awareness among members of the representative bodies of issues that need resolving at both the national and local levels, and the possibility to take them into account at both levels of decision-making in a balanced manner. According to the court, the situation where parliament members understand the problems of local life better will also ensure wider consideration of the rights and interests of local governments in the activities of the legislator. The Constitutional Review Chamber of the Supreme Court acknowledged that the possibility for a person to combine the mandates of a parliament member and a local council member may facilitate a certain intertwining of national and local political decision-making. At the same time, the principle of local government autonomy does not require the people deciding local matters to have a connection with the national level decision-making, and the possibility of council members having conflicting interests cannot be excluded. This may be deduced from the principle of political party democracy which is included in the principle of democracy, because, according to this principle, political parties are the central political forces in Estonia, which aim at simultaneously exercising both state authority and local self-government. The Supreme Court also found that the contested law did not obligate a local government to adjust its working hours to take into account the working hours of the parliament. A person elected to both representative bodies must find a suitable balance to carry out his/her mandates and, in the event of failing to responsibly carry out his/her duties, risk having to take political responsibility. Also, the challenged law does not affect the opportunities of candidates, who have emerged from the local community, to stand for election or to be elected. Thus, the Constitutional Review Chamber of the Supreme Court found that the Acts amending the Status of Members of the Riigikogu Act and the Local Government Organization Act were not in conflict with the requirements of the Constitution set out in the petitions of the local councils, and the Chamber rejected the complaint. Following the local election in October 2017, it was then possible to combine the mandates of a parliament member and a local council member.

7 Administrative supervision of local authorities' activities

Administrative supervision means one administrative body overseeing another administrative body[r]. Administrative supervision is exercised outside the subordination relationship[r] and in the public interest. The exercise of administrative supervision is not administrative interference.

Until 1 January 2018, administrative supervision over local government bodies' administrative acts was primarily the responsibility of county governors. Due to the abolition of county governments as of 1 January 2018, their supervisory responsibility was transferred to the Ministry of Justice, and the Ministry of Finance assumed the responsibility to exercise supervision over the public property used and held by the local governments.

Administrative supervision of local governments' operations is regulated by Article 753 of the Government of the Republic Act. The Ministry of Justice exercises administrative supervision over the legality of administrative acts of local authorities, while in the cases and to the extent provided for by law, the Ministry of Finance exercises administrative supervision over the lawfulness and expediency of the usage of government property used or held by the local governments. The Ministry of Justice has the right to involve any ministry in the exercise of administrative supervision in whose field the local administrative act falls. The minister responsible for the field has the right to request transcripts of the enforced local administrative act. The local authority is required to submit copies no later than on the seventh day after receiving the request from the minister responsible for the field. If the responsible minister finds that the local administrative act is unlawful or contrary to the public interest, he/she may, within 30 working days after learning about the issuing of an administrative act or refusal to do so, submit a written proposal to revoke the act, bring it into compliance with the law or issue the required administrative act. A lex specialis may lay down exceptions regarding the deadline. If the responsible minister finds that the unlawful consequences of the revoked administrative act violate the public interest, he/she may, within three years after the issuing of the administrative act, submit a written proposal to eliminate the said consequences. The proposal may also propose to cancel the administrative act which brought about the consequences. If the local authority does not revoke the administrative act, bring it into compliance with the legal norms, issue a required administrative act or decide to remove the consequences caused by the administrative act within 30 working days after receiving the responsible minister's written proposal, the minister may file a protest in accordance with the conditions and pursuant to the procedure provided for in the Code of Administrative Court Procedure. If pursuant to Articles 14 and 160 of the Constitution and Article 15 of the Chancellor of Justice Act, the responsible minister asks the chancellor of justice to review the conformity of a general act given by a local government body with laws, he/she will send the said local government body a copy of his/her petition on the same day. If the responsible minister finds that a local government has possessed, used or disposed of government property unlawfully or inappropriately, he/she will inform the State Audit Office, an investigative body or other competent authority, and pass on to them any supporting documents and other materials at his/her disposal. The responsible minister has the right to review the performance of a government function delegated to the local governments by law or fulfilled by them under an administrative contract.

Administrative supervision is also supervision exercised over administrative tasks performed under a contract under public law pursuant to the Administrative Co-operation Act[s] .

Agencies and inspectorates (e.g. Data Protection, Language, and Labor Inspectorates, Land Board and Competition Authority, etc.) also exercise administrative supervision over operations of the local governments. Sectoral supervision is regulated by a lex specialis.

Thus, the subject of administrative supervision is another administrative body which is not subordinate to the supervisory body. The object of administrative supervision is the enforcement of public order and the performance of administrative tasks. Legality, and also expediency in the cases provided by law, are the scope of administrative supervision. A precept is the form of administrative supervision. The person exercising administrative supervision has the right to issue precepts in the course of a supervisory process; the failure to comply with the precepts brings along a penalty payment in the amount of up to 9,600 euros under Substitutive Enforcement and Penalty Payment Act[t].

Supervision over spatial planning in local governments is the responsibility of the Ministry of Finance. According to the Planning Act, a local government comprehensive plan is submitted for approval to the minister responsible for the field[u]. In addition to the comprehensive plan, written opinions presented at the public display of the plan which were not taken into account in the preparation of the plan and the relevant reasoned opinion, are also submitted to the minister. The responsible minister either approves the comprehensive plan or refuses to do it within 60 days of its submission. In justified cases, the time limit may be extended to 90 days. Before making a decision, the responsible minister is required:

1) To verify that the procedure of the environmental impact assessment and the local comprehensive plan are in compliance with the legislation, the county-wide spatial plan and the national designated spatial plan;
2) To hear the persons who submitted written opinions at the public display of the comprehensive plan but whose opinions were not taken into account when drawing up the plan, as well as the body that organized the preparation of the comprehensive plan;
3) To either give or withhold consent to change the county-wide spatial plan if a change is sought with the comprehensive plan. If the parties referred to under point 2 fail to reach an agreement, the responsible minister will give them his/her written opinion within 30 days after the parties have been heard.

Detailed spatial plans will also be submitted to the responsible minister for approval under the Planning Act. Also in these cases, written opinions presented at the public display of the detailed spatial plan which were not taken into account in the preparation of the plan and the relevant reasoned opinions, are also submitted to the minister in addition to the plan itself.

