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ARMENIAN GOVERNMENT COMMITMENTS TO DECENTRALIZATION POLICY AND DEVELOPMENT OF LOCAL SELF-GOVERNANCE

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LIST OF ABBREVIATIONS

CIS – Commonwealth of Independent States

CLRAE – Congress of Local and Regional Authorities of Europe

CoE – Council of Europe

EU – European Union

IT – Information Technology

LSG – Local Self-Government

NA – National Assembly

PRSP – Poverty Reduction Strategy Paper

RA – Republic of Armenia

USSR – Union of Soviet Socialist Republics

ABSTRACT

The aim of this research is to study the present situation in the Republic of Armenia in terms of decentralization policy, and focus on compliance of national policies with the obligations undertaken by signing the European Charter of Local Self-Governance.

After general introduction literature review follows. It represents the path the local self-government system in Armenia has passed since its establishment. Three waves of reforms of the system are introduced which include legislative, institutional, financial and policy-making changes made during the last two decades. Then this chapter reviews the reforms made in our neighboring states Georgia and Azerbaijan after ratifying the European Charter to compare with the level of development of the local self-government system in Armenia and to use their experience of successful reforms where necessary.

The second part of the paper includes findings and analyses on the legislative framework of local self-government system, its compliance with the European Charter, introduces the failures and successes achieved till now, discusses the correspondence of financial resources and powers of local government bodies, reveals the role of local democracy and compares the level of decentralization in Armenia with the European countries.

Finally the paper comes up with conclusions and some recommendations, the fulfillment of which will contribute to the elimination of current drawbacks and will promote further development of the system.

Introduction

Democracy as a system of governance has several important principles, one of which is the citizens' participation in public affairs. Participation is the most effective guarantee of acting democracy and the mechanisms directed to the fulfillment of this principle strengthen the democratic system in a state. In the modern world one of the mechanisms of bringing the governance closer to the people and ensuring their engagement in policy decision-making is decentralization of power and strengthening of local self-government (LSG) system. "Local government refers to specific institutions or entities created by national constitutions, by state constitutions, by ordinary legislation of a higher level of central government, by provincial or state legislation, or by executive order to deliver a range of specified services to a relatively small geographically delineated area" (Shah, 2006, 1). Besides, local government is the right and power of the people to administer and resolve issues important for their lives and well-being within geographical area of their residence.

The importance of local self-government system is paramount not only from the point of view of democracy but also from the perspective of delivering public services more efficiently. The subsidiarity principle, which currently becomes universally accepted, supposes that governmental responsibility for functions should be at the lowest level of government that can efficiently deliver the function. This principle assumes that local government is much more aware of the needs and demands of its residents, therefore, certain services delivered by local governments are more efficient and effective than being delivered by upper tiers of government (Mikesell, 2003).

Republic of Armenia (RA) has two levels of public administration system: central government and local self-government. Being the integral part of the Soviet Union for over seventy years and incurring the Soviet Union system of governance, Armenia faced numerous challenges after obtaining its independence. It was obvious that among the

fundamental reforms for a new democratic state were introduction of a new territorial administrative division and establishment of a system of local self-governance which, however, were not conducted immediately after gaining independence. A number of factors, such as the war in Nagorno–Karabagh, the blockade and the economic crisis, distracted the government's attention from these important issues. Only in 1995 when the Constitution was adopted the government laid the foundation for new territorial administration and local self-government policies.

Since independence, there were fundamentally three waves of reforms in local self-governance. The first one was in 1995-1996 with the introduction of new territorial administrative division and adoption of the Law on Local Self-Government. The second wave started in 2002 with the adoption of a new law on local self-government and subsequent reforms reflected in amended Constitution in 2005. Finally, the third wave can be linked to the adoption of the Law on LSG in Yerevan and corresponding changes in the entire system of local self-government reflected in the Law on LSG, adoption of a number of laws and provisions.

There are currently 915 communities in Armenia. The total number of urban communities is 49, including Yerevan (Yerevan is regulated by separate law since 2008 - RA Law on Local Self-governance in Yerevan). The remaining 866 are rural (www.mta.gov.am). The communities differ in their size and the number of inhabitants.

Armenia, as a newly established democratic state, could not pass the transition period without international support. One way of getting this support is through integration into international and regional organizations and unions, committing to international treaties and conventions. Besides, no state can reach certain international standards in isolation; the collaboration with other states and international organizations is very important. Armenia was not an exception. In 2001 Armenia became a member of the Council of Europe (CoE). As an

organization which gives paramount importance to the development of the system of LSG, the Council of Europe adopted the European Charter of Local Self-Government (herein the Charter) in 1985. Armenia signed the Charter in May, 2001 and ratified it in January, 2002 and entered into force on May 1, 2002. The Charter had an important role in the establishment of the system of LSG in Armenia, especially in the transition period. The Charter establishes fundamental principles of local self-government. The Charter describes the local authorities as "one of the main foundations of any democratic regime" and "defines the parameters of local self-government at European level and urges the Member States of the Council of Europe to apply these principles in practice. In other words, the principle of local self-government must be recognized in each Member State's domestic legislation" (Pejanovic, 2006, 216).

