

## Local Self-Government in Lithuania

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**Abstract** Lithuania is a parliamentary democracy and a decentralised unitary state. In 2018 on 16th of February country celebrated 100 years of the birth of modern Lithuania. In 1918 there was established an independent, modern state of people, which had to be ruled by democratically elected government. Since June 1940 country was occupied by the Soviet Union. Lithuania restored its independence on 11 March 1990. Nowadays Lithuania has the population of 2.8 million (2019) and the territory of 65 300 km<sup>2</sup>. Lithuania has got one tier local government system. It consists of 60 local authorities or *municipalities*. Lithuania has constitutional basics of local government, local government are regulated in the Law on Local Government, and European Charter of Local Government was signed in 1996 and ratified in 1999 without reservations. The chapter present brief historical development of local self-government in Lithuania, describes constitution, legal, administrative, financial and other local self-government issues, paying attention to such local self-government dimensions as responsibility, right to associate and protection. Also there are presented future challenges of the implementation of the European Charter of Local Self-Government in country.

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

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## 1 Introduction and history

Lithuania is a unitary state, administratively divided into 10 counties (or lith. “apskritis”) and 60 municipalities (or lith. “savivaldybė”). There is one-tier of self-government in Lithuania. The right to self-government for municipalities is guaranteed by the Constitution of Lithuania. By a decision of the local Council municipality can be administratively divided into smaller territorial units wards (or lith. „seniūnija“). There are 545 wards. The ward is headed by a civil servant – the elder (or lith. “seniūnas”) appointed by the director of the municipal administration. “Seniūnija” is divided into a “seniūnaitija” (ward or neighborhood) with directly elected volunteer “seniūnaitis”.

The history of local self-government began more than 600 years ago. Vilnius, the capital of Lithuania, obtained the right to self-government in 1387 through the Magdeburg Rights, which spread throughout Lithuania. Such self-government established the right of towns (in the fight with the feudal lords) to have their own figure of authority (the magistrate) and a separate court consisting of the jury elected by the townspeople.

In 1795 m, the Polish-Lithuanian Commonwealth was divided among Austria, Russia and Prussia. The bigger part of Lithuania went to the empire of Russia. Governance was quickly reformed to follow the Russian model. In 1808 Lithuanian cities Vilnius and Kaunas began to be governed by *dumas* (Councils). The functions of *duma* were not extensive: they were to maintain order, stimulate business, care of city property. Some problems related to city management were solved by other institutions, e.g., the governor, police, etc. In 1876 the regulations of cities entered into force that replaced the order of elections to the self-government organs. The city Council (*duma*) was elected not by the representatives of castes but by the owners of property. The *duma* was elected for four years term of office. City residents being 25 or older, who owned real estate in the city and paid taxes to the city treasury had the right to vote. In 1892, Czar Alexander III affirmed new city regulations that rather limited the rights of city self-government, and the number of electors having the right to vote decreased.

In 1861, the occupied Lithuanian territory was divided into administrative territorial units or townships, each having a caste-based form of self-government with an assembly, a Council and a court. Only peasants belonged to the townships municipalities. The nobility solved its matters separately: from 1566 to 1863 the institutions of noblemen’s local self-government functioned – assemblies of counties’ noblemen (Šaparnienė, Lazauskienė, 2012: 389).

After the World War I, the sovereign state of Lithuania was restored in 1918. Administrative division remained similar to the previous ones: counties were divided into townships. Self-government existed at two levels: both county and township Councils were elected. Depending upon their size belonged to either counties or townships. In 1919 the Law on Local government was adopted, establishing modern, democratic self-

government. Municipal Councils were elected in a democratic way – the elections were general. Townships' Councils were elected directly by residents and counties' Councils were elected by a secret ballot by the members of townships' Councils. In accordance with the Law on Municipalities in 1929, one representative of each ward was elected to the township's Council. Qualification elections were established (not only the qualifications of principle of territoriality of benefits, age were applied but education and property qualification as well); however, self-government institutions remained although their autonomy was constricted. Local self-government was provided for in 1922, in 1928 and in 1938 in the Constitution of the Republic of Lithuania (Šaparnienė, Lazauskienė, 2012: 390)

In 1940, when Lithuania was occupied and incorporated into the Soviet Union, the constitutional institute of local self-government was abolished. Municipalities did not have any independence. Institutions of local governance became not a part of citizens' self-government, but a part of central governance system, i.e. institutions that implemented the decisions of the highest central governance and the directives of a single legally operating communist party (Šaparnienė, Lazauskienė, 2012:390).

In 1990 the independence of Lithuania was restored. The territorial administrative network remained the same as the one under the Soviet regime, except that the elections to the institutions of local self-governance were democratic. Through the Law on Basics of Local Self-government, a two-tiered system of local government was established, with a higher tier consisting of 44 districts, 12 towns of the Republic and a lower tier consisting of 80 district towns, 19 settlements of town's type, and 427 wards. Councils of wards and districts and towns were elected, and a executive government was formed (Šaparnienė, Lazauskienė, 2012:390).

The system of institutions of local self-government established in 1990 functioned till 1995. In July 1994, a new Law on Administrative-Territorial Units and their Boundaries (1994, No. I-558) replaced the former system consisting of 581 administrative units with a new system consisting of 66 territorial units: 10 counties and 56 municipalities (44 municipalities of districts and 12 municipalities of cities and towns). For the first time in Lithuania a single-tier system of self-government was created. Counties became de-concentrated State authorities, headed by centrally appointed governors. In 2010, another county reform was carried out. All the administrative functions have been removed from the counties and re-distributed to either central or local government. Regional Development Councils (composed of municipal Councilors) were established in each county, claiming the right to make decisions on key issues for each region.

Since the 1990 the self-government system has been changed many times and many laws have been passed, various legislative provisions have been often adjusted and shifted. Even just the laws on Municipal Council Elections and Local Self-Government have been amended almost 100 times, excluding other laws and secondary legislations.

In 1994 a proportional election system was introduced. This system wanted to provide the conditions for the parties to get stronger, as well for allowing for the preconditions for creation of party. Improvement of the municipal Council election system manifested itself in the changes to the duration of the term (from two to four years) and the introduction of the rating of candidates. The voting structure was modified before the election in 2000: the closed structure of the list was changed to open, allowing the voters to choose not only the party's list but also specific candidates in it. In the 2000 election, 3 candidates could be rated, while from 2003, it is possible to rate 5 candidates. In this way, the voters could influence the order of the list's candidates. When applying this principle, there were cases when in some lists a candidate moved up by several or even several dozens of positions.

However one of the fundamental changes of the municipal election system was the permitting nominations of candidates not only by the parties but also by independent candidates (election in 2011) and by public election committees (from 2015). These amendments were made in accordance with the ruling of the Constitutional Court (2007), which acknowledged that the fact that the law has not determined that people may be elected to municipal Councils and be included in lists of candidates made not by political parties is contrary to the Constitution of the Republic of Lithuania.

One of the changes in the election system was related to the principle of incompatibility of duties, i.e. persons who can be nominated but cannot get a mandate when elected. Candidate holding the office incompatible with the office of municipal Councilors (e.g. the post of a career civil servant or an employee working under the employment contract at the secretariat of the Council of that municipality, the office of head of a budgetary institution of that municipality etc.) Since 2003, individuals who head budgetary institutions of municipalities or municipality-controlled companies or work at the municipal administration have to decide before the day of the first meeting of the newly elected Council: either become a municipal Council member and leave his current duties or continue working in the current office but give over the mandate to another nominee from that political party. This change had significant influence on the composition of district (rural) municipal Councils: the school principals, hospital or dispensary directors, and heads of municipal economy institutions and companies who had previously dominated the municipal Councils lost the possibility to become Council members. The local elite, which had been elected to Councils and had had substantial influence until that point, conceded its place to business representatives (Astrauskas, 2013:12).

The status of the Mayor as the municipality's head has changed four times since 1990: he has been both the executive authority and the representative authority. By changing legislation his powers have been both strengthened and weakened. From 1990 until 1995, model of institutional structure dominated by diarchy was used: the Council was headed by the Council chairman elected from the Council members and the administration was managed by the Mayor (or the administrator, if it is a district rather than a city), he was

also the executive authority. After the Law on Local Self-Government was changed, starting from 1995, the Mayor became the one-man executive institution and was also the chairman (head) of the municipal Council and the head of the collegial executive institution (Council). Several legislative amendments were passed in 1997-1999 which solidified the Mayor's role even more (Astrauskas, 2004: 17). A turn occurred in 2003; even though the talks about direct Mayoral elections already began, nevertheless the Mayor's powers were weakened even more after a ruling of the Constitutional Court. The Constitutional Court concluded that three elements of the model were contrary to the Constitution (the Mayor cannot be the executive authority as well as the head of the Council and others). The change of the municipal institutions' model in 2003, when executive functions were transferred to the municipality's administrative director, caused a kind of disarray and complicated the work, especially at the municipalities where the Mayor and the administrative director represented different parties (Mačiulytė, Ragauskas, 2007). The instability of the Mayor's position was a rather common phenomenon. In accordance with the law on local self-government, a third of the Council's members could initiate the motion of censure against the Mayor and the Mayor lost the position if half of the Council's members voted for this decision. Thus in some municipalities the Mayor's position was quite unstable, especially where the ruling coalition was composed of 3-6 parties. In the 2011-2015 term, "upheavals" occurred in 13 out of 60 municipalities and Mayors elected in the beginning of the term lost their positions. For instance, over a four year period, three Mayors were replaced in Šilutė and Pakruojis municipalities and two Mayors were replaced in other municipalities (Lazauskienė, 2015: 119). The Mayor's instability was one of the reasons why the Association of the Municipalities of Lithuania expressed support for direct Mayoral elections. However, the opinion of other authors can be supported as well, that the idea of directly elected Mayor was the most actively promoted in the Seimas of 1996-2000, after the 1996 Seimas election and the 1997 self-government election were won by the right: the Homeland Union (Conservatives) and the LCDP (Christian Democrats) dominated everywhere. According to Liudas Mažylis, "the opposition (LDDP and other centre-right powers) of the time saw it fit to highlight "the people's desire to see personalities in the local government". It "did not "see it fit" that the Mayors from the "wrong" parties dominated" (Mažylis, Leščauskaitė, 2015: 47). In the later terms of the Seimas this idea was developed further, especially as the residents were also in favour of directly elected Mayor. However, in order to adopt such a model, the Constitution had to be changed. This was attempted several times (in 2005, 2007, and 2010), but there was a shortage of political will. Discussions in the Seimas regarding directly elected Mayor continued for two decades. The Liberal and Centre Union even had devised the idea of holding a referendum on this issue. The initiatives related to legislation on direct Mayoral election came from different parties that recognized the citizens' support of the idea of directly elected Mayor. In the political discussions during 2010-2014, several models were proposed: either the Mayor is the head of the executive authority and the head of the administration (Constitution would have to be changed in this case), or he remains only the chairman of the municipal Council, "head of municipality" in accordance with the

law. After the Seimas passed the amendments to the laws on Municipal Council Elections and on Local Self-Government on 26 June 2014, a decision was made to hold direct Mayoral election in Lithuania. Direct Mayoral elections in 2015 have shown that the residents' activity in them almost did not increase but not only party representatives were elected as Mayors, which was new (Kukovič, Lazauskienė, 2018:12).

Thus, the ways have been often sought to improve the self-government system: the administrative division was changed, as well as the status of a Mayor and elder; the system of the municipal Council election was improved several times. This was done with the aim of improving the self-government system, however, such legal instability is not beneficial to consistent functioning of self-government.