The responsible minister either approves or refuses to approve the detailed spatial plan within 60 days from its submission. Before making a decision, the responsible minister is required:

1) To verify that the detailed spatial plan is in compliance with the legislation;
2) To hear the persons who submitted written opinions at the public display of the detailed spatial plan but whose opinions were not taken into account when drawing up the plan, as well as the body that organized the preparation of the comprehensive plan.

If the responsible minister does not approve a comprehensive plan or a detailed spatial plan, he/she will submit to the body responsible for preparing the plan his/her reasoned position justifying the decision. If there is a justified need, the responsible minister may propose to bring part of a comprehensive plan or a detailed spatial plan into effect.

Administrative supervision is a broad concept, and economic supervision exercised over operations of the local governments by the National Audit Office, and the so-called ombudsman function performed by the chancellor of justice under the Chancellor of Justice Act are special types of administrative supervision.

The supervision over the local governments exercised by the State Audit Office is essentially public economic control, which, to varying degrees, is exercised over the possession, usage and disposal of public assets and local government property. Pursuant to Article 133 (3) of the Constitution, the State Audit Office inspects the usage and disposal of government property in the possession of local governments. The National Audit Office may also conduct performance audits under Article 6 (3) of the State Audit Office Act[v]. Article 133 (3) of the Constitution does not preclude the possibility of exercising economic control over movable and immovable public property which has been transferred into possession of the local governments, as well as over the usage of allocations for specific purposes, subsidies and funds allocated for the performance of government functions. Article 133 (3) of the Constitution does not restrict the legislature's freedom to regulate the scope of economic control over public assets referred to in Article 132 of the Constitution. In the case of government assets held by the local governments, supervision over both legality and expediency may be exercised (meaning an audit may be carried out). The State Audit Office's exercise of supervision over possession, usage and disposal of local government-owned assets is limited to the legality and does not include supervision over expediency (cost-effectiveness); the exercise of supervision must not violate the principle of local government autonomy. It is not within the jurisdiction of the administrative court to substantially examine the correctness of the findings of economic control carried out independently by the National Audit Office. However, the National Audit Office Act guarantees the local governments, which have actually been audited by the State Audit Office, the right to challenge the Office's procedural acts in the administrative court.

According to Article 33 of the Chancellor of Justice Act, the chancellor of justice checks whether the supervised institution (also a local government) complies with the principle of guaranteeing fundamental rights and freedoms, and the practice of good governance referred to in Article 14 of the Constitution[w]. Good governance means the commitment of the public authority to operate in a human-friendly manner, embracing values that may not be legally protected but whose observance the chancellor of justice will be able to monitor when performing the ombudsman's function, such as fairness, courtesy, and willingness to help (Eesti Vabariigi põhiseadus, kommenteeritud väljaanne, 2017). The justice chancellor's ombudsman procedure is not a substitute for legal proceedings and it is not a legal remedy within the meaning of Article 13 or Article 35 (1) of the ECHR[x].

The chancellor's ombudsman procedure is regulated in Chapter 4 of the Chancellor of Justice Act. There are significant differences compared with court proceedings. The chancellor of justice may initiate proceedings not only based on a petition but also on his/her own initiative based on information received by him/her (for example, via the press). The procedure is more flexible and less formal (there are no deadlines and no need to pay a levy). The principle of investigation applies. The chancellor of justice's main procedural action is the request for information and, if necessary, the gathering of explanations and testimonies. The chancellor of justice may, if necessary, use other forms of procedural acts; for example, he/she may seek an opinion of a private expert or pay an inspection visit to a supervised institution (Eesti Vabariigi põhiseadus, kommenteeritud väljaanne, 2017).

The chancellor of justice has wide discretion in deciding whether to initiate proceedings as well as in choosing procedural actions. The proceedings of the chancellor of justice result in taking a position on whether the operation of the local government is lawful and complies with the practice of good governance. The chancellor of justice may propose a remedy for the violation, criticize, make recommendations and otherwise express his/her opinion. However, unlike court rulings, the positions of the chancellor of justice are not obligatory for the supervised institutions. Neither does the chancellor of justice have the power to revoke the acts of the supervised institution nor have the possibility to apply coercive measures, such as a fine or a penalty payment. The positions of the chancellor of justice are ensured, in particular, with his/her authority (Eesti Vabariigi põhiseadus, kommenteeritud väljaanne, 2017).

8 Financial resources of local authorities and financial transfer system

Upon the restoration of local self-government in Estonia, one of the main disputes with the then leaders of the communist party and the state regarding the local administrative system was the term "local self-government," which had existed in the independent Republic of Estonia prior to the Soviet occupation in 1940. However, party functionaries accepted it easier than the provision in bills that the local governments (rural municipalities and cities) have independent budgets. That very principle shattered the central management system run from Moscow and allowed the application of the subsidiarity principle. Independent budgets of the local governments received a constitutional guarantee with the 1992 Constitution (Article 157).

The main sources of revenue for the local budget are as follows:

1) Personal income tax – a certain percentage of it is received in the budget of the rural municipality or city where the individual's official residence is;
2) Land tax – 100% of it is received in the local budget, and the local council has the right to set the tax rate anywhere between 0.1% and 2.5% of the land's taxable value;
3) A proportion of the tax on extraction of natural resources (oil shale, sand, gravel, etc.), fees for special use of water, a proportion of the pollution charge and compensation for pollution damage.

More substantial funds from the state budget are allocated to the local governments through the local government equalization fund (90 million euros in 2018) and the local government support fund (424 million euros in 2018).

The purpose of the equalization fund is to provide the local governments with uniform conditions for the performance of local government tasks without establishing any conditions for the use of the resources. The distribution of the resources from the equalization fund is based on the personal income tax and land tax accruing to the local budget, as well as the number of local residents and other peculiarities of each local government.

The support fund comprises resources for the types of special purposes designated by law that allows the local governments to cover teachers' salaries, provide free lunch at general education schools, pay subsistence benefits and needs-based family allowances to disadvantaged families, and maintain local roads.

The support fund is a means of paying the local governments specific-purpose subsidies under conditions specified in the law or a means of paying specific-purpose subsidies from the state budget that are distributed only on the basis of set figures.