Any commitment document when signed and ratified requires an effective implementation of its provisions which presupposes legislative, institutional changes and concrete actions. There is no doubt that Armenia's system of LSG has made much progress since the Charter came into force. All the above-mentioned changes have occurred to some extent. However, the level of policy implementation in the local self-government area has many drawbacks that have to be improved. There are still many obstacles for the local government to fulfill its functions, ensure effective service delivery, local democracy, fair elections, and citizens' participation in decision-making. This research will study the present situation in the Republic of Armenia in terms of decentralization policy, and focus on compliance of national policies with the obligations undertaken under the European Charter of Local Self-Government.

Research Questions

The paper will answer the following research questions:

RQ 1. What are the provisions of the Charter that are met by Armenia and which ones can be met in the years to come?

RQ 2. What are the mechanisms of monitoring compliance with the provisions of the Charter?

RQ 3. How the Government of Armenia interacts and collaborates with the CoE in order to overall improve its system of local government?

RQ 4. What accounts for the successes and failures of the reforms in local self-government after the European Charter was ratified by Armenia?

RQ 5. Does the local government need more resources to execute its mandates?

RQ 6. Does the local government need more power to execute its mandates?

RQ 7. Is the legal framework in Armenia adequate to implement decentralization policies?

RQ 8. Is it possible to have democratic central government by promoting democracy in the local government?

RQ 9. What institutional, legislative or any other changes are necessary to better comply with the provisions of the Charter?

Literature Review

The emergence of local self-governance dates back to the Early Middle Ages. The question where local governance was first implemented leaves much room for different discussions. There are some opinions that local governance as a way of governance was first practices in Great Britain, and then others think that it emerged in India, in the British colonies. The traits of local government are noticed in Sweden as well. Sweden's county councils were created in the mid-1800s. Their task was to deliberate and decide on matters such as the economic situation, agriculture, communications, healthcare, education and law and order. The municipalities were set to run the recently established elementary schools (www.skl.se). In these regards, Armenia can be considered another birthplace of local governance as the ancient Armenian cities back in III-IV centuries BC had their own rulers who organized the administration of these cities (Harutyunyan, 2008).

However, the development of local self-governance in its modern form erupted in the early 19th century. It was predetermined by the growth of industrial production. Cities obtained the right to control city property as the growth of industry in big cities was obvious. Besides, there was a need to establish intercommunity ties to collaborate with one another for economic and social prosperity (Harutyunyan, 2010).

Despite the long history, local self-governance had not been studied deeply enough and there was a lack of academic literature on local self-governance systems till recently. Only during the last few decades it has become the subject of discussions, worldwide discourses and academic literature. It can be explained by the fact that "globalization and the information revolution are forcing a reexamination of citizen-state relations and roles and the relationships of various orders of government with entities beyond government — and thereby an enhanced focus on local governance" (Shah, et al, 2006, 2).

In the second half of the 20th century when democracy was established as a system of governance in most states of the world, the concept of local self-governance could not be neglected. It is the most effective way to make the voice of citizens heard, to increase civil participation, to facilitate the improvement of quality of life, all of which are the most important pillars of acting democracy. That is why all the developed states give paramount importance to this level of governance and all the developing states consider the development and stability of LSG system one of their priorities, especially those which have undergone a transition period. Armenia, being a young independent state, was not an exception.

Chapter 1. Establishment of Local Self-Government System after Independence of RA

Background and General Description of LSG System in Armenia

During the Soviet era, Armenia's local government system was a part of the Soviet administration. Armenia had 37 rayons. There were about 1000 settlements in Armenia, which consisted of 630 municipalities (rural soviets and town soviets) (Khachikyan, 2009). Town soviets were considered the cities and towns of republican and regional significance, and rural soviets included villages and smaller rural settlements irrespective of their administrative accountability. "The head of any region, smaller rural settlement, city or village was elected from the council elected by the population in the given administrative and territorial unit. These councils represented local government authorities and formed part of national government system" (Tumanyan, 2005, 9).

In 1991 Armenia declared its independence. Though the country was in an adverse political and economic situation, the establishment of state institutions and introduction of public administration system were priorities for the state.

Under the Soviet rule Armenia has been imposed, as everywhere else in the USSR, a different, highly hierarchical system of local government, based on the principle of 'democratic centralism'. So after becoming independent Armenia like other CIS countries took the European model of local self-government. Armenia selected a model which was closer to the French one and contained some elements of German legislation. The principle of the model is a strong central control combined with locally elected Mayors and Councils (Ordyan, 2000). All the structural, administrative and territorial changes were prescribed in the Constitution adopted in 1995 by referendum. In spite of the fact that Armenian authorities were overloaded by dozens of problems at that time, they realized that the role of administrative territorial division in establishing democratic system of public administration was enormous.