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

Lithuania joined the Council of Europe on 14 May 1993 and ratified the European Charter for Local Self-Government (ETS 122, hereafter "the Charter") without reservation on 22 June 1999, with entry into force on 1 October 1999. It also signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 16 November 2009 and ratified it on 20 July 2012 with entry into force on 1st November 2012.

The ratification of Chapter committed Lithuania's state to regularize national legislation of local self-government in accordance with Chapter's norms and keep all principle provisions defined in it. Thus, in Lithuania direct legal force for the European Charter of Local Self-Government was given.

The European Charter of Local Self-Government in the Lithuanian legal system takes the special and distinctive role. In accordance with LR Constitution "all international treaties, which were ratified by the Seimas of the Republic of Lithuania are the constituent parts of the legal system of the Republic of Lithuania" (Article 138, part 3). Thus, the ratification of the Charter as international treaty does not commit to adopt any other legal act for incorporation of Charter norms into internal state's law, and the Charter provisions should be applied directly by the Lithuanian state governing institutions, also the courts of Lithuania. It should be noticed, that according to Article 7 of the Constitution of the Republic of Lithuania, neither the law nor any other legal act contradicting the Constitution is valid in Lithuania. Bearing in mind this legal norm, it could be stated, that the European Charter of Local Self-Government is the constituent part of the legal system of the Republic of Lithuania, as much as it does not contradict the Constitution. However, in the case of international treaty's contradiction to other legal acts of Lithuania, the European Charter of Local Self-Government actually has the precedence above the Lithuanian laws (the Law on International Treaties of the Republic of Lithuania on June 22, 1999, No. VIII-1248, 11 Article, part 2). In other words, internal laws and other legal acts in Lithuania cannot contradict the European Charter of Local Self-Government. So,

the Charter with all its provisions is a useful instrument for municipalities in their constant discussions with the central government institutions because of the real powers of government.

Article 2 of the Charter refer to the requirement to recognize the principle local self-government in domestic legislation, and where practicable in the constitution. In other words, this principle implies that the local self-government being a fundamental provision of democracy shall be recognized in the supreme law of a nation – i.e. Constitution, and elaborated in specific law. According to Law on International Treaties of the Republic of Lithuania (1999, No. VIII-1248, at last amended in 2014, No. XII-1410, 11 Article, part 3), if the implementation of the international treaty requires the adoption of a law or other legal act, the Government of the Republic of Lithuania in accordance with the procedure, shall submit to the Seimas (Parliament) a draft law or to adopt an appropriate Government resolution, or ensure, in accordance with its competence, the adoption of another legal act. However it is important to notice that the provisions of 2 Article of the Charter have been mainly implemented in national legislation before the ratification of the Charter.

Firstly, the principle of local self-government is recognized in the Constitution of Lithuanian Republic, adopted by referendum on 22 October 1992. The Constitution contains a specific chapter on local self-government (Chapter X) including 6 Articles (119-124) guarantying the right to self-government to administrative units of the territory of the State and its implementation through corresponding municipal Councils; generally regulating Council's election procedure and tenure; obligating Councils' to form executive bodies accountable to it and as well as draft and approve their budget; recognizing municipalities freedom and independency as well as rights to establish local levies, to provide for tax and levy concessions, to apply to court regarding the violation of their rights; establishing general rule of municipalities' supervision by the representatives appointed by the Government; refereeing to possibility temporary introduce a direct rule in the territory of municipality by Seimas and to appeal municipal Councils' and executive bodies' and officials' acts and actions in court.

Both the Charter and the Constitution requires adopting the law which shall establish the procedure for the organisation and activities of self-government institutions (Article 119 of the Constitution). Thus the principle of local self-government in Lithuania is also recognized in separate Law on Local Self-Government since 1994 (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), defining local self-government as the right and real power of local self- government institutions, elected by the inhabitants of Lithuanian Republic territorial administrative unit, freely and independently but under own responsibility to regulate and manage public affairs and satisfy the needs of local inhabitants, according to the Constitution of Lithuanian Republic and laws (Article 1). According to the Law, the local self-government was based on these principles: 1) the adjustment of municipal and State interests; 2) the principle of local inhabitants' direct participation in the elections of municipality's Council, polls, meetings of inhabitants and

petitions; 3) accountability of self-government's institutions and servants to the citizens; 4) principle of publicity and responsiveness to the opinion of the residents of a municipality; 5) the principle of lawfulness and social justice; 6) self-sufficiency; 7) the respect for human rights and freedoms (added since 1997-02-25, No. VIII-123).

In 2000-10-12 the Statutory amendment of the Law on Local Self-Government was adopted (No. VIII-2018). It reflected fundamental changes in the meaning and significance of the local self-government principle. Firstly, the law intended „to promote and develop local self-government as the foundations of the development of a democratic State” (Article 1). Secondly, the procedure of formation and activities of municipal institutions is based on the provisions of LR Constitution as well as of European Charter of Local Self-Government (Article 2, part 1). Thus the imperatives of the Charter are recognized being equally significant to the foundation of local self-government as the constitutional provisions. Thirdly, the list of local self-government principles was extended to 9 and updated with broader definitions. For instance the principle of accountability of self-government institutions was supplemented with the responsibility to voters; self-sufficiency was expanded to the independence and freedom of municipal institutions when implementing the laws and other legal acts as well as responsibilities to the community and decision making. Two new principles were added, i.e. transparency of the activity and the adjustment of community's and individual's interests. Thus the Ratification of the Charter was a positive step while developing participatory democracy model corresponding the system of local government institutions and recognizing main self-government principles, particularly decentralization and subsidiarity.

During last decades the Law on local self-government was amended several times, revising and sketching in the principles of self-government. According to actual version of the Law (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), “local self-government” means the self-regulation and self-action, in accordance with the competence determined by the Constitution and laws, of the permanent residents' community of a law-defined administrative unit of the state territory, where the community enjoys the right to self-government guaranteed by the Constitution (Article 3, part 2). It shall be based on the following main principles: 1) representative democracy; 2) the freedom of independence and activity of municipalities in accordance with the competence denoted in the Constitution and laws; 3) supremacy of the municipal Council over accountable executive institutions of a municipality; 4) accountability of executive institutions of a municipality to the municipal Council; 5) responsibility before the municipal community; 6) lawfulness of the activities of a municipality and decisions taken by municipal institutions; 7) adjustment of municipal and State interests when managing public affairs of municipalities; 8) adjustment of interests of the community and individual residents of a municipality. 9) participation of the residents of a municipality in the management of public affairs of the municipality; 10) transparency of activities; 11) development and activity planning; 12) responsiveness to the opinion of the residents of a municipality; 13) ensuring and respect for human rights and freedoms;



14) subsidiarity and 15) publicity (Article 4, Law on Local Self-government of the Republic of Lithuania, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244).

The organisation and functioning of local authorities in Lithuania in addition to the Law on Local Self-Government are enacted by a considerable number of other laws, the most important of them are:

- The Law on Elections to Municipal Councils of the Republic of Lithuania (Law on Elections to Municipal Councils, 1994 No I-532, as last amended on 2015, No XII-1976);
- The Law on Budgeting (1990, No. No. I-430, at last amended in 2017, No. XIII-809);
- The Law on Temporary Direct Rule in the Municipal Territory (1995, No. I-830, at last amended in 2016, No. XII-2637);
- The Law on Administrative-territorial Units and their Boundaries (1994, No. I-558);
- The Law on the Basic Regulations of the Association of Municipalities of Lithuania (1995, No. I-833);
- The Law on Territorial Planning (1995, No. I-1120, at last amended in 2017, No. XIII-427);
- The Law on the Transfer of State Property to Municipalities (1997, No. VIII-546, at last amended in 2008, No. X-1734);
- The Law on the Methodology of Determination of Municipal Budgetary Revenues (1997, No. VIII-385, at last amended in 2017, No. XIII-808);
- The Law on Administrative Supervision of Local Authorities (1998, No. VIII-730, at last amended in 2010, No. XI-710);
- The Law on Management, Utilisation and Disposition of State and Municipal Properties (1998, No. VIII-729, at last amended in 2014, No. XII-802);
- The Law on Public Service (1999, No. VIII-1316, at last amended in 2017, No. XIII-818).

It could be concluded, that article 2 of the Chapter is fully implemented in the case of Lithuania. The principle of local self-government in Lithuania is guaranteed by double protection – by the set guarantees in the Constitution and other internal laws as well as by the international treaties such as the European Charter of Local Self-Government, which according to monistic doctrine, after ratification automatically has become part of domestic law and has the precedence above the Lithuanian laws except the Constitution.

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

General structure of municipalities is established by the Law on Self-government of the Republic of Lithuania, i.e. a unanimous model operates in the state – the Council, the Mayor, the Head of Administration, Municipality's Controller. The way of their election and nomination and their functions are indicated. However, minor control is left for the

municipalities' discretion. It means that much may be decided by the Municipality Council. Procedure and forms of activities of municipality's Council are determined by the Law on Local Self-Government of the Republic of Lithuania and regulation of procedure of municipality's activities (each Council approves its rules of procedure).

Municipalities Council can make decisions regarding internal organisation of the deliberative body (the elected Council). The Council itself may decide what committees and commissions to form. The only control committee is obligatory according to the Law on Local Self-Government of the Republic of Lithuania. While forming other committees the proportional principle of representation of minority and majority is followed (it is established by the Law on Local Self-Government of the Republic of Lithuania). The number of committees and their members, authorisations of committees are determined by municipality's Council. Working arrangements of committees are determined by the regulations approved by each municipality. In the Law on Local Self-Government of the Republic of Lithuania it is established that municipality's Council forms the Administrative Commission and Ethics Commission for the period of its authorisations. Municipality's Council appoints the chairmen of the commissions upon the submission of the Mayor from the Council members. The Council may form other commissions upon its own discretion i.e. is independent when solving this matter. The members of municipality's Council, civil servants, representatives of communities of settlements and communal organisations, other members of municipality's community may be the members of commissions formed by municipality's Council. The procedure of formation of commissions' of municipality's Council is determined in the regulation.

In addition, the Council independently solves the following organisational issues:

- determination of the number of deputy Mayors, designation of deputy Mayor (deputy Mayors) on the proposal of the Mayor and dismissal prior to the expiration of their term, establishment of wages of deputy Mayor (deputy Mayors) in compliance with the laws;
- determination of activity spheres of deputy Mayor (deputy Mayors) on the proposal of the Mayor;
- adoption of the decision regarding the formation of Council of Municipality's Council and formation of Council of municipality's Council on the proposal of the Mayor (Municipality's Council may form the Council of municipality's Council (Council's deliberative body) for the period of its authorisations; the number of Council's members, rules of procedure, order of organisation of sittings is determined in municipality's regulation).

The Law on Local Self-Government determines that a municipality can have from 1 to 3 deputy Mayors (depending on the number of the municipal Council members). Not more than three positions of deputy Mayor of a municipality may be established in the municipality the Council of which consists of 41 and more Councilors; not more than two positions of deputy Mayors of a municipality may be established in the municipality the

Council of which consists of 27-31 Councilors; and not more than one position of deputy Mayor may be established in other municipalities. However, there is no obligation in practice to have 3 deputy Mayors in a municipality which is permitted to have such a number of them: 1 or 2 Mayoral positions may be allocated. The same is applicable in the case of the number of deputy directors of the municipal administration.

Municipality's administration is municipality's institution consisting of structural divisions, civil servants and structural territorial divisions not belonging to the structural divisions (affiliates of municipality's administration). The structure of municipality's administration, regulations of its activities are approved and changed by municipality's Council on the proposal of administration director, upon the submission of the Mayor. However, referring to the Law on Local Self-Government of the Republic of Lithuania there are certain areas provided as compulsory - e.g. in administration structure it is compulsory to have the Office of centralized internal audit.