Throughout the period since the restoration of independence in 1991, personal income tax has had a leading role in the revenue base of local budgets (accounting for more than half of their income). Over time, there have been fundamental changes in the proportions.

Table 2: The distribution of personal income tax between national budget and local budgets (*26%=100%)

Year	Personal income tax (%)	To national budget (%)	To rural municipality or city budget (%)
2003 (and before)*	26	44	56
2004	26	14.6	11.4
2005	24	12.4	11.6
2006	23	11.3	11.7
2007	22	10.1	11.9
2008	21	9.07	11.93
2009	21	9.6	11.4
2010	21	9.6	11.4
2011	21	9.6	11.4
2012	21	9.6	11.4
2013	21	9.43	11,57
2014	21	9.40	11,60
2015	20	8.40	11.60
2016	20	8.40	11.60

Year	Personal income tax (%)	To national budget (%)	To rural municipality or city budget (%)
2017	20	8.40	11.60
2018	20	8.14	11,86

According to Article 154 of the Constitution, obligations may be imposed on the local government only by law or by agreement with the local government, which is undoubtedly a right constitutional guarantee of municipal autonomy. However, the local governments and their associations have often criticized the fact that the central government institutions (including the parliament) do not observe Article 154, which explicitly states that the expenses related to performing government tasks imposed on the local governments by law must be covered from the state budget.

The relationship between the central and local governments regarding the issue was particularly tense ten years ago when during an economic crisis in 2008, state budget allocations to local budgets were cut with a negative supplementary state budget (e.g. the proportion of personal income tax transferred to local budgets was reduced from 11.93% to 11.4%). From the point of view of local economic autonomy, a very important drawback is the very small share of local taxes in local budgets (Reiljan & Timpmann,2010; Friedrich, Reiljan, & Nam, 2010).

In 1994, the Co-operation Assembly of national local government associations was formed. The Assembly, among other things (and mostly), began to hold negotiations with Government delegations on the issue of annual financing of the local governments from the state budget. Major disputes took place due to cuts in local budgets in 2008. However, the national discussions did not unfortunately help and, therefore, the delegations of the Association of Estonian Cities and the Estonian Association of Municipalities turned to the Congress of Local and Regional Authorities of Europe (CLRAE) in May 2009. The associations protested against the cuts in state budget allocations in February 2009 and requested a monitoring visit to Estonia to determine whether the activities of the Estonian central government complied with the provisions of the European Charter of Local Self-Government, and to obtain the position of the Council of Europe.

In April 2010, the CLRAE delegation visited Estonia. At the same time, Tallinn City Council filed a complaint with the Supreme Court regarding the reduction of the city budget revenues. A month before the visit of the CLRAE delegation, on 16 March 2010, the Supreme Court made a very important ruling which protects the interests of the local governments (Riigikohus, 2010), which stated the following:
"The court declares unconstitutional the failure to give legislative acts that:

1. Specify which obligations imposed on the local governments by the law are self-government functions and which are government ones;
2. Distinguish between the funds allocated to the local governments for resolving and organizing local matters, and the funds allocated to them for the performance of

government functions, as well as provide the financing of government obligations, which are imposed on local governments by the law, from state budget. "

At the session of the CLRAE Chamber of Local Authorities held 26-28 October 2010, Recommendation 294 (2010) on Local Democracy in Estonia (CLRAE, 2010) was approved, which was also apprised of by the Council of Europe's Committee of Ministers in November the same year. The recommendations highlighted, for example, the need to quickly amend national legislation in order to channel most of the financial resources to the local government level in order to bring the financial resources into line with the obligations imposed on the local governments with the Estonian Constitution and other laws, and to allow the local governments to generate income from local taxes (EMOL web page).

In addition to the directly elected council, one of the most important features of local self-government is the right to impose local taxes, which is found in both the European Charter of Local Self-Government (Article 9) and the Constitution of the Republic of Estonia. Pursuant to Article 157 of the Constitution, the local governments have the right to impose and collect taxes, and impose duties on the basis of the law. The introduction of the taxes is regulated by the Local Taxes Act[p], which allows the local council to levy up to eight local taxes.

It is interesting to note that Estonia's first constitution, the Constitution of 1920 granted local governments the right to impose local taxes, and the 1938 Cities Act allowed local councils to levy up to 26 local taxes.

Today, the share of local taxes in the local revenues in Estonia is among the smallest in Europe (accounting only for a few percent of local revenues). Regrettably, the number of types of local taxes has been reduced over time. At the turn of the century, head tax and local corporate income tax were abolished. In 2010, boat tax and sales tax, that many local governments had imposed somewhere in the mid-1990s, were excluded from the list of local taxes. The city of Tallinn, which had been politically opposed to the central government, had decided to collect boat and sales taxes, and the parliament decided for political reasons to exclude them from the list of local taxes. The only new local tax to have been imposed since 1994 is the parking fee which was introduced in 2002 and is the biggest local tax in terms of volume. In accordance with the Local Taxes Act, the local governments have also the right to impose advertising tax, motor vehicle tax, road and street closure tax, animal tax and entertainment tax[p].

The local council has the right to take out loans both domestically and from abroad. There are restrictions prescribed by law that the total amount borrowed (with interest) must not exceed 60% (formerly 75%) of the budget of the year when the loan is taken out, and no repayment of a loan may exceed 20% of the budget of the year when the loan is taken out.

Nearly half of the local expenditure is related to the provision of educational services (kindergartens, schools), and a third is related to the provision of services related to the maintenance of local roads and recreational activities. General administrative expenses (including debt servicing) and, for example, social expenses account for less than 10% of the local expenditure.

The Local Government Financial Management Act is the framework law in local financing[y]. The Act establishes the principles for the drawing up, adoption and implementation of local budgets as well as the princilples for financial reporting; it also lays down measures to ensure financial discipline in local government financial entities, the principles of the procedure for implementing financial discipline measures and the principles of the procedure for eliminating a difficult financial situation.

The willingness of residents to pay local taxes in order to exercise local self-government and provide local services is a significant indicator of the performance of the local self-government institution. "The smaller the share of the local financial resources that is generated from local taxes, the less likely it is that residents are prepared to exercise local self-government" (Põllumäe, 2008). Thus, capable local governments, whose tax revenues enable them to provide services to residents through more diverse organizational units and offer more capable management, have a higher number of different administrative bodies. Every year, the delegations of the national local government associations' Co-operation Assembly and the Government hold negotiations and try to find compromises.