The National Assembly (NA) adopted the Law on Administrative and Territorial Division of the Republic of Armenia in 1995 as a priority among the first legislative initiatives. According to the law, Armenia was divided into 10 marzes and Yerevan also was considered a marz according to the initial law. Marzes are governed by marzpets who are appointed and dismissed by the decision of government subsequently ratified by the President. Mayor of Yerevan, according to 1995 Constitution, was also considered a marzpet and was appointed by the Prime Minister upon nomination of President. It is important to mention that "marzpet offices are not a subnational tier of government, they represent the central government in the regions" (Drampian, 2004, 2).

While making the administrative territorial division of the country, the following principles were taken into account:

"a) Reproduction potential of each marz had to be based on such resources, which would allow its clear specialization within the socio-economic structure of the Republic;

b) Specifics of the former regions as well as the existing social and economic infrastructures had to be taken into consideration in the marz breakdown of the country; and

c) Preclusion of dissipation of certain regions among various marzes" (Tumanyan, 2005, 11).

All the settlements (localities) in Armenia are included in communities. Local self-governance is carried out in communities (*hamainks*). Communities, which include settlements classified as cities are called urban communities; those, which have settlements classified as villages (rural) are called rural communities.

The Powers of Local Self-Government and the Areas of Activity

According to the acting Law on Local Self-Government, there are two types of power of the communities: own and delegated by the state. Own powers are divided into mandatory and voluntary powers. It is mentioned in law that the fulfillment of mandatory powers and powers delegated by the state is "subject to priority implementation" (Law on Local Self-Government, 2002). Mandatory and delegated powers are implemented in the following spheres:

1. Protection of the Rights of Citizens and Economic Agencies
2. Finance
3. Protection of Public Ordinance
4. Defense
5. Urban Development and Land Use
6. Public Utilities and Provision of Amenities
7. Transport
8. Trade and Services
9. Education, Culture and Works with Youth
10. Public Health, Physical Culture and Sports
11. Labor and Social Services
12. Agriculture

13. Natural and Environment Protection

In each of this sphere the Chief of a Community has either mandatory, delegated or mandatory powers, in some cases all of them. All the communities have the same mandatory powers irrelevant their size and the number of population. "The State delegated powers shall be funded from the state budget, in full and obligatory manner, out of the funds envisaged in the budget line of financing the State delegated powers" (Law on Local Self-Governance, 2002).

The Council of Europe and the European Charter of Local Self-government

The Council of Europe, being one of the largest regional organizations, has given much importance to local self-government for democratic development since its establishment in 1949. Already in 1957 the first Conference of Local Authorities was held. Another vital step was the adoption of the Charter of Local Self-governance in 1985 which "defines the fundamental principles of local self-government based on the European states' experience" (Pejanovic, 2006, 216). The Charter is the first multilateral legal document which regulates local self-government system. As it is mentioned in the Explanatory Report of the European Charter of Local Self-Government, it was drawn up within the CoE by a committee of governmental experts under the authority of the Steering Committee for Regional and Municipal Matters on the basis of a draft proposed by the Standing Conference of Local and Regional Authorities of Europe (Charter Explanatory Report).

The aim of the Charter is "to make good the lack of common European standards for measuring and safeguarding the rights of local authorities, which are closest to the citizen and give him the opportunity of participating effectively in the making of decisions affecting his

everyday environment" (Charter Explanatory Report). It defines the standards that are applied in Europe in terms of LSG system and advocates the member states to implement the recommended policies in their states and develop the LSG systems according to these principles.

The Charter consists of preamble and three parts. The preamble states the main purpose of the charter and mentions the main principles that were considered as a baseline for the charter, such as "the local authorities are one of the main foundations of any democratic regime", "the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen" and so on. The first part contains the substantive provisions setting out the principles of local self-government. The second part includes various provisions relating to the scope of the activities of LSG bodies. Finally, the third part contains "final provisions consistent with those customarily used in conventions drawn up under the auspices of the Council of Europe" (Charter explanatory Report).

Later in 1994 the Standing Conference of Local and Regional Authorities of Europe was transformed into Congress of Local and Regional Authorities of Europe (CLRAE) which is a political assembly with 636 members. Its role is to "promote local and regional democracy, improve local and regional governance and strengthen authorities' self-government" (www.coe.int). The Congress does regular monitoring in the member states to follow the implementation of the Charter and to give necessary recommendations.

After becoming independent, Armenia started the process of democratization and state institution-building. Being the part of the Soviet Union and having no experience in establishing democratic system, RA could not overcome all the challenges of the new system alone. In order to implement efficient reforms Armenia was intensively looking at the experience of other countries. On the other hand international recognition of the newly

established state by international community brought to membership of Armenia in different international organizations. In terms of the development of LSG system, the membership to the Council of Europe was one of the most significant events.