Municipality's Council decides upon the establishment of the position of deputy director (deputy directors) of municipality's administration and the name of the director of municipality's Council (according to the new corrective of the Law on Local Self-Government of the Republic of Lithuania (2008), the maximum of such positions is determined referring to the size of the Council, before it was not applicable). To the competence of the Council belong the following:

- appointment to the position and dismissal of the director of municipality's administration (deputy director of municipality's administration) under the proposal of the Mayor;
- decision making on the subject of the establishment of position (positions) of deputy director of municipality's administration;
- decision making on the subject of substitution of director of municipality's administration, determination of the wages and salaries of director of municipality's administration and deputy director of municipality's administration;
- decision making on the subject of the establishment of positions of civil servants of Mayor's political (personal) confidence, determination of their number and formation of secretariat of municipality's Council upon Mayor's proposal.

The biggest justifiable number of positions of civil servants and employees working under the work contracts and receiving pay from municipality's budget is affirmed and changed by the Council on the proposal of director of municipality's administration and upon the submission of the Mayor and the positions are affirmed by the director of municipality's administration. In addition, the wages fund is affirmed and changed by municipality's Council as well.

The director of municipality's administration organises the work of municipality's administration, affirms regulations of activities of structural divisions of municipality's administration and affiliates-subdistricts of municipality's administration, carries

responsibility for internal administrating of municipality's administration; in compliance with the laws appoints and dismisses civil servants of municipality's administration and other employees of municipality's administration; performs other functions of staff management ascribed by the Law on Government Service and municipality's Council; organises the training of the members of municipality's Council, civil servants and employees who work under the work contracts.

The Council makes decisions upon: the establishment of subdistricts and determination of their number, granting the names to subdistricts and changing them, the allotment of territories to the subdistricts, the determination and changing of borders of territories maintained by the subdistricts.

According to Law on Local Self-Government Art. 5-7 (2016, cor. 2017, 2018, 2020), by the freedom of decision making functions of municipalities are divided into:

- Independent (autonomous) functions and
- Delegated by the state.

*Independent functions* of municipalities (Article 6) (set out (assigned) by the Constitution and laws):

- 1) drawing-up and approval of a municipal budget;
- 2) setting of local fees and charges;
- 3) management, use and disposal of the land and other property which belong to a municipality by the right of ownership;
- 4) establishment and maintenance of budgetary institutions, establishment of public institutions, municipal enterprises and other municipal legal entities;
- 5) ensuring of learning according to the programmes of compulsory education of children under 16 years of age who live on the territory of a municipality;
- 6) organisation and coordination of the provision of educational assistance to a pupil, teacher, family, school, the implementation of minimal child care arrangements;
- 7) organisation of free of charge transportation to schools and to places of residence of pupils of schools of general education, who live in rural localities;
- 8) organization of pre-school education, non-formal education of children and adults, organisation of occupation of children and youth;
- 9) formation of hunting-ground units and changing of their boundaries;
- 10) organization of meal services according to the procedure laid down by legal acts in educational establishments, which implement education according to pre-school, pre-primary and general education programmes;
- 11) organisation and carrying-out of geodetic and cartographic works assigned to municipalities by the law, except for the management of the municipal spatial data set;
- 12) ensuring the provision of social services by planning and organizing social services, controlling the quality of general social services and social care, as well as establishing and maintaining social service institutions;

- 13) cultivation of general culture and fostering of ethnoculture of the population (participation in culture development projects, establishment, reorganisation, transformation, liquidation of museums, theatres, culture centres and other cultural institutions as well as supervision of their activities, establishment, reorganisation, transformation of public municipal libraries as well as supervision of their activities);
- 14) provision of conditions for social integration of the disabled residing within the territory of a municipality;
- 15) provision of support for the acquisition or rental of housing in accordance with the procedure established by law of the Republic of Lithuania for the acquisition or rental of housing;
- 16) participation in solving issues relating to employment of residents, acquiring of qualification and re-qualifying, organisation of public and seasonal works;
- 17) primary personal and public health care (founding, reorganization, liquidation and maintaining of establishments) with the exception of public health care of learners educated under pre-school, pre-primary, primary, basic and secondary education curricula at pre-school education, general education schools and vocational training schools located within the
- 18) planning and implementation of health promotion measures; support of health care of the municipal population;
- 19) territory planning, implementation of solutions of a general plan of a municipality and general plans and detailed plans of the parts of a municipality;
- 20) setting of special architectural requirements and issuing of documents permitting construction in accordance with the procedure laid down by the law;
- 21) supervision of exploitation of construction works in accordance with the procedure laid down by the law;
- 22) preparation and implementation of strategic development documents and planning documents implementing them;
- 23) participation in the preparation and implementation of regional development programmes;
- 24) implementation of information society development;
- 25) establishment, protection and management of protected territories of a municipalities;
- 26) maintenance and protection of the landscape, immovable cultural values and protected areas established by a municipality, protection, maintenance and development of green areas, vegetations, organisation and monitoring of inventory, accounting, cadastral measuring of land plots of separate green areas and their recording in the Real Property Register;
- 27) provision of addresses to land plots, on which the construction of buildings is permitted in accordance with the purpose (way) of use or spatial planning documents, to buildings, apartments and other premises, provision of names to streets, to buildings, construction works and other facilities situated within the territory of a municipality as well as change and cancelation of these addresses and

names in accordance with the procedure laid down by the Government or an institution authorized by it;

- 28) improvement and protection of environment quality;
- 29) development of physical training and sports, organisation of recreation of the population;
- 30) organization of supply of heat and drinking water, and wastewater treatment;
- 31) development of municipal waste management, organisation of secondary raw materials collecting and processing, establishment and exploitation of landfills;
- 32) maintenance, repairing, surfacing of municipal roads and streets of local significance, as well as organisation of traffic safety;
- 33) organisation of transportation of passengers by local routes, calculation and payment of compensations for preferential transportation of passengers;
- 34) participation, cooperation in ensuring public order, creating and implementing crime prevention measures;
- 35) assigned to municipalities implementation of environmental noise prevention and state management of environmental noise;
- 36) approval of sanitary and hygiene rules and organisation of the control over compliance with the said rules, ensuring of cleanliness and tidiness in public places;
- 37) establishment of the procedure for providing trade and other services in marketplaces and public places administrated by municipalities or undertakings controlled by them;
- 38) creation of conditions for the development of business and tourism, and promotion of such activities;
- 39) issuance of permits (licences) in cases and manner prescribed by the law;
- 40) control of compliance with the prohibition or restriction of alcohol and tobacco advertising on exterior means of advertising;
- 41) ensuring of rendering of burial services and organisation of maintenance of cemeteries;
- 42) supervision and control, pursuant to model rules approved by an institution authorized by the Government, of activities of the management bodies of associations of owners of apartments and other premises as well as of the persons authorized by the joint venture contract and of the administrators of common objects appointed by the executive institution of the municipality, where the abovementioned activities are related to the performance of the functions assigned to them by laws and other legal acts;
- 43) provision of the social allowance and compensations set out in the Law of the Republic of Lithuania on Cash Social Assistance to Poor Residents;
- 44) participates in the implementation of the protection of the rights of the child, ensures the organization of preventive assistance to the child and the family, coordination of services provided by social, educational, health care institutions and other institutions;
- 45) Organization and coordination of measures for the implementation of the family card program in the territory of the municipality;

46) other functions that are not assigned to state institutions.

*Delegated by State to Municipality* (Article 7) functions shall be as follows:

- 1) registration of acts of civil status;
- 2) management of registers assigned by the law and furnishing of data to State registers;
- 3) civil protection;
- 4) fire protection;
- 5) participation in the management of national parks;
- 6) repealed;
- 7) organisation of pre-primary education, general education, vocational training and vocational counselling, ensuring of studying of children under 16 years of age, residing within the territory of a municipality, in accordance with compulsory education programmes, maintenance of schools (classes) which implement general education programmes and are designated for pupils having exceptional talents or special needs;
- 8) administration of free-of-charge meal provision for pupils at schools established by a municipality and schools not belonging to the State which were established within the territory of a municipality, as well as administration of provision with pupil supplies for pupils from low-income families, who have declared the place of residence or reside within the territory of a municipality;
- 9) calculation and payment of social benefits and compensations, except the social allowance and compensations set out in the Law of the Republic of Lithuania on Cash Social Assistance to Poor Residents;
- 10) management, use and hold in trust of the State land and other State property assigned to a municipality;
- 11) consideration of citizens' requests to restore ownership rights to the existing real property, as well as adoption of decisions on the restoration of ownership rights in the cases and according to the procedure laid down by the law;
- 12) execution of State guarantees for tenants moving out from dwelling houses or their parts and flats, which are returned to owners;
- 13) control of use and accuracy of the State language;
- 14) management of archival documents assigned to municipalities in accordance with legal acts;
- 15) repealed as of 1 January 2011;
- 16) participation in preparing for and implementing mobilization, demobilization, support of the host country;
- 17) provision of statistical data;
- 18) participation in preparing and implementing labour market policy measures and employment programmes;
- 19) participation in organising elections and referendums provided for by law;
- 20) participation in holding surveys and other citizens' (popular) initiatives provided for by law;

- 21) participation in the carrying-out of population and dwelling census as well as other total census;
- 22) implementation of youth policy;
- 23) administration of agricultural production quotas;
- 24) registration of agricultural holdings and farmers' farms;
- 25) administration of activities related to declaration of agricultural land and crops;
- 26) implementation of programmes pertaining to the liquidation and monitoring of natural disasters, communicable diseases of animals, determining of losses and damage caused to the agriculture by hunted animals and wild animals of the strictly protected species;
- 27) management and use by the right of trust of land reclamation and hydrotechnical construction works which belong to the State by the right of ownership;
- 28) registration and technical maintenance of tractors, self-propelled and agricultural machines and their trailers;
- 29) administration of implementation of rural development measures;
- 30) provision of primary legal aid guaranteed by the State;
- 31) processing of data related to declaration of a place of residence and accountancy data of persons who do not have a place of residence;
- 32) ensuring of provision of social care to individuals with a severe disability;
- 33) gathering, storing and provision to the European Commission in the manner prescribed by the Government of the information about financial relations of municipal institutions and enterprises managed by a municipality, which meet the criteria set by the Government and on enterprises obliged to manage separate accounts in accordance with the procedure established by the Government;
- 34) organization of the secondary health care in the cases and according to the procedure laid down by law;
- 35) public health care of learners educated under pre-school, pre-primary, primary, basic and secondary education curricula at pre-school education, general education schools and vocational training schools located within the municipal territory; public health improvement and public health monitoring;
- 36) radiation protection;
- 37) ensuring of the revision of the health status of legally incapable persons;
- 38) management of the municipal spatial data set;
- 39) other functions delegated under laws.

Law on Local Government stipulates that the competence of self-government institutions is autonomous and is delegated by the state. They are entitled to free activities, initiatives and adoption of decisions. Other problems that do not fall within the competence of state institutions and that affect population of the administrative unit are resolved by local self-governments. State functions are delegated to local authorities by the Law on Local Government or other laws; state institutions supervise and control self-government institutions that execute the functions delegated by the state only in cases provided by the law.



Law on Local Government numerates autonomous competencies of the Council and of the local government itself. Those delegated by the state include: civil registration; registration of municipal, state and private enterprises and public organisations; management of state parks (national and regional); organisation of municipal police, civil security and fire prevention; and implementation of other functions delegated by the law. The local government is free to decide independently to provide some public services. For instance, they are free for provision of some cultural and sport services. Of course if it corresponds to the national legislation.