9 Local authorities' right to associate

Estonia has abundant experience in local government cooperation, in terms of both legal and practical cooperation. Historically, two nationwide local government associations have operated in Estonia. The Association of Estonian Cities was founded in 1920 (Mäeltsemees et al.,1995:13). The Association of Municipalities of Estonia was founded in 1921. The associations were active participants in the development of the local government sector at home and in international cooperation. Both associations were liquidated when the Soviet occupation began in 1940 (Lääne et al., 2015:31).

Together with the restoration of the statehood of Estonia, the associations were restored in 1989-1990 following the principle of legal continuity. The legal basis for the operation of the associations was laid down in Estonia's first law on local self-government of the period – the Local Self-government Foundation Act (Lääne et al., 2015:117). In the first few years, the associations took very active part in rebuilding the state and the local self-government system, as well as in restoring and developing Estonia's international relations (Lääne et al., 2015:43-52). For example, the decisions made at meetings of the general assembly of the Association of Cities influenced the Constitution's chapter on local self-government and other legislation, as well as the implementation of an administrative reform. Representatives of both associations were invited to become

members of a number of key national bodies. Another national association was founded in 1990 (Lääne et al., 2015:41). Starting in 1991, county (regional) local government associations were established. In 1993, the Union of Estonian Local Government Associations was established (Ludvig, 2003). By the time, the national association founded in 1990 had practically ceased to function. The local government associations have played and will play a major role in local life and will also affect the effective functioning of the state.

The compliance with Article 10 (1) of the Charter has generally been ensured in Estonia by the functioning legal system and active practical operation of the associations. The adoption of the Constitution in 1992 was a very important step in the legal regulation of the associations' activities. Article 159 of the Constitution stipulates as follows: "A local authority has the right to form associations and establish joint agencies with other local authorities." The subsequent development of the legal environment took into account both the constitutional provision and the relevant norms of the Charter. The principles of the organization of the associations' activities are set out in detail in the Local Government Organization Act and in the Local Authority Associations Act[m].

The exercise of administrative supervision is not administrative interference.

According to Article 12 of the Local Government Organization Act, the local governments have the right to form associations and joint agencies with other local governments based on and pursuant to the procedure laid down in legislation. Article 62(1) Loval Government Organization Act stipulates that to express, represent and protect common interests and to perform common tasks, the local governments may 1) cooperate; 2) delegate powers to another local government for this purpose; and 3) form local government associations and other organizations. Article 62(2) provides that, in the case of such co-operation, the local governments may conclude contracts to found joint agencies. According to Article 63, the local governments may establish county and national associations pursuant to the Local Government Associations Act that also regulates their operations. The Local Government Associations Act is a lex specialis adopted in 2002. Article 1 of the Act specifies differences in the establishment and operation of a county or district association and the national associations compared with the provisions of the Non-profit Associations Act. The Act provides in detail the legal basis, tasks and organization of activities of county and district associations and the national associations. It is important to note, however, that the legal status of the associations has been a topic of many a discussion. The Constitution and laws allow the local governments to be members of an association but do not say that it is mandatory. In spite of the importance of the associations, for various reasons, several local governments are neither members of a county association nor a national one. In the current situation, the associations are non-profit organizations of a specific type, but many politicians and academics have repeatedly proposed administrative reform plans and turning the associations into public ones, thereby further increasing their importance in the development of local self-government. (Ludvig et a., 2017:116-130). Making the

membership compulsory has also been under discussion, in particular considering the fact that the local governments perform public-law functions.

From the point of view of the development of cooperation between the local governments and the associations, the 1994 nationwide conference of the local governments was an important event. National and local leaders, leaders of the associations and academics tried to formulate common positions to ensure the development of the local self-government system and further cooperation. Based on the decisions of the conference, the cooperation assembly of the national associations was set up and annual negotiations between the Government and the cooperation assembly were launched. At the same time, however, not all decisions were carried out.

A cooperation network established by NGO Polis in 2004 has become a key forum for discussing matters important for the development of the state and local self-government. The network comprises representatives of the local government associations, several state institutions such as the parliament and several ministries, as well as representatives of universities, embassies of other countries, the Representation of the European Commission in Estonia, the Nordic Council of Ministers' Office in Estonia, and other organizations. The network has organized several conferences and forums. Together the network helped organize a discussion in parliament on state-local partnership as a matter of national importance 30 September 2010. The co-operation has continued in various forms with new opportunities and the international dimension emerging. Joint forums have been held, for example, focusing on various aspects of the EU Baltic Sea Strategy. The international forum organized by the cooperation network at the University of Tallinn in March 2010 focused on research-based regional and local governance, and cooperation, and had special resonance (Sootla&Lääne, 2010).

The general assembly of the local governments held at Tallinn University of Technology 31 March 2012 was another significant event. The assembly had been convened by two national local government associations and the leaders of all 15 county associations. Issues concerning local life and development of the local governments were on the agenda: A reform of regional administration and local self-government, i.e. a change in the country's administrative organization; priorities of the local governments for the new budget period of the European Union (2014-2020); the financing of the local governments and the county associations. After a thorough discussion, the declaration of the general assembly was issued.

The local government associations are, by nature, a bridge between the local and central governments, representing the interests of the local governments and thus giving the extra power to the local level. The so-called cooperative associations play a significant role in harmonizing differences between the local governments and in facilitating joint activities. In Estonia, the local government associations predominantly have the coordinating and planning role, and aim at developing regional, nationwide and international cooperation, while also acting in the advisory capacity. The purpose of the associations is, above all,

to support the local governments. Unlike in Finland, Sweden, Denmark and Germany where cooperative associations have quite a lot of public tasks delegated to them, the cooperative associations predominantly represent the local governments in Estonia, although it has been under discussion whether the national associations ought to be granted, for example, the statutory status of an employer. The Association of Municipalities recently started to offer information technology-related services and the services will be provided under the new association, too.

The annual negotiations between the cooperation assembly and the central government are still important. Unlike on some occasion in the past, in recent years, increasingly more common ground has been found, and leaders of the associations and the public administration minister signed a protocol (Ludvig, 2017).