RA became a member of Council of Europe in 2001 and it was recommended to Armenia to sign and ratify the European Charter of Local Self-government and make the corresponding legislative and institutional changes. As a state willing to bring the whole institutional system and legislative framework to European standards, Armenia signed the Charter on May 11, 2001 and ratified it on January 25, 2002 (www.coe.int). Armenia also has its delegation in the Congress of Local and Regional Authorities of Europe. It has 4 representatives and 4 substitutes. The head of the delegation is currently Mr. Emin Yeritsyan, the President of the Communities Association of Armenia.

Another crucial step taken by the Council of Europe was the adoption of Additional Protocol to the European Charter of Local Self-Government on the citizens' right to participate in the affairs of a local authority. This protocol was adopted on 9 September 2009 and opened for signature by member States Party to the Charter on 16 and 17 November 2009 in Utrecht. Armenia as a signatory of the European charter also signed the protocol in March, 2010 but has not ratified it yet.

The Preamble of the European Charter of Local Self-Government itself recognizes that the right of citizens to participate in the conduct of public affairs is one of the democratic principles; however it does not include substantive provisions on the topic. "The Additional protocol aims to bring within the scope of the Charter the right of everyone to participate in the affairs of a local authority" (Explanatory Report on Protocol).

The protocol consists of a preamble and seven articles. The preamble mentions the reasons for adopting the protocol. The first article defines the right to participate in the local affairs, the second one mentions the implementing measures for the right to participate, and

the third one defines the authorities to which it applies. Articles 4-7 contain the rules usual for Council of Europe Treaties concerning the signature, ratification, acceptance, approval, entry into force, notifications, communications and denunciation (Explanatory Report on Protocol).

Chapter 2. Local Self-Government System Reforms in Armenia

2.1. 1995-1996 Constitutional and Legislative Reforms

Armenian local self-government system has undergone several stages of reforms. Each stage is very important for the development and future promotion of LSG system; however the initial stage (1995-1996) is particularly significant in terms of being fundamental for further reforms and the development of the system.

The Constitution adopted in 1995 was the first step in the formation of LSG system. It provided the legal framework and defined the fundamental principles based on international experience, which later guaranteed the efficient development of this system. Chapter 7 of the Constitution was devoted to local self-government. Some important provisions are worth mentioning.

Article 105 of the Constitution represented the local self-government bodies (according to the first adopted constitution the bodies are Council of Elders and a head of community - City Mayor or Village Mayor) which are elected. The article also determined local government's term of the office for three years.

The financial independence of local bodies was mentioned in Article 106, namely: "The community elders on the presentation of the community leader ratify the community

budget, oversee the implementation of the budget, and as provided by law, establish local taxes and payments".

The Constitution contained also some provisions which were far from being democratic and were amended later. These articles were mainly about the procedure of appointment and removal of the head of community which was done by the Government in cases prescribed by law upon the recommendation of the Governor (*marzpet*). Article 109 mentioned "With the suggestion of the Governor the government can dismiss the head of community in cases prescribed by law. When the head of community is dismissed by the decision of the Government, extraordinary elections shall be held within a period of thirty days. Until such time as the newly elected head of community may take office, an acting head of community shall be appointed by the Prime Minister for urban communities and by the Governor for rural communities." (RA Constitution 1995, Article 109). Now this procedure is conducted only upon the recommendation of the Constitutional Court.

The legislative framework of LSG system was not limited only by the Constitution. In 1995 the Law on Administrative and Territorial Division of the Republic of Armenia was adopted which defined the administrative-territorial units of Republic of Armenia. According to Article 1 of the law they are marzes and communities.

This Law establishes completely new administrative-territorial division. The former Soviet Armenia 37 regions were replaced by 10 marzes where state territorial governance was exercised. Local self-governance was exercised in 930 communities (initially there were 930 communities instead of current 915), including 47 towns and 12 district communities in Yerevan. The capital of the country had a status of a marz, where state governance was exercised.

2.2. 1997-1998 Reforms in Local Government Finance

In spite of the fact that the RA Law on Local Self-Governance regulated the financial framework of a community in Chapter 6 entitled "Development Program and Budget of Community", the complete fulfillment of the budgetary system required a more comprehensive legislative framework. That is why the RA Law on Budgetary System (21 July, 1997) and the RA Law on Local Duties and Fees (26 December, 1997) were essential for improving the financial basis of local self-government.

The Law on Budgetary System of Armenia in its chapter 5 regulates functioning of local government financial system and budgetary relations between the central and municipal budgets and stipulates procedures on development, execution and supervision of community budget. "The Armenian budget system involves the state budget and municipal budgets, which follows common procedures of developing draft budgets, classifying revenues and expenditures, accounting, reporting and implementation. Regulation of budgetary relations is based on the principles of uniformity, independence, balance and transparency of the budgets, as defined by law" (Tumanyan 2001, 345).