The municipality shall administer and ensure rendering of public services to residents by determining the way, rules and regime of rendering of these services, setting up municipal budgetary and public establishments, selecting providers of public services in accordance with the procedure laid down by the laws and other legal acts, and implementing supervision and control over rendering of public services. Municipalities can establish agencies (public institution, status similar to NGO), so called budget bureaus (budgetary institution) or municipal enterprises.

*Local authorities are obliged to manage* education (kindergarten, primary, secondary), social services, public health (primary), municipal transport, public utilities (energy, infrastructure, water), some cultural, environmental so called administrative services (certificates, registers and others).

According to the Law on Local Self-Government of the Republic of Lithuania, in order to achieve general aims municipality may compose agreements of joint activities or agreements of general public procurement with state institutions and (or) other municipalities.

Municipality may transmit the implementation of functions of administrative and public services to other municipalities under mutual assent of municipalities' Councils on the basis of the agreements; however, the responsible municipality for the implementation of these functions is the one that transmits the functions. Usually it is not widely spread in practice. Municipality usually organises provision of services only in its own territory. It depends upon the decision of municipality's Council.

At the same time, some functions are moved from local level to national level. For example, the protection of the rights of the child until 2018 was state functions delegated to the municipalities, but after July of 2018 the function of the protection of the rights of the child are centralized. All the departments for the protection of the rights of the child currently operating in the municipalities are removed from the municipal structure and are under the authority of the Ministry of Social Security and Labour.

Local authorities have the right to manage public services of general interest. Of course, if it is not interfering national legislation and public services provision regimes. For

instance, in 2016 Vilnius municipality established municipal safeguard unit new in Lithuania. It is necessary to stress that such practices are very rare, for the reason that Lithuanian local government financial system is very centralized and municipalities do not have enough autonomy in the terms of decision making. In addition, central government has a quite strict supervision system.

In fact the local authorities are exercising some economic activities. The main forms are municipal, joint stock companies with portfolio or some services contracting out forms (services or concession contracts).

Local authorities have influence only in their controlled enterprises. The following belong to the competence of municipality's Council:

- appointment and dismissal of the heads of municipalities' budgetary institutions in accordance with the procedure determined by the laws, implementation of other functions related to work relations of the heads of these legal entities in accordance with the procedure determined by the Labour Code and other legal acts;
- appointment and dismissal of the heads of municipalities' budgetary institutions, appointment and dismissal of the heads municipality's public institutions (which owner is municipality), implementation of other functions related to work relations of the heads of these legal entities in accordance with the procedure determined by the Labour Code and other legal acts.
- formation of collegial organs of municipality's public institution (which owner is municipality) when it is determined in the articles of association of public institution.

In the Competition Law of the Republic of Lithuania, article 4, part 1 (Gazette, 1999, No. 30-856) it is established that the duty of state management and self-government institutions is to ensure the freedom of honest competition, and part 2 of this article forbids state management and self-government institutions to adopt legislation or other decisions that provide privileges or discriminate separate economic operators or their groups and due to which there appears or might appear the differences of competition conditions for economic operators competing in a particular market.

National laws of the Republic of Lithuania do not consider local public services to be guaranteed by Article 16 of the ECT and therefore, do not exempt from the competence of the Article 86 of the ECT. The mentioned article 4 of the Competition Law of the Republic of Lithuania obliges self-government institutions when performing delegated tasks related to regulation of economic activities to ensure freedom of honest competition. In addition, according to the Article 86 of the ECT, European Commission has a special task to observe public enterprises and enterprises that are awarded with special or exclusive rights by member states.

It is impossible to state like this since often provision of local public services is not profitable and business enterprises are not interested in providing such services; therefore, if there is no competition among business entities the rights of consumers might be violated. In addition, some services might be provided to the population nongratusitously. Therefore, Article 8 of the Law on Local Self-Government (2020) foresees that municipality is responsible for provision of public services to people. It is also worth mentioning that municipality's institutions and administration do not provide public services. They are provided by budgetary and public institutions, municipality's enterprises, stock companies and other entities.

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

The regulation of protection of local authority boundaries are set in two Laws: Law on Local Self-Government of the Republic of Lithuania and Law on Administrative Territorial Units and their Boundaries.

The Article 37 of the Law on Local Self-Government of the Republic of Lithuania (2020) states that: "Surveys concerning establishment of municipalities, liquidation of the existing municipalities, as well as setting and changing of their territorial boundaries and centres shall be conducted in compliance with the Law on Administrative-Territorial Units and their Boundaries".

There special criteria for establishing new municipalities set in the Law on Administrative-Territorial Units and their Boundaries (1994, No. I-558: 1) at least 20 per cent of the municipal budget without the appropriations from the state budget of the Republic of Lithuania awarded to municipal budgets would be made up of the income tax of individuals of that territory; 2) the total number of residents of the municipality would be not less than 10 000; 3) the number of residents of the centre of the municipality would be not less than 3 000; 4) the centre of the municipality would be 20 km away or farther from the nearest existing centre of the municipality; 5) the municipality would have the boundaries with at least two municipalities (Law on Administrative Territorial Units and their Boundaries, 1999).

The Article 7 of the Law on Administrative-Territorial Units and their Boundaries (1994, No. I-558, last amended in 2014) states that: the municipalities shall be established and the existing municipalities shall be liquidated and the boundaries of their territories and their centres shall be set and changed by the Seimas of the Republic of Lithuania on the recommendation of the Government of the Republic of Lithuania. The Government of the Republic of Lithuania shall prepare and submit to the Seimas of the Republic of Lithuania documents in relation to the establishment of new municipalities and setting of the boundaries of their territories where, in the local population poll of the municipality to be established with the participation of more than half of the residents of the municipality to be established eligible to take part in the poll, more than half of those who

participated voted in favour of establishment of a new municipality (Law on Administrative-Territorial Units and their Boundaries, 2014).

When submitting to the Seimas of the Republic of Lithuania documents in relation to the establishment of new municipalities and setting of their boundaries, the Government of the Republic of Lithuania shall also include the opinions of the municipal Councils of the municipalities the boundaries of the territories whereof are to be changed as well as the opinion of the residents of the new municipality to be established expressed in the local population poll. As well when submitting to the Seimas of the Republic of Lithuania documents in relation to changing of the boundaries of the territories of the municipalities, the Government of the Republic of Lithuania shall also include the opinions of the municipal Councils of the municipalities the boundaries of the territories whereof are changed as well as the opinion of the local residents of the part of the territory to be attributed to another municipality expressed in the local population poll. As in Article 13, “initiative groups of residents and municipal Councils shall have the right to submit to the Government of the Republic of Lithuania proposals in relation to the establishment of new municipalities, liquidation of the existing municipalities, setting and changing of the boundaries of their territories and their centres. The procedure for setting up initiative groups of residents and submitting of proposals shall be established by the Government of the Republic of Lithuania or an institution authorized by it.

Proposals in relation to the establishment or liquidation of municipalities, other territorial administrative units of the Republic of Lithuania, setting or liquidation of residential areas, granting or changing of names of residential areas as well as setting or changing of the boundaries of their territories and the territories of the territorial administrative units of the Republic of Lithuania, granting or revoking of the status of a resort or a resort area shall be examined and opinions on these issues and, where necessary also appropriate draft legal acts, shall be submitted to the Government of the Republic of Lithuania by an institution authorized by it.

The procedure for the local population poll when establishing or liquidating the territorial administrative units of the Republic of Lithuania, setting or changing of the boundaries of their territories and their centres shall be established by the Government of the Republic of Lithuania or an institution authorized by it” (Law on Administrative Territorial Units and their Boundaries, 2014). In 2019 the Law on Local Self-Government has been changed and the procedure of local population polls has been clarified (Articles 36-47).

Thus the Law on Administrative-Territorial Units and their Boundaries provides very detailed description of changing boundaries and consultation with residents. What is important, that both laws (Law on Local Self-Government of the Republic of Lithuania and Law on Administrative-Territorial Units and their Boundaries) are established in accordance with the European Charter of Local Self-Government.

In practice there were mistakes made in 1999-2000, when establishing new municipalities of Pagegiai, Rietavas, Visaginas, etc. The Constitutional Court ruled that the Government had failed to follow procedure of establishing new municipalities, including eliciting the views of the relevant local Councils and conducting an opinion poll (Constitutional Court Case No. 9/2000, of 28 June 2001).

There were some attempts to establish 5 new municipalities in 2005-2007 also. But polling activity of population was very low and the new municipalities in Kaunas, Šiauliai, Vilnius counties were not established (Lazauskienė, 2008: 7).

The recent examples of initiatives to change the boundaries of municipality can be seen in Klaipėda city municipality and Kaunas city municipality. The inhabitants of Klaipėda district municipality initiated changing the boundary, however, this attempt was unsuccessful (Petronytė, 2017). Another unsuccessful case was the initiative of Kaunas city Mayor to connect 13 wards (99 towns and villages) from Kaunas district municipality to Kaunas city municipality in 2019. But this initiative has been opposed by both inhabitants as well as the Kaunas district municipal Council.

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

The structure of the municipality administration, regulation of its activities and its funding are to be approved by the municipal Council. Following the provisions of Civil Code, Law on Local Self-Government, Law on Public Administration and other legal acts that regulate the formation and activities of municipal administrations, Municipal Council establishes municipal administration that:

- 1) has legal structure (i.e. legal form – budgetary institution), legal status and legal subjectivity (is a legal entity, has functions, rights and duties determined by legal acts);
- 2) has competence determined by legal acts;
- 3) has determined economic-financial and activity autonomy;
- 4) has appointed manager and defined structure (municipal administration director manages municipal administration that is composed of structural units, officers and employees that do not belong to structural units, subsidiaries (structural-territorial units)).

Municipal administration can be considered as the main municipal institution because according to the law provisions, it organises and controls implementation of decisions of municipal institutions, directly implements the laws, government's resolutions, decisions of Municipal Council. The exceptional function of Municipal Council is to determine the structure of municipal administration. It is a highly important task since the structure of municipal administration has to ensure that institution's aims are effectively implemented under the existing conditions (Vidaus reikalų ministerija, 2010).

The powers of the municipal administration shall not be related to the expiration of the powers of the municipal council (Law on Local Self-Government, 2020). The municipal administration shall have its own seal with the coat of arms and bank accounts. The municipal administration shall:

- 1) in the municipal territory organise and control the implementation of decisions of municipal institutions or implement them itself;
- 2) implement laws and resolutions of the Government, which do not require decisions of the municipal council;
- 3) in the manner prescribed by the law organise the management of accounting of municipal budget income, expenditure and other monetary resources, organise and control the disposal and use of municipal property;
- 4) administer provision of public services;
- 5) through the authorised civil servants, represent the municipality in the management bodies of municipal undertakings and stock companies;
- 6) draw up drafts of decisions and ordinances of municipal institutions;
- 7) provide financial, economic and material services to the secretariat, the mayor, councillors and the municipal controller.

The Law on Local Self-government determines equal functions to all municipalities according to:

- 1) freedom of decision making: a) functions delegated by the state – state functions transferred to municipalities by law referring to citizens' interests and b) independent functions that municipalities perform following the competence determined by the Constitution and laws, obligations to the community and its interests;
- 2) type of activities – functions of local authorities, public administration and provision of public services. Assignment of equal functions to municipalities determines establishment of equal structural units in the structures of municipal administrations, although the scope of implementation of specific functions of municipalities and type and size of structural units that can be established, depend upon the specific conditions of municipalities.