Local government conferences have become an annual event, and in 2017, the 14th conference took place. Politicians, officials and experts take floor at the conferences. A discussion of representatives of political parties has also become a tradition.

Assemblies of the local governments have become a new form of cooperation on the initiative of NGO Polis. The first assembly of the local governments took place in the parliament building 4 October 2016, and the second one convened in Tallinn 26 September 2017. A bill introducing 1 October as the day of local self-government and making it a national holiday is currently discussed in the parliament. The idea was proposed by the Polis network and supported by the participants of the second assembly of the local governments (The Bill on Amendments to the Holidays and Anniversaries Act, 2018)

International and transnational cooperation of the Estonian local governments and their associations has become increasingly more comprehensive, especially since Estonia joined the Council of Europe and the European Union. The national associations participate in the work of the Committee of the Regions of the European Union that enables local and regional representatives to contribute to the drafting of EU legislation, to promote the implementation of the subsidiarity principle and to be in contact with EU institutions. The Estonian associations take an active part in CLRAE activities. The local governments and their associations have an opportunity to participate in international projects and establish twinning relationships. The associations and the city of Tallinn have a representation in Brussels in order to stay in touch with EU institutions. Representatives of the Estonian national associations are members of the Council of European Municipalities and Regions (CEMR), which is at the forefront of the twinning movement. The Association of Estonian Cities is a member of the Union of Baltic Cities (UBC), which furthers cooperation between member cities. The associations are also active participants in the political network of the Baltic Sea States Subregional Cooperation which promotes co-operation in various policy fields, such as transport, culture and sustainable management.

In addition to the Constitution, the Charter and the above provisions of the Local Government Organization Act, Article 13 of the Act forms the legal basis for the international cooperation pursued by the local governments and their associations:

> "(1) Councils, executive boards and administrative agencies have the right, within their competence, to cooperate with all other local governments outside of Estonia and enter into contracts with them. Administrative agencies shall inform the council of such cooperation.
> (2) Local governments have the right to become members of international organisations and to co-operate with such organisations.
> (3) In relations with international organisations, a local government is represented by the council or representatives appointed by the council.
> (4) Contracts which are to be entered into are subject to prior review and approval by the council if performance of the contracts involves expenses from the local government budget or other proprietary obligations are assumed. "

In this case, the levels of the power vertical are the level of the European Union, the central government and the local government levels. By ratifying the Charter, the state has granted certain rights to the local governments and guaranteed them (including the right to establish associations). However, Article 10 of the Charter does not make the Council of Europe a separate level of the power vertical. The European Union can be regarded as a level of the power vertical because the European Union directly affects the performance of regional and local tasks, for example through the EU Structural Funds. Receiving the funding for projects from the Structural Funds requires expertise and financial capacity, which many small local governments lack, and it has pushed the local governments to cooperate in Estonia just like in Germany (Benz& Zimmer,2012; Sootla&Kattai,2012). This is also encouraged by domestic legislation, for example, by the Local Government Organization Act. Still, the impact of CRLAE and the Charter on the Estonian local governments and their associations as well as on their cooperation is significant. The first contacts with the Council of Europe emerged already in 1990, and the role of the associations was very big; unions were among the first to contribute to the restoration of Estonia's independence in international contacts. The rapid development and effective co-operation of the Estonian local self-government system is well illustrated by a conclusion from the final report by then CLRAE President Lucien Sergent, published in the Forum magazine in July 1991 following his visit to Estonia, which noted that the local governments in Estonia already operate very democratically. (Lääne et al., 2017). CLRAE and its monitoring visits have played an important role in the process. For example, the report drawn up by CLRAE after a monitoring visit in 2000 recommended that Estonia strengthen the local government associations in order for them to be able to represent the shared interests of the local governments; the local governments can then better coordinate co-operation, especially when participating in negotiations with the central government. At the same time, the rapporteurs found that Estonia should ratify the European Convention on Transfrontier Co-operation at the earliest opportunity (CLRAE, 2000). Also, the report suggested that the national associations should consider merging in order to better coordinate activities and to increase overall capacity. The 2010

monitoring visit regarding Article 10 did not find any shortcomings in Estonia (CLRAE 2010). The Estonian local governments have worked together through CLRAE to resolve differences with the central government regarding local income base. The report of the 2017 monitoring visit states that the cooperation between the Estonian and Russian local levels is spot on – meaning that the issue raised in the 2000 report has been resolved. It is also noted separately that the information gathered during the monitoring visit, including opinions of local representatives, did not indicate in any way that there were problems with implementing Article 10 of the Charter (CLRAE, 2017). Transnational cooperation has always been considered very important in Estonia – this was the case prior to 1940, and it has been the case since the restoration of independence. For example, from 1989 onward, there was a sudden surge in the twinning movement in the local governments and the associations helped coordinate the process. Over the course of a single year, more than 100 local governments found partners in Finland while previously the number of twin local governments had been six. Also, mutual visits between national associations took place – initially, it was largely an educational experience for the Estonian party. The first meeting of the Estonian-Finnish Twin Cities was planned to be held in Pärnu, Estonia in August 1991. It came to an end prematurely because there was a coup attempt in Moscow at the same time (Lääne et al.,2017). Cooperation with local governments and their associations in Sweden, Denmark, Germany, Latvia, Lithuania, the Netherlands, Poland, Hungary, the United States and several other countries became very close. Cooperation has become increasingly closer over the years and involves a number of new countries and fields. Cooperation with the neighboring countries and throughout the Baltic Sea region remains particularly close. For example, in January 2018, Finland's Ambassador to Estonia Kirsi Narinen introduced a new local government cooperation initiative and there are plans to hold another meeting of the local governments of the two countries in Pärnu. The establishment of a new nationwide Association of Cities and Rural Municipalities 28 February 2018 will provide an even better opportunity for cooperation between the local governments seeing that the objective of the association is to represent and protect the members' common interests and to contribute to the general development of local self-government.