As it was stipulated by the first Law on Local Self-Governance and now by the budgetary law, the community budget consists of administrative (operational) part and capital part. The administrative budget includes revenues which are taxes and duties, non-tax revenues and official transfers. The most significant reform made during this period was that 15% of income tax was initially assigned to local government budget, which was abolished in February 2000, after amendments in the Law on Budgetary system.

The Law on Local Duties and Fees (1997) defines local duties and fees, prescribes procedures for the introduction, administration and collection of local duties and fees (Tumanyan, 2006). The law defines 9 local duties (such as duty for getting permission to sell alcohol or cigarettes, duty for placing outdoor advertisements in the territory of a community

and so on) and 3 local fees (such as fee for organizing competitions and auctions). The law stipulates that the municipal council has the right to set the rates of local duties and fees within the range defined by law.

As it was mentioned, official transfers were a constituent part of a community's revenues but the legislative framework was vague in this regards until the RA Law on Financial Equalization (23 December, 1998) was adopted to regulate the transfers from state budget to a community budget. Financial equalization is one of the important functions of the state budgeting policy as it aims at the softening of polarization of municipalities with different financial capacities, as well as strengthening and development of the financial capacities of municipalities.

According to the Law, the State is allocating some financial resources to the municipalities with weak financial capacities, which the municipality is using for the implementation of the mandatory responsibilities defined by the Law (Movsisyan, 2007). The minimum amount of subsidies is defined in the Law on Local Self-Government in the amount no less than four percent of the actual aggregate revenues of the consolidated budget of the penultimate (the year before last) fiscal year. The Law on State Budget of the Republic of Armenia, adopted each year, determines the yearly distribution of the state subsidies to particular municipalities.

2.3. New Law of Local Self-Governance of 2002

All the above-mentioned reforms were fundamental and crucial for the formation of the local self-government system. However, neither the existing legislative framework nor the institutional system was sufficient enough to provide for the further development of the system. The need for legislative changes became more obvious after the ratification of the

European Charter of Local self-governance, as the national legislation should have been brought in correspondence with the Charter. So the parliament adopted a new Law on Local Self-Governance in 2002. The primary objective of the amendments was to remove the shortcomings of the existing legislation on the basis of the obtained experience and ensure a complete correspondence with the requirements of the European Charter (Tumanyan, 2004).

The 2002 Law on Local Self-Government contained new provisions which completely changed the work of local institutions. Some of them are worth mentioning.

First of all, according to the new law, community budget is built of own-source revenues. Own-source revenues of the communities are land and property taxes in their entirety, local duties and fees, as well as the variety of other community budget revenues. Local self-governments manage the administration and collection of property and land taxes. The performance of these mandatory powers by local self-governments substantially contributes to the financial capacities of the municipalities. However, at the time of promulgating this law local self-governments did not have power to determine tax rates (www.mta.am), which was introduced later with constitutional changes in 2005.

Another important change was that "a community, as a subject of private and public rights, will be recognized a legal entity, the founder of which will be the community population, borders of which will be defined in conformity with the Law on Administrative and Territorial Division of Armenia, the bodies of which will be the Head of community and community council, the rights and obligations of which will be prescribed by the law, and the budget of which will be constituted from identifiable sources" (Tumanyan 2004, 248). The establishment of new local bodies and prescribing their rights and responsibilities will improve the administration of communities. As it is prescribed in law, community council will take political decisions to address the problems, and the Head of community will fulfill these decisions through management of community agencies and organizations.

Besides, the new law states that the state will allocate such property to the communities, which is required to fulfill mandatory powers. The land stock located within the administrative borders of communities will also be transferred to the communities as a community property (Tumanyan, 2004).

Though the new law was not perfect and was not fully in consistence with the Charter, it was a step forward and a firm foundation for later amendments. As it is mentioned in the first article of the law "This law is to define the notion of local self-governance in the Republic of Armenia, its bodies, general principles, powers, and legal, economic, financial bases of their operations and the respective guarantees, as well as it regulates relations between the State authorities and local self-government bodies" (The Law of RA on Local Self-Government, 2002, Article 1). As the time showed, the law did not fulfill its purpose properly and its practical impact was not as significant as the law intended.

2.4. Constitutional Amendments and Policy Changes in 2005

Among all the legislative reforms, constitutional amendments in 2005 had the most important impact on the development of local self-governance system. Constitution provided guarantees for further decentralization, such as independence of local self-government, legal protection and financial stabilization. In this regard, the constitutional amendments in Armenia in 2005 were of crucial importance.

Some of the most important changes will be discussed below. A significant change took place in Article 105 which changed the term of local government from three to four-year (became Article 107).

Another important change, which was determined by government initiative with the purpose of better fulfilling international obligations, was changing the status of Yerevan.

Previously, Yerevan was considered a province which was governed by a mayor appointed by the President of Armenia. Local self-government in Yerevan was executed only in districts. According to the amended Constitution, "Yerevan is a community. The peculiarities of local self-government and formation of local self-government bodies in the City of Yerevan shall be defined by the law. A law may provide for either direct or indirect elections of the Mayor of Yerevan" (RA Constitution, 2005, Article 108). After this amendment, in 2008 December, RA Law on Yerevan was adopted which regulates Yerevan as a separate community.