Municipalities determine the structures referring to the requirements of specific legal acts evaluating the situation of their municipality. Practice shows that the structure of municipal administration is usually changed after the elections to municipal councils, formally trying to relate this with a more effective implementation of aims set to municipal administration – to improve service quality, efficiency of activities, to reduce expenses.

While determining structures, financial appropriations for function implementation are important. It is worth mentioning that financing of independent and state (transferred to municipalities) functions is essentially different. While transferring functions to municipalities, state allocates necessary appropriations, therefore, municipalities must

establish structural units or separate positions for the implementation of these functions. Each municipality finances implementation of independent functions from own budget and has competence to carry out them referring to conditions and circumstances of particular municipality, therefore, while relating functions' implementation to determination of structures of municipal administration, it is obvious that municipalities have greater freedom of actions (Vidaus reikalų ministerija, 2010).

Municipal administrations are headed by an executive director (titled "Administrator" from 1995-2003 and "Director of Administration" since 2003), appointed by the municipal Council upon proposal by the Mayor referring to political (personal) trust (Article 29, part 3 of the Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244). Director of Administration is responsible for the internal working of the administration. He also prepares meetings of the Council. The administrator is appointed and dismissed by the Mayor. Director of Administration has Deputy(-ies). This is the body which 'possesses the rights and duties of public administration' and is accountable to the municipal Council.

While implementing its functions the executive authority cannot impose its will and manage the Council, however, it must account for its activities. It must be emphasized that separation of political and executive authorities in Lithuanian municipalities is a conditional phenomenon as mayors often perform not only the functions of city's strategist but also the functions of executive authority. This model has disadvantages: frequent change of administration directors in Lithuanian municipalities while the officers of the lower level like the heads of municipalities' departments or employees have been working longer in the organisations and have more experience. The biggest disadvantage is competition among the members of the Council, politicians and officers regarding the influence while making decisions and the successful municipalities' activities depend upon their ability to agree (Butkevičienė, Vaidelytė, Žvaliauskas, 2009).

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

In accordance with the Charter, responsibilities at local level shall be exercised under the following conditions: 1. Free exercise of the functions; 2. financial support, i.e. compensations for expenses incurred in the exercise of the office, for loss of earnings or remuneration for work done and corresponding social welfare protection; 3. The legal regulation of functions and activities which are deemed incompatible with the holding of local elective office.

The first condition is guaranteed by the Constitution (1992) and Law on Local Self-Government (1994, at last amended in 2020-06-30, No. XIII-3244) in Lithuania. According to the Constitution's Article 120 and Law's Article 4, part 2, "municipalities shall act freely and independently within their competence defined by the Constitution and laws". Moreover, "it shall be prohibited to persecute the municipal Councilor for the

voting or opinion expressed at sittings of the municipal Council or its committees. The municipal Councilor may be held liable in accordance with the procedure laid down by the law for person's insult or slander, dissemination of information, which is humiliating to person's honor and dignity and not in keeping with the truth" (Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 22, part 6). However the free exercise of the functions is tied by rules thoroughly prescribed in the laws and other legal acts. For instance, a Councilor must inform the municipal Council about the existing conflict of interest, declare his or her resignation and, if the municipal council accepts the resignation, not participate in any further discussion of the issue at the meeting of the municipal council before considering the issue that causes him or her a conflict of interest (Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-324, Article 13, part 10).

Financial support is important condition for effective exercises of responsibilities at local level. The Charter refers to four categories of finances: a) remuneration for work done or b) compensation for loss of earnings; c) financial compensation for expenses incurred in the exercise of the office; d) social welfare protection.

The legal regulation of financial compensation for exercises of responsibilities at local level differs for Councilor and Mayor in Lithuania. Although the Mayor is the member of local Council, the rate of his/her salary is set by national legislation (the Law on Remuneration of State Politicians and Public Officials, 2000, No. VIII-1904, at last amended in 2019, No. XIII-2751 ) and since 2014 depends on the population of the municipality (the Law on Supplementing the Law on Remuneration of State Politicians and Public Officials, 2013, No. XII-688). These amendments were determined by the adoption of direct Mayoral elections in 2014 (the amendment of Law on Local Self-Government, 2014, No. XII-967). According to the Law on Remuneration of State Politicians and Public Officials, there are 5 coefficients of Mayor's salary: 18 – for Mayor of the municipality with less than 15 000 inhabitants, 18,3 – for Mayor of the municipality with 15 000 – 50 000 inhabitants, 18,6 – for Mayor of the municipality with 50 000 – 100 000 of the inhabitants, 19 – of there are from 100 000 up to 500 000 inhabitants in the municipality and the highest coefficient is 19,1 for Mayor of the municipality with over 500 000 inhabitants. The Mayor may additionally get long-service pay – 1 percent of the salary for each year of working as civil servant, however the additional pay is limited up to 30 percent of the main salary. Nevertheless, „the salary of the Mayor, deputy Mayor shall be approved by the municipal Council in accordance with the ratios established by the law" (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 9).

The remuneration of the municipal Councilor is regulated by the Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 26). While the Mayor gets the salary, the performance of Councilor's responsibilities is remunerated in accordance with worked hours or by '*remuneration for participation*' principle, i.e. the Councilor does not participating in meetings and sittings loses part of



the financial compensation. The remuneration is calculated in accordance with the amount of the average monthly earnings in the national economy (hereinafter referred to as “AMEs”) taking into consideration the actual length of work. The way to relate the salary with real AMEs in national economy is economic and ethical, does not privileging the status of public officer. The actual length of work is counting according to the protocols of Council’s, committees’ and fraction’s sittings plus Councilor’s declared working hours for preparation to the sittings and meetings with electorate. Whereas the latter hours cannot exceed 60 hours per month (some municipalities set less hours), there are lack of transparency and lack of the control of adherence to this working time: in practice the Councilor is not requested to provide documentation or evidences for time he/she spent for the preparation to the sittings or meetings with electorate.

The amount of the remuneration for the performance of the duties of the municipal Councilor shall be fixed by the municipal Council. It should be noticed, that a municipal Councilor has the right to perform Councilor’s duties free of charge. However, in that case, mandatory taxes, state social insurance and mandatory health insurance contributions due under legal acts are not paid too. Thus the Councilor working on voluntary basis shall pay mandatory taxes (e.g. health insurance) by him/herself.

If the Mayor and deputy Mayor may not work in other institutions, establishments, undertakings and organisations and receive any other payment, with the exception of payment for scientific, pedagogical or creative activities,<sup>1</sup> the Councilor may have other direct job and incomes<sup>2</sup>. According to the Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244 ), Article 26, part 4, „the Councilor shall be released from his/her direct job or duties in any institution, establishment, undertaking or organisation for the duration of sittings of the municipal Council, committees, as well as in other cases provided for in the rules of conduct“. Theoretically this regulation guarantees the implementation of the Charter's provision about compensation for loss of earnings as important condition for effective functioning of elected representatives. However in practice the Council’s earning per hour are less than loss earnings from direct job. That becomes one more motive to declare maximum allowable but not practically spent hours for preparation to the sittings and meetings with electorate and thus to ‘compensate’ loss earnings from direct duties.

The Law on Local Self-Government also establishes the norms, regulating compensation for expenses incurred in the exercise of the office. This category of the finance covers: a) representation funds; b) other expenses incurred in the exercise of the office such as stationery, post, telephone, internet link, transport expenses.

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<sup>1</sup> This provision shall not apply if a deputy mayor holds the position on a voluntary basis. (Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 19, part 12)

<sup>2</sup> More about functions and jobs which are incompatible with Council or of the municipality status is written below in this part of the report.

The amount of representation fund, designated to cover the Mayor's expenses relating to representation in Lithuania and abroad, depends on the number of the municipal Councilors and is related to AMEs in the national economy as most recently announced by the Department of Statistics (see the Table No. 1). However, the Mayor's representation fund shall be fixed without exceeding the general funds allocated to represent the municipality.

The Councilor, representing the municipality outside its boundaries, shall, in the manner prescribed by the Government, get financial compensation of his/her expenses related to the business trip only if it was organized according to the Mayor's ordinance (Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 26, part 3).

The amount of b) category allowance and the procedure for accounting are set in the rules of conduct of municipal Council. The municipalities have different practice in counting this allowance: one municipality relate it to AME, others set exact sum. It is interesting that the amount of this allowance is not related to the size of municipality. For instance, a Councilor of Vilnius city municipality (the biggest municipality) gets 300 Euros allowance for these expenses per month (Rules of conduct of the Council of Vilnius city municipality, 2020), while the Councilor of the smallest municipality in Lithuania – Neringa municipality gets up to 0,4 AME (about to 550 Euros) (Rules of conduct of the Council of Neringa municipality, 2019) however the Councilor of Siauliai city municipality (the 4<sup>th</sup> biggest municipality) can get only up to 0,25 AME (Rules of conduct of the Council of Siauliai city municipality, 2017).

The social protection issues are not regulated by the Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244 ). However salaries of the elected representatives of the municipality are taxed, thus they get the right to free health protection, pension, etc. The only exception is the case when the Councilor is working on the voluntary basis.

**Table 1:** The regulation of financial conditions under which the responsibilities at local level are exercised

Category of finance		Regulation	Law
Salary	Mayor	<ul style="list-style-type: none"> <li>The coefficient of Mayor's of the municipality with less than 15 000 inhabitants salary is 18; The coefficient of Mayor's of the municipality with 15 000 - 50 000 inhabitants salary is 18,3; when there are 50 000 - 100 000 inhabitants the Mayor's salary coefficient is 18,6; the Mayor of the municipality with 100 000 - 500 000 inhabitants gets 19 salary's coefficient and if there are more then 500 000 inhabitants, the Mayor's salary coefficient is 19,1.</li> </ul>	Law on Remuneration of State Politicians and Public Officials (No. VIII-1904, at last amended in 2019, No. XIII-2751, Annex 1)
	Councilor	<ul style="list-style-type: none"> <li>paid for the working time while performing the duties of the municipal Councilor;</li> <li>such remuneration shall be calculated in accordance with the amount of the AMW, taking into consideration the actual length of work;</li> <li>have the right to refuse this remuneration by submitting in accordance with the procedure laid down in the rules of conduct a request concerning the performance of the duties of the municipal Councilor free of charge (i.e. on a voluntary basis).</li> </ul>	Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), Article 26, part 1
Representation funds	Mayor	<ul style="list-style-type: none"> <li>the municipal Council consisting of 41 and more Councilors may each month allocate the sum in the amount of up to 3 AME;</li> <li>the municipal Council consisting of 27-31 Councilors – up to 2 AMEs</li> <li>other municipalities – up to 1 AME</li> </ul>	Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), Article 19, part 19

	Councilor	If according to the Mayor's ordinance a Councilor represents the municipality outside its boundaries, the municipal administration shall, in the manner prescribed by the Government, cover his expenses related to the business trip	Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), Article 26, part 3
Other expenses	Councilor	Each month an allowance may be granted, subject to accountability at least once in 3 months, to a Councilor to pay for the a) stationery, b) post, c) telephone, d) internet link, c) transport expenses, - related to his activities as the Councilor, to the extent they are not rendered or paid for directly by the municipal administration. The amount of this allowance and the procedure for accounting shall be set in the rules of conduct.	Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), Article 26, part 2