10 Legal protection of local self-government

The local governments can challenge violations of their constitutional guarantees. The institutions indirectly protecting the local governments are as follows: The president of the republic (Article 107 of the Constitution), the chancellor of justice (the cases stated in Article 142 of the Constitution and supervision over constitutionality of international treaties) and administrative courts (Article 152 of the Constitution). The president may initiate a constitutional supervision procedure if he/she finds that a law is unconstitutional. The chancellor of justice, finding that a regulatory act of the legislator or an executive authority is unconstitutional or does not comply with the law, makes a proposal to the body which passed the act to dispose of the contradiction. If it is not done, the chancellor of justice will refer the matter to the Supreme Court which may declare the instrument invalid.

The local government may seek protection of an administrative court if an administrative act (i.e. an individual act issued in a legal relationship determined by public law) of a state body (generally – an administrative body), a contract under public law (an agreement which regulates administrative law relationships) or a measure (an act performed by an administrative authority which is not an issuing of a legal act and which is not performed in civil law relationships) is in violation of its constitutional guarantees. Administrative courts are competent to decide on disputes arising in public law relationships. According to the Code of Administrative Court Procedure (Article 44 (4)), a local authority may bring an action against another public authority for the purpose of protection of its rights, including the right of ownership and any rights arising from public law contracts. Section 5 of the same paragraph stipulates that a local authority may also bring an action if an administrative act or a measure of another public authority significantly hinders or complicates the performance of the duties of the local authority[38&39]. The Supreme Court has established the following:

- The right of the local government to turn to an administrative court in order to seek annulment of decisions or have measures regarding environmental matters declared unlawful must be recognized if the decisions or the measures may substantially affect the local government's ability to manage local life and resolve local matters and, consequently, affect the local government's opportunities to perform the tasks that are inherently self-governmental in nature[40];
- In order to control violations of the local government's right to self-management, the provisions regulating the right to take legal action over an order issued by the Government to grant a permit to carry out a general geological survey, an exploration permit or an extraction permit despite the local government's opposition, must be intepreted so that the order may be challenged separately from the final administrative act[18]. Such an interpretation provides the strongest protection of constitutional values[41];
- If the resources to finance self-governmental tasks fall below the minimally necessary level in a local government, the local government may turn to the state and apply for additional financial resources, and if no additional resources are allocated, the local government may take legal action against the state by taking the matter to an administrative court (Article 44 (5), CACP). The administrative court may look into the constitutionality of the provisions regulating the financing of the local governments during these proceedings[42];;
- Although no relevant special regulations have so far been enacted, the court does not consider it reasonable that executive bodies continuously settle their financial issues in court when relevant court rulings exist. Therefore, more economical internal administrative procedures must preferably be used to settle such matters[43&44].

Pursuant to Article 14 of the State Liability Act, the local government may file a claim for compensation in an administrative court of first instance and seek the failure to pass a regulatory act to be declared unconstitutional if, beacuse of the said failure, the local government has not been provided minimal necessary financial resources, it has been

allocated insufficient resources from the state budget for the performance of national tasks, or damage has been inflicted on the local government in some other way.

The options available to the local governments to protect their rights by going to court are substantially widened under Article 7 of the Constitutional Review Court Procedure Act. The Article establishes the right of the local councils to ask the Supreme Court to declare a promulgated but not yet enforced law or a not yet enacted regulation of the Government or a minister to be in conflict with the Constitution, or to repeal an enacted law, a regulation of the Government or a minister or a provision thereof, if it is in conflict with the constitutional guarantees granted to the local governments. The Supreme Court has estimated that Article 7 of the Act also enables the applicant to challenge the failure of a legislator to pass a regulatory act if this violates the constitutional guarantees of the local governments (e.g. a violation of financial guarantees by failing to allocate resources from the state budget for the performance of a national task).

If the submitted request meets the requirements established by law, the Supreme Court must handle it. The request is admissible under the following circumstances: The request seeks to protect a constitutional guarantee, the request is submitted by a local council, and the request seeks to challenge a regulatory act or provision(s) thereof.

Article 7 of the Constitutional Review Court Procedure Act grants the local council a limited right to initiate a constitutional review procedure. The council cannot ask the court to declare a legal act or its provision to be in conflict with just any provision of the Constitution but only with a provision which constitutes a constitutional guarantee of the local governments. If the provision which the local government's request is based on does not regulate a constitutional guarantee of the local governments, the request is inadmissible under Article 7 of the Act and, under Article 11 (2) of the Act, the court will not handle the matter[2].

The fact that Article 7 of the Constitutional Review Court Procedure Act limits the local governments' right to file a complaint by requiring that the claimant show a violation of the local governments' constitutional guarantees does not require the Supreme Court per se to check whether a regulation complies with a law as a legal act of higher rank (Constitution, Article 87 (6)), if the latter specifies the constitutional guarantees granted to the local governments. The legislator must also take into account the general principles of law when regulating relations between the local governments and the State. At the same time, the fact that some general legal principle was violated (e.g. a legal act is unclear) does not alone constitute a violation of the contitutional guarantees of a local government. If a local council requests that a legal act be declared invalid because the act is in conflict with the principle of legal clarity, the council has to explain how the lack of legal clarity affects a local governments' constitutional guarantee[46].

All local councils, which challenged the constitutionality of the Administrative Reform Act in the Supreme Court, claimed in their complaints that provisions of the Act violated

the constitutional guarantees of the local governments: The local governments' guarantee of individual legal personality provided in Articles 154 and 158 of the Constitution, and the financial guarantee established in Article 154[22]. In their complaints against the Government's regulation regarding compulsory mergers filed with the Supreme Court, the local councils challenged the provisions of the regulation which outlined the change in the administrative-territorial organisation, set boundaries of administrative units, and amended the list of administrative units, etc. The claimants believed that the regulation regarding compulsory mergers as a whole, or in some respect, violated the guarantees granted to the local governments under Articles 154 (1) and 158 of the Constitution (the right of self-management and the right to be heard respectively).

A decision of the local council to submit a request to the Supreme Court under Article 7 of the Constitutional Review Court Procedure Act must be adopted by a majority of votes of the entire council (Article 45 (5), the Local Government Organization Act). It is a position of the Supreme Court that the aim of the requirement set out in Article 7 of the Constitutional Review Court Procedure Act and in the relevant part of Article 45 (5) of the Local Government Organization Act is, above all, to ensure that the decision to turn to the Supreme Court has a stronger legitimation through a larger majority. It is also expected to avoid unsubstantiated complaints with the Supreme Court. Additionally, the provisions must ensure that the will of the council to turn to the Supreme Court is formed freely and in full knowledge of the content of the decision. This prerequisite deriving from the principle of democracy must also ensure that the request for constitutional supervision will not become an instrument of political struggle.