The new Constitution also strengthened the legal protection of local self-government system as a new provision was added to Article 108 which says that legal control will be conducted the way it is prescribed in the legislation (Article 108.1). Besides, government can remove the Head of Community only based on the conclusion of Constitutional Court while, previously, it could be done by government upon Governor's initiative. This provision is a safeguard to avoid central government's arbitrary actions without legal grounds.

Finally, the new Constitution gives communities the right to be merged or separated in case of necessity (Article 110). This constitutional provision is important as many communities need to use this right to improve their economic situation because of their small population size and unfavorable financial situation. Besides, this right is prescribed in the Charter and recognition of this right was a step towards fulfilling an international obligation of the government.

Besides the constitutional reforms, some policy reforms were also scheduled for 2004-2006 period within the framework of the Poverty Reduction Strategy Paper (PRSP) which was adopted in 2003. Some of these reforms are worth mentioning:

- "State owned lands located within administrative boundaries of communities were transferred to LSG bodies free of charge, and boundaries of communities were identified,
- Property tax bases and collection functions have been delegated to LSG bodies,
- The function of civil status registration service has been delegated to LSG bodies,
- Social security services and animal health services are delegated to LSG bodies" (Tumanyan, 2008, 142).

Chapter 3. International Experience in the Field of Local Self-Governance: The Success and Failures of Georgia and Azerbaijan in the Implementation Process of the European Charter

Georgia and Azerbaijan, our neighbor states that became members of Council of Europe nearly the same time as Armenia, have passed the same path of establishment and development of local self-government system. During the transition period both states signed and ratified the European Charter on Local Self-Governance in order to be integrated in the European institutions and bring their decentralization level closer to international standards.

Georgia

In our region Georgia was the last to sign and ratify the Charter. It was signed in May, 2002 and ratified it in December, 2004. Before discussing the achievements and challenges of Georgia in terms of decentralization policy, it is interesting to review the path it passed.

The collapse of the USSR put all the member-states, particularly Georgia, in hard situation. The change of ruling power led the state to civil war, the economy was devastated and the distrust towards the state government increased dramatically. Anyway, the

government realized the necessity of decisive steps that would take the state out of the crisis. Decentralization policy was one of the first that was implemented by President Shevardnadze. He used a "historical model of administrative territorial arrangement and introduced nine regions with the appointed governors in Georgia. The city of Tbilisi was granted special status" (Melua, 2010, 157).

The Law on Local Government and Self-governance was adopted in 1997, and the elections of local representative bodies were held in 1998. Before "Rose Revolution" in 2003 Georgia had a four-tier system which was very complicated and non-efficient. The lowest level was the local government of village and towns; the second level was the district, the third level comprised the regions and the capital city; and autonomous republics were at the upper level (Melua, 2010).

That system was based on previous system and could hardly be called democratic. It is enough to mention that mayors of Tbilisi and Poti Cities were appointed by the President of Georgia and they were accountable not to their citizens, but to the President of Georgia (www.lsg.gov.ge). Reacting to social, economic and particularly international pressures, a new round of reforms started in 2004. This was also determined by the ratification of the European Charter in 2004. A new organic Law of Local Self-Governance was passed in 2005. According to this law, the structure of the local self-government system was changed. Two types of local government units were introduced. "The first type is the municipality: this is an agglomeration of urban and rural settlements; the second type includes cities with special status -- large urban settlements. The organic law also granted special status to five cities - Tbilisi, Rustavi, Kutaisi, Batumi, and Poti" (Melua, 2010, 160). After legislative reforms, practical reforms were made in following directions during 2004-2007 period:

1) Administrative-territorial reform

2) Elimination of the linkage of local governments with the state governance system

3) Institutional reform of local self-governance

4) Economic reform in local self-governance

5) Reform of the local civil service

6) Raising the responsibility of local authorities and ensuring their independence; establishment of new state supervision system over activities of local self-governance units;

7) Improving administrative activities of local authorities and services; introduction of technological innovations – modern information/communication systems (www.lsg.gov.ge).

As a result of territorial reform, the number of the local government units was reduced from more than 1,000 to 64 municipalities. So, the main goal of this reform which was agglomeration of local governments has been achieved. Second important outcome of reforms was that the local government became an independent democratic institute. Local government bodies stopped being representatives of central government, as previously they were appointed by the President and were accountable only to him.

As the European Charter requires, local self-government bodies should be endowed with management rights to execute their functions. So another reform was directed to solve this problem which existed in the previous system. Besides exclusive and delegated powers, LSG bodies were granted voluntary powers as well. This gives them an opportunity not to limit their activities in the fields of exclusive or delegated authorities and function in other fields as well. However, to fulfill additional powers, local government needs financial resources which were provided through economic reforms. These reforms included "ensuring compliance of financial and property resources of local self-government units with their competences, enhancement of local revenues and decentralization of the state property" (www.lsg.gov.ge). Anyway, these reforms were not as successful as the other ones. As a result, financial independence of local self-governments was still limited and their role in local property management remained low.