The third part of the Article 7 of the Charter, referred to the functions and activities incompatible with the Councilor's and Mayor's position is implemented by several laws: the LR Law on Elections to Municipal Councils, 1994 No I-532, as last amended on 2020-05-28, No. XIII-3001), the Law on Local Self-Government (1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244), the Law on the Elections to the Seimas (1992, No. I-2721, as last amended in 2020-06-30, No. XIII-3214). This issue becomes especially debatable during the elections to the municipality or to the parliament period. The Central Electoral Commission of the Republic of Lithuania, based on some courts' decisions, announced the Clarification about the functions and activities, which are incompatible with the Councilor of municipality responsibilities. Briefly, the activities and functions, incompatible with Councilor of municipality, can be grouped according to the reason of restriction:

- 1) the activities, which according to other legal acts, are incompatible with any other activities, i.e. President, Parliament member, EU Parliament member, the member of the Government;
- 2) the activities, which suppose external control power of the municipality, i.e. county governor or his/her deputy, the representative of the Government in the county, state controller and his/her deputy;
- 3) the activities, which enable to pressure or influence the municipal Council decisions locally, i.e. when the Councilor status would empower to control the agency or institution, where he/she directly works. This category of incompatible activities includes: "the post of a civil servant of political (personal) confidence of the Mayor of that municipality, the office of controller of that municipality or the post of a civil servant of the controller's service of that municipality, the office of director of the

administration of that municipality of a particular term of office and his deputy or the post of a civil servant or an employee working under the employment contract in the administration of that municipality, the office of head of the secretariat of the Council or the post of a civil servant or an employee working under the employment contract of that municipality, the office of head of a budgetary institution the owner or one of the owners is that municipality, the office of single-person head and member of the collegial management body of a public establishment the owner or stakeholder of which is that municipality, an undertaking of that municipality, the office of member of the collegial management body (Council) of a company controlled by that municipality or the office of head of a company controlled by that municipality” (Law on Elections to Municipal Councils, 1994 No I-532, as last amended on 2020-05-28, No. XIII-3001 , Article 91, part 1). The Mayor may not be a member of the committees set up by the municipal Council (Law on Local Self-Government, 1994, No. I-533, at last amended in 2020-06-30, No. XIII-3244, Article 20, part 6).

Additionally the Law on Elections to Municipal Councils (1994, No I-532, as last amended in 2020-05-28, No. XIII-3001), commit the Councilor of the municipality to be a resident of the municipality where she/he was elected. If the Councilor leaves this territory for inhabitancy in other municipal territory, she/he will lose her/his mandate.

In 2020 the Law on Local Self-Government (2020) has been amended and remote meetings of the municipal Council were legalized due to any emergency, extreme situation or quarantine (Law on Local Self-Government of the Republic of Lithuania, 2018, Article 11<sup>1</sup>). When making decisions of the Council remotely, the identification of a member of the municipal Council and results of his(her) voting must be ensured. Therefore, decisions requiring a secret ballot, can not be taken in such remote meetings.

All these legal restrictions enable to implement the power of external and internal control and ensure the transparent decision making at local level.

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

Administrative supervision of local authorities is exercised according to procedures and in cases as are provided for by the Constitution of the Republic of Lithuania (1992). Article 123 of the Constitution states that: ‘The observance of the Constitution and the law as well as the execution of decisions of the Government by municipalities shall be supervised by the representatives appointed by the Government’. The same approach is embedded in the Law on the Government of the Republic of Lithuania (2018, Article 35), the Law on Local Self-Government of the Republic of Lithuania (2018, Article 55), and the Law on Administrative Supervision of Municipalities of the Republic of Lithuania (2018, Article 1).

The territory of Lithuania is divided into 10 counties, which are subdivided into 60 municipalities. On the basis of the Law on the Territorial Administrative Units and Their Boundaries of the Republic of Lithuania (1994, No. 60-1183, TAR, 2014, i. c. 0941010ISTA000I-558, Article 2) territorial administrative units can be two types: a municipality as the administrative unit governed by a Council (elected by the community) in accordance with the Law on Local Self-Government of the Republic of Lithuania and other laws, and a county as the higher level administrative unit, where the governance is organized by the Government of the Republic of Lithuania. Article 4 of the Law on Administrative Supervision of Municipalities of the Republic of Lithuania (2018) provides that the Government assigns five Representatives of the Government to two counties (Vilnius and Alytus counties, Kaunas and Marijampolė counties, Panevėžys and Utena counties, Klaipėda and Tauragė counties, Šiauliai and Telšiai counties), therefore, the number of supervised municipalities ranges from 10 to 12. Kiuriene (2013: 49) states that the Representative of the Government in a County is the civil servant – the manager of the institution who is appointed for these duties for five years in the competition way, which is organized by the Government. S/he is subordinate to the Government and accountable to the Prime Minister. Article 3 of mentioned law declares special competence requirements for this civil servant: the candidate to this position must hold the university education (not less than master degree) and to have at least five years experience in the field of public administration or to have at least five year's experience in law.

Articles 12 and 13 of the Law declares that the Office of Representatives of the Government is established by the Government. Under the proposal of the Prime Minister, the Government appoints one of already appointed representatives as the Head of the Office of Representatives of the Government (Law on Administrative Supervision of Municipalities of the Republic of Lithuania, 2018). This office consists of five Representatives of the Government and a staff (civil servants and employees) which helps representatives to implement their authorities (powers) and rights. The Representatives of the Government, working in other counties than the location of the Office, as well as civil servants and employees work in remote workplaces (Loizidou, Mosler-Törnström, 2012; Kiuriene, 2014a: 209; Law on Administrative Supervision of Municipalities of the Republic of Lithuania, 2018).

It must be mentioned, that after restoration of independence in Lithuania in 1991 due to some disputes in the society, that the existing concept and system of administrative supervision of local self-government in Lithuania was unsuitable (too restrictive, conflicting with principles of democracy), some reforms were made in the terms of administrative supervision of municipalities. Kiuriene (2015) provides that the Offices of the Representatives of the Government (Services of the Government Representatives in the Counties) were discontinued in 1996 with delegation of their functions to County Governors. 'However, in 1998 the Constitutional Court of the Republic of Lithuania ruled that the institute of administrative supervision of local self-government is provided for in

the top level legal act of the state – the Constitution, therefore abolition of the Offices of the Government Representatives in the Counties is unconstitutional. In addition, the Constitutional Court declared that merging of the independent constitutional institute of administrative supervision of activities of local self-government with another institute, which resulted in direct incorporation of local self-government into local governance, is in conflict with the Constitution of the Republic of Lithuania, therefore supervision of legitimacy of activities of local self-government could not be delegated to County Governor. Consequently, in the light of this ruling, the Offices of the Government Representatives in the Counties could be abolished only by amending the Constitution of the Republic of Lithuania (Kiuriene, 2015: 396). Besides, due to the reform of local government in Lithuania in 2010, the entities of the County Governor and its Administration were abolished and the power of governance in counties was transmitted to the Government (Žilinskas, 2010: 57). Administrative supervision was delegated to ten Representatives of the Government (one representative to each of ten counties), having special offices - Services of the Government Representatives in the Counties. However, in 2019 another reform has been implemented and the Office of Representatives of the Government was established (with just 5 Representatives of the Government, one representative to two counties).

Article 123 of the Constitution states that: ‘The powers of the representatives of the Government and the procedure for the execution of their powers shall be established by law’. This constitutional requirement is embedded in the Law on Administrative Supervision of Municipalities of the Republic of Lithuania (2018, Articles 7-9). The Representative of the Government supervises the ‘legality’, as opposed to the policy content, of local authorities’ decisions (Loizidou, Mosler-Törnström, 2012). The implementation forms of the authority of the Representative of the Government are as follows: advanced supervision of drafts of legal acts of municipal collegial administration entities, reasoned motion, written request, decree, application to the Administrative Court regarding legality of legal act, application to the Administrative Court regarding defending the public interest, claim to the Court of General Jurisdiction regarding defense of public interest, application to the Administrative Court regarding abolition of legal act or regarding obligation to execute the law or decision of Government (Kiuriene, 2013: 50). Article 8 of the Law on Administrative Supervision of Municipalities of the Republic of Lithuania (2018) explains that in all cases the Representative of the Government must inform the Mayo (as the manager of the municipality) about any reasoned motion or request for any municipal administration entity. The Mayor must inform members of the Council about it in the nearest meeting. Articles 7-8 of the aforesaid law state that, if a decision of any municipal administration entity is in conflict with the Constitution and/or the laws, the Representative of the Government can suspend, by decree, the enforcement of the local authority decision until the court of the relevant jurisdiction decides on the application or the means of action. On the basis of the mentioned Law, few steps to ensure the ‘legality’ are identified:

- In a case of a reasoned motion:

- Firstly, the Representative of the Government defines that legal act adopted by the municipal administration entity does not comply with laws or the Government's decisions;
- By the reasoned motion proposes appropriate municipal administration entity to discuss the question of the change or the abolition of the legal act;
- The municipal administration entity within the determined time discusses the received motion and informs the Representative of the Government of the adopted decision (to agree or not with motion of the Representative of the Government);
- In the case when the municipal administration entity refuses to abolish or change the questionable legal act, the Representative of the Government appeals for this act to the court of appropriate competence.
- In a case of a written request:
  - Firstly, the Representative of the Government defines that legal act adopted by the municipal administration entity does not comply with laws or the Government's decisions;
  - To the appropriate municipal administration entity submits the written request to implement the law or execute the decision of the Government immediately;
  - The municipal administration entity within the determined time discusses the received request and informs the Representative of the Government about the adopted decision (to agree or not with request of the Representative of the Government);
  - In the case, when the municipal administration entity refuses to execute the request, the Representative of the Government appeals for this act to the court of appropriate competence (Kiuriene, 2013: 50-51).

This leads to the idea that when mentioned powers are exercising, if recommendations of the Representative of the Government are not followed, he/she may appeal to a Court.

As it was mentioned the Representative of the Government is subordinate to the Government and accountable to the Prime Minister. Article 14 of the Law on Administrative Supervision of Municipalities of the Republic of Lithuania (2018) declares that the Representative of the Government must prepare and submit the report about his/her activity to the Head of the Office of Representatives of the Government. The Head of the Office organizes the summarizing of reports and the submission of the activity report of Representatives of the Government to the Government. This report has to be publicized in the official Office's website.

Finally, the Article 8 part 3 of the European Charter of the Local Self-Government emphasizes that Administrative supervision of local authorities should be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect. Article 54 of the Law on Local Self-Government of the Republic of Lithuania (2018) guarantees that



municipalities can protect their rights and due to any violation (according to its nature) they have the right to apply to the Court.

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

Fiscal autonomy of Municipalities in Lithuania is growing. A reform of the Law on Cash Social Assistance was implemented in Lithuania between 2012 and 2015 by changing the function of cash social assistance to the independent function of the municipalities. The decentralisation of cash support was implemented by allocating sufficient financial resources to the municipalities. This reform has been highly successful. By granting more independence and responsibility to the municipalities in the distribution of cash assistance the abuse of social benefits decreased, whilst the motivation and willingness to work increased, which in turn reduced the scale of illegal employment. The local communities also became more active: the municipalities received a number of notifications of illegal employment and cases of possible abuse of social benefits (Association of Local Authorities in Lithuania, 2018). Each municipality has a formally independent budget, which it drafts and approves. Laws governing budgeting and taxation regulate both the state budget and local government budget. Municipalities cannot be insolvent, in that the Council may not approve a deficit budget. Compensation fund, as such, does not exist. If lacking sufficient revenue, the State gives loans.

Municipalities have three major categories of expenditure:

- most costly are primary and secondary education, which account for 60% of total current expenditure;
- municipalities are also in charge of a number of welfare benefits (mostly support to families), accounting for 14%;
- the so-called housing and communal economy accounts for more than 6% of current expenditure. This capital-intensive category encompasses the provision of public utilities and other infrastructure services (district heating, water supply and sewage).