Also, Article 8 (1) of the Constitutional Review Court Procedure Act requires that the request for constitutional supervision must be motivated and constitutional provisions or principles, which the challenged legal act does not comply with, must be listed. The Constitutional Supervision Chamber of the Supreme Court is of the opinion that the requirement was also introduced in order to ensure that the councils take a vote in the appropriate manner on the content of the request and not just grant a general authorization to turn to the Supreme Court.

In order to decide whether to turn to court under Article 7 of the Constitutional Review Court Procedure Act, the council must vote on the final text of a complaint to be filed with the Supreme Court. The Supreme Court believes that such an interpretation helps avoid subsequent disputes over the issue of whether the final text is consistent with the will expressed in the authorization granted in advance.

An alleged violation of the local governments' constitutional guarantee must be committed in a regulatory act or the provision(s) thereof [47&48]. If it is alleged that a local governments' constitutional guarantee has been violated in an administrative act issued by a state body or with a measure taken by one, the administrative court is the court which will have jurisdiction in that case.

11 Future challenges of the implementation of the European Charter of Local Self-Government

Even before ratification in the parliament in 1994, the Charter played an important role in shaping the legal environment regulating local self-government. Articles 154-160 of the Constitution closely follow the principles of the Charter. After the ratification, Supreme Court rulings have often been based on the Charter, and the Charter has also been taken into account in legislation. CLRAE monitoring visits have contributed significantly to the development of local self-government. However, the implementation of several articles of the Charter, in particular Article 9, has been problematic. This is illustrated by Tables 3 and 4.

Previously, it was noted that, at the initiative of the academics studying local self-government at Estonian universities, a think tank, NGO POLIS, had been set up. The objective of the think tank is to analyze and discuss the most topical issues of the local governments and the regional level by involving politicians, officials and experts, e.g. by representing the local government associations, in order to find solutions to their problems and further develop levels of public administration. NGO POLIS submitted proposals to the political parties which formed the Government in autumn 2016 to be included in the coalition agreement. The proposals were discussed at the forum "Estonian State and Local Governments – 100 Years" held in the parliament's conference center 19 January 2018 with the parliament speaker, members of parliament, ministers, local leaders, representatives of local government associations and academics present (Truuväli et al., 2018).

The most noteworthy proposals of NGO Polis were as follows:
To develop the division of tasks between the state and the local governments with a view to significantly increasing the number of local government tasks, and to developing a relevant legal, political, organizational and financial system; to analyze the possibility of taking the experience of other countries into account, including through experiments and pilot projects.

To expand substantially the financial autonomy of the local governments; for example, by creating a system of local taxes.

To bring about a change in relations between the local governments and government institutions from competitive relations to cooperative ones by creating suitable conditions; to modernize the internal and external auditing and monitoring mechanisms.

To ensure balanced regional development of the country and slow down marginalization of remote areas.

To reorganize regional governance and management, and to reduce administrative fragmentation, improve regional coordination, and establish the necessary legal, political,

organizational and financial mechanisms; to ensure a balance between sectorial and territorial governance; to analyze the experience and possibilities of using relevant EU resources for local and regional development; to identify and analyze possible differences in the exercise of public authority in capital Tallinn and the surrounding area, and create an appropriate legal environment.

In co-operation with the efficiently functioning national local government association of extensive powers that was established 27 February 2018, to establish mechanisms for regional co-operation with a view of resolving common problems and representing regions (for example, by founding regional associations).

In co-operation with the central government and considering sectorial policies, to define the substantive role and responsibilities of the local governments in shaping the local business environment. For example, education and labor policies are key policies in ensuring a viable local government and regional policy. School management and provision of education have been core functions of the local governments since self-government emerged in Estonia.

In order to ensure sustainable development of the field, the central government must establish the following permanent institutional structures – the parliamentary development committee, a permanent government body and a competent consolidating think tank of local and regional development. The latter will bring together academics, politicians and experts. In co-operation with universities, a foundation must be laid to ensuring research-based governance, and local and regional development. To pursue closer cooperation with international partners.

To create an institutional and substantive capacity to analyze what is going on and predict what the world and the position of local governments will be like in the middle of the century, taking into account globalization and the development of information and communication technologies, the virtual world and electronic services. To involve representatives of different social groups, including young people, more extensively.

To ensure that the principles of democracy and decentralization are adhered to and the principle of subsidiarity is applied, while taking into account the provisions of the Constitution and the European Charter of Local Self-Government, and the historical experience in organizing open government; to involve the local governments and their associations, universities and representatives of the third sector in the shaping and implementation of regional and local self-government policies.

The above basic principles of development need to be clarified and further developed, taking into account the Charter and CLRAE monitoring visits to Estonia. It is also necessary to develop the existing cooperation network, for example, by involving more foreign partners. Since the 1990s, founding a research, training and development center for the field has been on the agenda. In a situation where the Government and the

parliament have accepted the proposal of the first and second assemblies of the local governments to declare 1 October the day of local self-government, the establishment of the center has become especially topical. The establishment of the center along with a regular celebration of the local self-government day will enable us in a more systematic and dignified manner to celebrate the role of local self-government as a constitutional institution in the creation, restoration and development of the Estonian State. It would also provide a better opportunity to explore the nature of local self-government and to better understand the principles of the Charter, as well as to speak about the problems and activities of the field in order to more effectively involve the entire society in meeting current and future challenges. The day of local self-government would provide a good opportunity to organize various events all over the country – wherever local self-government is exercised. For example, to mark the day of local self-government, an assembly of the local governments will be convened in a different local government every year. The assemblies will address previously agreed topics, and relevant government institutions and other interested parties will be involved in the preparatory work. It would be appropriate if the events marking the day of local self-government would celebrate significant national or local self-government-related occasions, which would further emphasize the meaning of the day and increase its impact. It would be up to organizers to decide which occasion to celebrate.

It goes without saying that this would catch the attention of the entire society and the media, which in turn would bring about a better understanding of the nature and problems of local self-government, as well as contribute to resolving the problems. It is important to raise the society's awareness of local self-government and this way offer people more opportunities to be involved in the work of democratically functioning local governments.