The reform of the local civil service is another one that did not prove efficient. One of the reasons was the vague legal framework which did not allow implementing certain policies. Besides, financial resources for conducting any civil servant trainings and retraining are insufficient. A positive change can be considered the right of local government units to create associations "with the purpose of coordinating their activities, and creating the joint services, with the purpose of providing municipal services to the population" (www.lsg.gov.ge). In practice, the units very rarely exercise this right and currently, there is only one such association in Georgia – National Association of Local Self governments.

Though the reforms after ratifying the Charter became crucial for further development of local self-government system, the problems have not been eliminated. There are still many obstacles in the decentralization process such as:

a. The administrative-territorial arrangement of the country is still lacking a complete legal framework; the territorial enlargement of self-governance units resulted in the fact that the population got more distanced from municipal authorities,

b. Though the reforms made the relationship between central and local bodies horizontal, the problem still persists, as informally the interference of the central government in the activities of local bodies is too much, local self-government bodies are not independent democratic units,

c. The executive bodies dominate in local decision-making while it is the responsibility of the councils to make decisions for a community; besides the level of public participation in self-governance is extremely low,

d. There are many financial problems such as extremely low level of budgetary revenues of local self-governments; extremely low share of the own revenues in local self-governments' budgetary revenues; limited authority of local self-governments in imposing local taxes and fees and defining their rates,

e. The computer systems for information collection, storage, processing and transfer are very poor. The local self-governance units are not equipped with the modern PCs and other devices necessary for development of IT systems. Besides this, the local self-governance units experience acute deficit of specialists in this field (www.lsg.gov.ge).

The current situation of local self government system of Georgia contradicts the main principles of the European Charter of Local Self-Government and the above-mentioned problems are the biggest challenges for democratic development in Georgia.

Azerbaijan

Another state in our region that is also in the stage of developing its local self-government system is Azerbaijan which signed the European Charter in December, 2001 and ratified it in April, 2002. One of the peculiarities of Azerbaijan is that there is no precedent for a comprehensive system of local self-government in Azeri history and the development of the system is based on international experience and the state's commitments.

Under the Soviet Union, local government was exercised through local soviets and executive committees as part of state administration, like those in Armenia. The only difference was that both Azerbaijan and Georgia had autonomous republics as part of their administrative territorial divisions. After the collapse of the USSR, Azerbaijan faced a big problem – establishing new democratic local self-government system which would correspond to international standards. To start with, the government adopted the Constitution of Azerbaijan on 27 November, 1995. The fourth section of the Constitution addresses major issues of local self-government, such as the legal status of municipalities, types of local self-government bodies, their basic powers and their relationships to other official entities (Mamedova, et.al. 2001). The legal framework for decentralization is not limited only to

Constitution; nearly 30 laws have been adopted to regulate the local self-government institutions after independence. The main regulating laws are: The Law on Municipal Elections and Law on the Status of Municipalities which were the first one, the Law on Municipal Service, the Law on the Transfer of Assets to Municipalities, the Law on Municipal Finance which regulates the municipal finance.

In spite of the fact that the constitutional basis for the establishment of local self-government system was created in 1995, the emergence of local institutions occurred in 1999, which is not long before the time when the Charter was ratified. So the system was established taking into account the principles of the Charter. However, the implementation of these principles could not avoid many problems and obstacles.

As NGO Alliance for Municipality Development mentions in its report on current situation of local self-governance in Azerbaijan (2011), the main problems that Azerbaijan faces nowadays are the following:

- Local self-government institutions have limited powers and do not enjoy full and exclusive authorities as required by the European Charter of Local Self government;
- There is an overlap in the powers of local self-government and central government bodies. They are not properly distributed among these institutions which results in interferences of government in activities of local authorities;
- The lack of financial resources is another serious problem. Municipalities do not have stable financial sources. Most municipalities do not receive the funds prescribed by the law as the they are unable to efficiently collect the taxes. The state transfers are insignificant;
- Besides financial resources, municipalities have failed to receive their property. Although it is 11 years since local government institutions were established in Azerbaijan, majority of them still do not have administrative buildings.

- The human capacity (staff) of municipalities is poor. There are few trained personnel in the municipalities who are able to make effective and prompt decisions on the issues of local importance. This is due to lack of the training, re-training and capacity building system for municipal staff.
- Since there are no all-city municipalities in Baku and Ganja cities, efficiency of local self-governance is limited in these cities. (NGO Alliance, 2011).

It is obvious that most of the important provisions mentioned in the legislation, are not implemented in practice. Anyway, the local system reforms resulted in some positive changes as well.