The source of the municipal budget: (i) state subsidies 55%; (ii) distributed taxes (mostly income tax) 33%; (iii) municipalities' own income 12% (Davulis, 2009). First, county tax inspectorates aggregate the tax (more than 80% of tax income is income tax, the other sources being, for instance, pollution tax or gambling tax) paid by residents of each municipality. Next, a certain proportion is deducted for Compulsory Health Insurance and the state budget (which may be as much as 30%-40%), as determined by the Law on the Approval of Financial Indicators of the State Budget and Municipal Budget, for the year concerned. Finally, the inspectorates transfer to the municipal budgets the percentage of income tax of residents, indicated in the Law on the Municipal Budgetary Revenue Estimation Methodology.

Allocation of subsidies is regulated by the Law on the Methodology of Municipal Budget Income Estimation. Subsidies may be purposive or common. Purposive subsidies are

allocated to perform state functions prescribed to municipalities, as well as to realise the programmes approved by the *Seimas* and Government. A common subsidy of the state budget is allocated to equalise differences between income and expenditure structure, determined by factors not dependant on local government. State subsidies, especially the purposive ones, are made conditional on detailed obligations being satisfied and, thus, are a means of control over municipalities. The volume of state subsidies - over half - means that there is a low rate of fiscal decentralisation in the country.

This is the element in respect of which each municipality has discretion as to what rate to fix for each of the types of tax committed to it, by law. In practice, more than 10% comes from property taxes<sup>3</sup>. The (rather small) remainder comes from the sources stipulated by the Law of Charges, by which a municipality has a right to set local charges in its territory, for giving permissions, for instance to: excavate in its territory; to trade in the public places designated by the Council; or to use car parking sites. Income from local charges comprises a total of only about 1% of all the municipal budget revenue.

Implementing recommendation guidelines of European Council since 1998 the model of municipalities' fiscal (tax) revenues also covering equalization of incomes' needs has been started to be used in Lithuania. In order to equalize municipalities' fiscal resources, the funds that municipality donors transfer to the Treasury account are used. A certain percent of personal tax incomes only from the 7 municipalities, not all the municipalities go to the Treasury. Namely this percentage part of personal income tax of seven municipalities after going to the Treasury account is distributed in order to equalize personal income tax of the rest 53 municipalities and expenses structures that are determined by the factors not depending upon municipalities' activities. These transfers support those municipalities that collect relatively less than the average of personal income tax calculated per person.

Since 2007 municipalities can determine the real estate tax rate, and since 2013 they also can determine the land tax rate. But the rate determination is limited – respectively from 0.3% to 1% and 0.01% to 4%. (*Republic of Lithuania Law on Immovable Property Tax; Republic of Lithuania Law on Land Tax*). Ministry of Finance of the Republic of Lithuania states that: “The following taxes and duties are considered to be the main ones: income tax of individuals; corporate income tax; value-added tax; excise duties; real estate tax; land tax; inheritance tax; and lottery and gambling tax.” Since 1990 and until now municipalities determine the income tax rate for income from activities exercised

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<sup>3</sup> There is a technical, legal problem here. In contrast with this, Article 127 of the Constitution states that: ‘The budgetary system ... shall consist of the independent State Budget ... as well as independent municipal budget. The State Budget revenue shall be raised from taxes, compulsory payments, levies, income from State property and other income. Taxes, other payments to the budgets and levies shall be established by the laws ...’. The terms of the Constitution complicate the right of municipalities to financial resources of their own, in that it seems to bar the establishment of local taxes as understood in the European context.

under a business certificate. (*Provisional Law of the Republic of Lithuania on Income Tax of Natural Persons; Republic of Lithuania Law on Personal Income Tax*).

Yet, the accumulation system of tax revenues of Lithuanian municipalities ensures neither financial independence nor activities' efficiency. Budget planning according to the volume of calculated expenses refers to the old expenses' level and the order of incomes' concentration is rather eclectic.

The amounts of possible to get incomes, dependently upon calculated expenses, are drafted by the Ministry of Finance. It also calculates the so called "basic" expenses and final amounts of expenses. When determining municipal budget expenses, the Ministry of Finance divides the municipalities into six groups according to the similar infrastructure and functioning conditions.

The standards of dividend taxes (personal income tax), that form an important part of municipal budget incomes, are determined every year for each municipality individually, depending upon calculated expenses. Such order discredits the idea of assignation of taxes to municipalities, as development of fiscal decentralization. In economic sense this does not differ from financial granting. Through financial grants the central government may easily strengthen municipalities' control and supervision, may limit the competences of local authorities regarding financial issues, i.e. increase centralism.

Municipalities' opportunities to influence the amount or base of these taxes are limited by the laws. We may state that the municipalities themselves are not yet interested to collect more incomes since this may cause them disadvantages, when approving the budget of the coming year there is a danger that the standards of dividend taxes might be reduced. The municipalities often find it difficult to plan their budgets credibly and to finance foreseen fields purposefully.

After Lithuania has joined the European Union, the municipalities became competitors when assimilating the sources of structural funds. The Ministry of Finance receives the money from the EU. The municipality presents a project and in this way receives financing. Municipalities' fight regarding various projects is rather complicated since many municipalities lack specialists who would be capable to prepare project applications properly, to administer them, there is a problem of project general financing. Sometimes the support goes to economically stronger municipalities.

From 2017 the amount of the annual net borrowing for 57 municipalities could not amount to a positive rate, i.e. the municipal loan could not increase throughout a year and the municipalities had the right to borrow the amount not exceeding the amount repayed for the loans taken out previously.

From 2018 the mentioned provisions (and threats) on limited borrowing opportunities are applicable to 3 biggest municipalities of the cities of Vilnius, Kaunas and Klaipėda, in accordance with Article 13(1-2) of Law on the Approval of Financial Indicators of the State Budget and Municipal Budgets for 2018 and Article 4(2) of the Constitutional Law on the Implementation of the Fiscal Treaty (Association of Local Authorities in Lithuania, 2018). Upon the request of Association of Local Authorities in Lithuania (ALAL), from 2015 the Central government restored the provisions that were in force until 2011 – the previous procedure of calculation of percentage of Personal Income Tax (PIT) per municipalities has been restored and the forecasted PIT increase due to natural economy growth is shared again by the state and municipal budgets. In December 5, 2017 the Seimas adopted the amendment of the Law on Methodology of Determination of Municipal Budget Revenue referring to which compensation of the general grant from the state budget is declined and it is transferred to 38 municipalities to their PIT as a steady source of revenues, therefore in 2018 the budgets of 38 municipalities have really increased for the first time from the economic crisis.

However, without positive changes of financing, municipalities do not feel financially independent. In the above mentioned revision of law adopted by the Seimas a very inconvenient regulation to the municipalities was legalized – losses of PIT determined by the decisions of Central Government will not be fully compensated. Therefore, municipalities have lost the stability of the base of the main revenue source. It is obvious that the state put the consequences of 2008 crisis under the responsibility of municipalities. At the beginning of crisis, the financing of independent functions reduced by almost 30% has not been fully restored yet, despite of the growth of budget revenues.

Recently main attention is laid on borrowing restrictions. Despite higher municipal budgets in 2018, representatives of local authorities are not fully satisfied with this. Regardless of the regulations of European Charter of Local Self-government, at the end of 2014 Constitutional Law on Implementation of Fiscal Treaty which regulations came into force into 2016 drastically restricted annual net borrowing opportunities for 57 municipalities out of 60. Association of Local Authorities in Lithuania requested Central Government to solve the main problem of municipal budgets and to greatly increase borrowing opportunities for 57 municipalities in 2016 that were significantly reduced – up to 1,5 % of budget revenues. At that time Association of Local Authorities in Lithuania requested to pay attention to the fact that in 2016 a big part of municipalities would have a limited right to borrow and would not be able to proper implement a part of investment projects. For the majority of such projects, the Central Government set the requirements to municipalities to contribute with own essentially borrowed funds. “From 2017 the debt of 57 municipalities could not increase within the year and local authorities were entitled to borrow no more than they would repay previously borrowed loans” - the director of Association of Local Authorities in Lithuania R. Žakaitienė explained the present situation. After this revision, municipalities that were working without debts suffered greatly because at present they do not have any opportunities to borrow«. Municipalities

are trying to restore the previous opportunity (Association of Local Authorities in Lithuania, 2018).

## 9 Local authorities' right to associate

The right and freedom to join organizations and associations, which are considered as a part of fundamental human rights, have to be embedded in laws and guaranteed by state obligations to the international community (Baronaitė, 2008; Lydeka, 2007). Article 35 of the Constitution states that: 'Citizens shall be guaranteed the right to freely form societies, political parties, and associations provided that the aims and activities thereof are not contrary to the Constitution and laws'.

The Law on Public Administration of the Republic of Lithuania (2017, Article 2 part 4, Article 4 parts 3 and 5) prescribes subjects of public administration including state and municipality subjects as well as associations authorized to perform public administration. Article 4<sup>1</sup> of the aforesaid law presents ways of granting of powers of public administration. It provides that 'associations may be granted the powers of public administration by the following documents: 1) laws, a directly-applicable legal act of the European Union, a ratified international agreement of the Republic of Lithuania, where such a legal act specifies a concrete entity which is functioning or is planned to be set up (where necessary, its name, designation, legal form, liaisons with other entities of public administration, etc.) and defines the concrete powers of public administration for this entity; 2) a legal act adopted by an state or municipal institution authorised by the law where this institution, acting in compliance with the law regulating a general procedure for setting up entities of public administration of a certain field of public life as well as their activities, indicates in the said legal act an entity which is functioning or is planned to be set up (where necessary, its name, those working in the designation, legal form, liaisons with other entities of public administration, etc.) and defines the concrete powers of public administration for this entity'. Vitkutė (2018: 165) emphasize that Lithuania has many special laws (i. e. The Law on Basic Regulations of Association of Local Authorities of the Republic of Lithuania (1995)) where particular associations and their functions are identified, however, none of them directly embedded any association as a public administration subject.

All associations, including field of local self-governance, follow the Law on Associations of the Republic of Lithuania (2017). The Article 2 of this law states that association is 'a public legal person with limited civil liability, whose purpose is to coordinate activities of association members, represent and protect interests of association members, meet other public interests'. The law (Article 7, 8 and 9) establishes guidelines on the management (organizational) structure of an association. The Article 15 declares that all associations can become members of international organizations whose objectives and activities are not in conflict with the Constitution of the Republic of Lithuania and other laws. Therefore it provides the right to belong to an international association of local

authorities or to initiate trans-border co-operation with similar association as it is required by the Charter. 'This possibility exists on the basis of the Madrid Convention on Transfrontier Co-operation, ratified by Lithuania in 1997' (Loizidou, Mosler-Törnström, 2012).

Interests of local self-government (municipalities) in Lithuania are represented by the Association of Local Authorities. It represents members in the Government, other state institutions and international organizations (Law on Local Self-Government of the Republic of Lithuania, 2020, Article 53). The Association of Local Authorities in Lithuania (ALAL) as a non-profit, non-Governmental organization, representing the common interests of its members - local authorities seeks to implement the essential rights of local self-government and to foster its development, by influencing decisions taken by national authorities and international institutions. Article 4 of the Law on Basic Regulations of Association of Local Authorities of the Republic of Lithuania (1995) declares that each municipality Council taking its decision can become the member of this association. Therefore, the ALAL seems to be an active entity whose right to represent all the 60 Lithuanian municipalities is respected by the Government and the Parliament of the Republic of Lithuania.