Today, the responsibility of the local governments is increasing and, in the context of the administrative reform, new challenges await us. A number of important changes to the local self-government system is still needed to ensure the more democratic functioning of the society and the delivery of more efficient services. This requires willingness of various branches of public power as well as private and third-sector representatives to cooperate.

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[n] Eesti territooriumi haldusjaotuse seadus,1995
[o] Riigikohtu halduskolleegiumi otsused 1997, 1998
[p] Kohalike maksude seadus, 1994
[q] Avaliku teenistuse seadus, 1996
[r] Vabariigi Valitsuse seadus, 1995
[s] Halduskoostöö seadus,2003
[t] Asendustäitmise ja sunniraha seadus, 2001
[u] Planeerimisseadus, 2015
[v] Riigikontrolli seadus, 2002
[w] Õiguskantsleri seadus, 1999
[x] European Convention for the Protection of Human Rights and Fundamental Freedoms
[y] Kohaliku omavalitsuse üksuse finantsjuhtimise seadus, 2010

Court Decisions (https://www.riigikohus.ee)

[1] The 8 June 2007 ruling of the CRChSC, No 3-4-1-4-07, point 12, The 8 June 2007 ruling of the CSChSC, No 3-4-1-4-07, points 15, 25 and 14.
[2] The 16 March 2010 ruling of the SC en banc, No 3-4-1-8-09, points 53, 57, 63-64 and 137.
[3] The 16 January 2007 ruling of the CSChSC, No 3-4-1-9-06, point 20.
[4] The 14 October 2015 ruling of the CSChSC, No 3-4-1-23-15, points 74-81 and 86.
[5] The 9 June 2009 ruling of the CSChSC, No 3-4-1-2-09, point 49, The 9 June 2009 ruling of the CSChSC, No 3-4-1-2-09, points 33, 34, 44-45, 49.
[6] The 3 December 2007 and 16 March 2010 rulings of the SC en banc, No 3-3-1-41-06, point 22; No 3-4-1-8-09, point 160.
[7] The 22 December 2009 ruling of the CSChSC, No 3-4-1-16-09, points 35, 37, 39-40.
[8] The 22 December 1998 ruling of the CSChSC, No 3-4-1-11-98, part II.
[9] The 30 June 2009 ruling of the CSChSC, No 3-4-1-12-09, points 27-28.
[10] The 19 March 2009 ruling of the CSChSC, No 3-4-1-17-08, point 21.
[11] The 19 February 2010 ruling of the CSChSC, No 3-4-1-13-09, point 22.
[12] The 1 April 2010 ruling of the CSChSC, No 3-4-1-7-09, point 27.
[13] The 11 August 1993 and 6 September 1993 rulings of the CSChSC, No III-4/1-2/93 and III-4/1-3/93.
[14] The 9 February 2000 ruling of the CSChSC, No 3-4-1-2-2000, point 20.
[15] The 8 June 2010 ruling of the CSChSC, No 3-4-1-1-10, point 41.
[16] The 13 June 2005 ruling of the CSChSC, No 3-4-1-5-05, point 21.
[17] The 29 September 2009 ruling of the CSChSC, No 3-4-1-10-09, point 19.
[18] The 30 September 2009 ruling of the CSChSC, No 3-4-1-9-09, point 25.
[19] The 19 January 2010 ruling of the CSChSC, No 3-4-1-13-09, point 27.
[20] The 28 October 2014 ruling of the CSChSC, No 3-4-1-26-14.
[21] The 6 January 2015 ruling of the CSChSC, No 3-4-1-34-14, point 47.
[22] The 20 December 2016 ruling of the CSChSC, No 3-4-1-3-16, points 112, 120 and 186.
[23] The 9 November 2017 ruling of the CSChSC, No 5-17-8.
[24] The 2 December 1994 ruling of the CSChSC, No III-4/A-8/94.
[25] The 15 March 2006 ruling of the ALChSC, No 3-3-1-78-05, point 12.
[26] The 19 April 2004 ruling of the SC en banc, No 3-4-1-1-05, points 17 and 18.
[27] The 16 May 2017 ruling of the CSChSC, No 3-4-1-11-16.
[28] The 21 February 2003 ruling of the CSChSC, No 3-4-1-2-03, point 13.
[29] The 29 September 2009 ruling of the CSChSC No 3-4-1-10-09, point 19.
[30] The 28 April 2014 ruling of the ALChSC, No 3-3-1-52-13, point 34.
[31] The 29 May 2006 ruling of the ALChSC, No 3-3-1-23-06, point 15.
[32] The 17 November 2003 ruling of the ALChSC, No 3-3-1-74-03.
[33] The 25 November 2003 ruling of the ALChSC, No 3-3-1-70-03.
[34] The 15 May 2013 ruling of the ALChSC, No 3-3-1-76-12, point 14.
[35] The 27 November 2014 ruling of the CSChSC, No 3-4-1-53-14, points 31-34.
[36] The 30 November 2010, ruling of the CSChSC, No 3-4-1-17-10, points 14, 18 and 27.
[37] The 16 May 2017 ruling of the CSChSC, No 3-4-1-11-16.
[38] The 16 February 2015 ruling of the ALChSC, No 3-3-1-41-13, point 14.
[39] The 20 April 2016 ruling of the ALChSC, No 3-3-1-74-15, point 13.
[40] The 28 February 2007 ruling of the ALChSC, No 3-3-1-86-06, point 16.
[41] The 22 February 2005 ruling of the Supreme Court en banc, No 3-2-1-73-04, point 36.
[42] The 14 October 2015 ruling of the CSChSC, No 3-4-1-23-15, point 92.
[43] The 12 January 2016 ruling of the ALChSC, No 3-3-1-41-15, point 21.

[44] The 17 February 2016 ruling of ALChSC No 3-3-1-38-15, point 15.
[45] The 16.03.2010 ruling of the Supreme Court en banc, No 3-4-1-8-09, point 45.
[46] The 15.12.2008 ruling of the CSChSC, No. 3-4-1-14-08, point 29.
[47] The 21.02.2003 ruling of the CSChSC, No 3-4-1-2-03, point 12.
[48] The 15.12.2008 ruling of the CSChSC, No 3-4-1-14-08, point 28.