The Association of Local Authorities in Lithuania has its specific organizational structure. Institutions can be divided to several groups: 1) representative bodies (Congress, meetings of County Mayors); 2) executive bodies (Council, Council and President); 3) single-person management body (Director); 4) control body (Committee of Auditors); 5) Council advisory bodies (Committees) (ALAL institutions, 2018) (see Table 2).

Besides, since 2007 the Association of Local Authorities in Lithuania has the Brussels Representative providing any information about Lithuanian local authorities, their contacts, international and European policies in local government. This is one of possibilities for strengthening international relations, needed as a presumption for international cooperation.

**Table 2:** Institutions of the Association of Local Authorities in Lithuania

<b>Institution</b>	<b>Functions</b>	<b>Composition</b>
Congress	the highest governing institution of the ALAL, determines the basic activities of the ALAL, elects the President and two Vice-Presidents of the Association, approves and makes changes to regulations, admits and eliminates members, as well as approves the budget.	One representative for every 10 members on municipality's Council, in addition to this quota municipalities with population is greater than 100 000 may elect one additional representative for each additional 100 000 inhabitants
President	represents the ALAL in government institutions, international organizations, co-ordinates adjustment of draft laws related to the municipal activities, signs agreements.	S/he and Vice-Presidents of the ALAL are elected by open voting in the Congress
Council	in between the congresses, the ALAL is governed by it, carries out the functions determined by the Congress, approves the programme of the Association, discusses the draft laws and resolutions submitted by the Council, establishes, reorganizes or liquidates companies and public enterprises of the ALAL	Mayors and vice-Mayors of municipalities, the President and Vice-Presidents (if they are not Mayors)
Council	discusses problems brought forward at Council and Mayor meetings, offers solutions, makes suggestions on self-government related laws to government institutions, establishes work tasks for the administration, and approves the list of committees.	Representatives of Mayors of counties' local authorities, elected at a meeting of county Mayors, President and Vice-Presidents of the Association, and Mayor of the capital (if he is not President/ Vice-President or county Mayor representative)
Administration	organizes and co-ordinates activities of the ALAL, acts in accordance with the resolutions of the Association's institutions and orders of the director.	
Director	organizes activities of the ALAL,	

	deals with organizational, economic and financial issues, leads the Administration.	
Committees	The main function is the advisory for the Council.	Members of municipalities Councils, Mayors or Mayors' authorized vice-Mayors and administrators, ALAL administration employees, municipalities' civil servants.

Source: authors conducted in accordance with ALAL institutions, 2018.

Activities of the ALAL are oriented to achieve few main objectives: to implement the provisions of the European Charter of Local Self-Government in Lithuania, to organize and coordinate activities of its members in the areas of investment attraction, development of municipal economies, improvement of legislature, business support, public security, culture, education, science, health care, social care and protection, improvement of local services, as well as relations with international organizations and municipalities abroad (Statute of the Association of Local Authorities in Lithuania, 2015). One of its tasks is to monitor the implementation of the provisions of the European Charter of Local Self-Government.

The ALAL is working for the international cooperation. It (and its members) participates in the implementation of international projects on local level too. The ALAL is the member of CEMR (Council of European Municipalities and Regions) since 2001. It actively participates in CEMR structures, including Twinning coordinators' network, ELAN (European Local Authorities Network) and other groups' activities.

The Article 52 of the Law on Local Self-Government of the Republic of Lithuania (2020) provides that ALAL must be invited to give its opinion on drafts of Laws (whether primary or secondary) related to local government activities. Article 50 defines the participation of the ALAL in discussions with the Government about any changes in municipalities' functions, income or expenditures of municipalities, projects with financial calculations. A bilateral commission is formed for the coordination of interests and positions between the Government and the Association of Local Authorities in Lithuania within the agreement of parties.

Lithuania has 545 wards. Elders are managers of wards. Article 31 part 14 (Law on Local Self-Government of the Republic of Lithuania, 2020) states that 'the Association of Elders of Local Authorities in Lithuania can be established to represent interests of elders in state institutions and the Association of Local Authorities in Lithuania'. Association of Elders of Local Authorities in Lithuania (AELAL) was legally registered on the 22nd of June, 2001 and got the legal status of non-profit organization. In the beginning of 2020, the AELAL has 443 members. Members of this association can be elders, vice-elders or former elders. This association has its organizational structure too (Table 3). The mission of AELAL is to solve common problems of its members, to represent common members'



interests, to coordinate targeted members' activities in sharing the experience, qualification upgrading, legal defence and strengthening the local self-governance. This association follows such principles of acting: members' autonomy, decentralization of government, collegiality, legitimacy, democracy, transparency and responsibility (Association of Elders of Local Authorities in Lithuania, 2018).

**Table 3:** Institutions of the Association of Elders of Local Authorities in Lithuania

Institution	Functions	Composition
Congress	the highest governing institution of the AELAL, approves and makes changes to regulations, determines the basic activities of the ALAL, elects the President, 10 Vice-Presidents, the Reviser of the Association and representatives in municipalities for two years, determines and modifies the size of contributions and fees of members of the Association, as well as the payment procedure.	Elders are represented by delegates in addition to quotas.
President	co-ordinates activities of the AELAL, represents the AELAL in national and local government institutions, NGOs, international organizations, international NGOs.	S/he and Vice-Presidents of the AELAL are elected in the Congress
Council	in between the congresses, the AELAL is governed by it, accepts new members.	It consists of the President and 10 Vice-Presidents.

Source: authors conducted in accordance with Association of Elders of Local Authorities in Lithuania, 2018.

AELAL coordinates and encourages partnerships of Lithuanian wards, represents them and defends, strengthens the mutual understanding and partnerships between local government, the business sector and non-governmental organizations, promotes active citizen participation in local government decision-making, strengthens the development of community activities; submit proposals and participate in the preparation and consideration of draft laws and other legal acts related to activities of wards and communities; organizes trainings for elders. The association cooperates with organizations representing the common interests of other entities. The association cooperates with various institutions, entities, organizations and associations in Lithuania and abroad, it looks for partners all around the Europe and the world.

Besides, Lithuanian representatives (mayors and councils' members) are members of the European Committee of the Regions (9 full members and 9 alternate members) as well as members of the Congress of Local and Regional Authorities of the Council of Europe (full members and alternate members).

Finally, it must be emphasized that some municipalities have departments of international relations. In some fields (such as business development, investments, social care, culture and tourism) they implement some international projects and have joint budgets. Frequently, these mostly involve cross-border co-operation with neighbouring districts in Poland, Russia, Latvia and Belarus (Loizidou, Mosler-Törnström, 2012). So, it can be stated that municipalities attach importance to international collaboration. This right is guaranteed by the European Charter of Local Self-Government and enabled by local self-government entities in seeking of the socio-economic welfare of local community.

## 10 Legal protection of local self-government

“Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation” (Loizidou, Mosler-Törnström, 2012). The Article 122 of the Constitution (1992) states: ‘Municipal Councils shall have the right to apply to court regarding the violation of their rights’. Thus, the basic law of the Republic of Lithuania explicitly establishes “the possibility for local self-government legal entities to defend their rights and legitimate interests in court” (Urmonas, Novikovas, 2011: 1023). Article 54 part 1 (Law on Local Self-Government of the Republic of Lithuania, 2020) repeats the same provision.

In a case of legal procedures (hearing a case in a Court) the Mayor represents the municipality by himself or authorizes other person to represent the municipality in accordance with the procedure established by the Regulation (Law on Local Self-Government of the Republic of Lithuania, 2018, Article 20 part 2).

The Article 54 part 3 declares that ‘entities of state administration are prohibited from restricting or limiting powers and rights of municipalities, except in cases established by law’.

Loizidou and Mosler-Törnström (2012) noticed two main points: 1) municipalities do have the right to appear before Courts; 2) the Association of Local Authorities in Lithuania has standing to represent all municipalities in governmental and administration institutions, other entities. Article 2 (part 2.2.4) of the Statute of the Association of Local Authorities in Lithuania (2015) establishes the ALAL ‘represents common members’ interests in state power and governmental, other institutions’. The Article 5 of the Constitution (1992) states: ‘In Lithuania, state power shall be executed by the Seimas, the President of the Republic and the Government, and the Judiciary’. However this issue does not clarify if the ALAL has any certain means to represent all municipalities before a Court. Loizidou and Mosler-Törnström (2012) explained that the reason why the ALAL should have such standing is because, ‘if any particular municipality(-ies) might fear, whether reasonably or not, victimisation if they were themselves to take a case and so might prefer to leave it to the Association’. It was highly recommended that ‘the law be

amended to make it clear, beyond any doubt, that the ALAL does have the appropriate standing'. Analyzing the Statute of the Association of Local Authorities in Lithuania (2015) and the Law on Local Self-Government (2018) it seems that this recommendation was not taken to account what encourages to be repeated in 2018.

Finally, Urmonas and Novikovas (2011: 1023) state that this requirement of the European Charter of Local Self-Government is 'incorporated to the national law system and its implementation causes the least problems'.

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

*Administrative supervision of municipalities.* According to Ruling of the Government of the Republic of Lithuania on the Approval Program for the Development of Public Governance 2012-2020 (2015), it has been emphasized that 'to ensure the balance between the municipalities' freedoms of activity and accountability to the state and society in forwarding or assigning functions and rights for the municipalities, the responsibility of municipal entities for the appropriate execution of these functions must be determined, and the supervision of the municipal activities must be improved – the competence of the Government Representative has to be increased in this field' (Kiuriene, 2013: 44).

*Reduction of administrative burden in municipalities.* Due to viable changes in the public governance, on November 8, 2012 the Parliament of the Republic of Lithuania adopted the Law on Administrative Burden Reduction of the Republic of Lithuania (2013) to eliminate the unreasonable and disproportionate administrative burden, having a negative impact on the country's economy. The aim of this Law is to ensure the harmonious process in reducing administrative burden, focused on private, commercial and public interests as well as cost-effective achievement of legislative goals. The Law provides principles, means of administrative burden reduction and ways of its application. Program for the Development of Public Governance 2012-2020 (Ruling of the Government of the Republic of Lithuania on the Approval Program for the Development of Public Governance 2012-2020, 2015) emphasizes that those public governance institutions which act on the national level must take measures to reduce the administrative burden to citizens and economic entities. Kiuriene (2014b: 172) noticed that initiatives to reduce the administrative burden on the local level (in municipalities) are still not implemented: requests of the Representatives of the Government 'to implement the Law on Administrative Burden Reduction, which have been sent for municipalities' Councils in the beginning of 2014, just confirm that changes of public governance in municipalities do not take the as fast the public or business entities would like'.

*Local authorities' right to associate.* The problematic issues are rising out of 'legal regulation, case law and legal doctrine related to possibilities for certain associations to

perform public administration functions in Lithuania. Therefore it is suggested that two separate categories of associations should be clearly distinguished: 1) fully voluntary associations and 2) associations, establishment and functions thereof, are determined by special laws, i.e. by legislator. This would allow to more properly validate attribution of public administration activities to the latter group of associations' (Vitkutė, 2018: 176). It would be more clear understanding of legal status of the ALAL and the AELAL as associations acting the field of local self-government.

*Legal protection of local self-government.* To this moment the Association of Local Authorities in Lithuania has standing to represent all municipalities in state governmental and administration institutions but not before a Court (Loizidou, Mosler-Törnström, 2012). The amendments of the law could guarantee such an appropriate standing enabling more secure and free exercising of their powers as it is required by the European Charter of Local Self-Government.

*The size of tax revenue* which the municipalities have the right to regulate is below 10 per cent in the revenue structure of the municipalities (Article 9, paragraph 3 of the the European Charter of Local Self-Government is weakly implemented).

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