The number of municipalities has decreased since they were first established in 1999. Initially, the number of municipalities used to be 2757 while in 2008 the number was 2667. Another important step is the creation of municipal associations, which to some extent increases the effectiveness of local self-government system. It is already four years since the municipal associations were established in Azerbaijan. "Three - rural, town and urban–municipal associations were established in the fall of 2006 in Azerbaijan. Currently, about 81.5 per cent of municipalities (1400 municipalities) are united under the rural, 13.9 per cent under the town (240 municipalities), and the rest of the municipalities (80 municipalities) under the urban associations" (NGO Alliance, 2011, 26).

In spite of legislative and institutional reforms, the local self-government system has numerous challenges in all three states of the South Caucasus. There are many common problems in these states such as incomplete legislative framework, inadequacy of financial resources with the mandatory powers of local government, too much interference of the central government in the activities of local government, weak human capacities and so on. So, the compliance of the South Caucasian states with the Charter is still questionable.

Methodology

While choosing the methodology for this research, the actuality and reliability of data and the plurality of opinions have been taken into account. For these purposes, the data were collected in several ways.

First, in-depth interviews were conducted to have a clear picture of nowadays situation in Armenia in terms of decentralization policies. The number of interviews was eight. The subjects of the interviews were purposefully selected. In order to provide a diversity of approaches, officials from Ministry of Territorial Administration, MPs from both governmental and oppositional fractions, experts and representatives of local self-government bodies and members of Armenian delegation to the European Congress of Regional and Local Authorities were selected (See Appendix C).

Each interview lasted from 30 to 40 minutes. The interviews were recorded in order not to omit any comments or opinions. The instrument of the interviews is semi-structured. This means that some pre-planned open-ended questions were asked during the interview, however, additional questions were also asked to probe the necessary information and to direct the conversation in the right way. There were 10 prepared questions (See Appendix B). The interviews were conducted in Armenian. Later the responses were translated and inputted for the purposes of analysis. The results were divided in logical groups to see the trends in the answers and to have the general understanding of the opinions of the interviewees.

Besides, the method of analyzing secondary data was used. As the theme of the essay requires, some international and local documents have been studied, namely European Charter of Local Self-Government, the Constitution of the Republic of Armenia, the Law of the Republic of Armenia on Local Self-Government and other laws pertinent. Besides, government strategic plans, the Government of Armenia action plan with the Council of

Europe and programmatic documents were reviewed to analyze how Armenian legislation complies with its international commitments and how the government fulfills them.

In addition books, reports, publications and journals were reviewed. Some theoretical materials of international scholars were used to provide the general understanding of functions, resources, work organization and present problems of local self-government bodies. Besides, the international experience was examined by reviewing the situation in terms of the development of local self-government system in two Caucasian states, namely Georgia and Azerbaijan. Based on this review, some comparative analyses are done in the section of conclusion and analyses.

Findings and Analyses

Using the methodology mentioned above, interesting data were obtained. Data analysis revealed the present situation of local self-governance in Armenia more vividly. Combining the secondary data with the results of the interviews conducted with the experts in the field and the actual policy-makers, the real picture of the level of decentralization of the Republic of Armenia became obvious.

To start with the analyses, it is reasonable to answer one of the research questions about the provisions of the Charter that Armenia has ratified. As Article 12.1 of the Charter mentions: "Each Party undertakes to consider itself bound by at least twenty paragraphs of Part I of the Charter, at least ten of which shall be selected from among the given paragraphs"(European Charter, 1985). The Republic of Armenia fulfilled these provisions and has ratified all the mandatory articles (See Table 1).

Table 1: The Provisions of the Charter Signed and Ratified by the Republic of Armenia

#	Articles	Paragraphs
1	Article 2	
2	Article 3	1, 2
3	Article 4	1, 2, 3, 4, 5, 6
4	Article 7	1, 3
5	Article 8	1, 2, 3
6	Article 9	1-8
7	Article 10	1, 2
8	Article 11	

The other provisions that Armenia hasn't ratified were already present in the legislation. Besides, as the experts mentioned, the charter is such a document that is for all the European states and there is no need to demand that all the principles of the charter are

implemented. The provisions also take into account the peculiarities of the states' LSG systems. Maybe for some countries certain provisions are not even possible to fulfill practically. That is why the authors of the charter defined some provisions which are mandatory.

The Legislative Framework

As all the interviewees (See Appendix B) agreed unanimously, Armenia was rather successful in projecting the content of the charter in its domestic legislation; moreover, though Armenia became the member of the Council of Europe in 2001, yet in 1996 when the Law on LSG was first adopted and Armenia had no commitments, Armenia had already taken into account the main provisions of the charter. From the very beginning the question of correspondence with the European standards has been at the core. From the legislative perspective we are in a good condition, the international experts also say so. As it is mentioned in the report on local democracy in Armenia (CPL (10) 8 Part II) prepared by the CLRA in 2003, "the Charter's requirement that the principle of local self-government should be recognized in domestic legislation and, where practicable, in the constitution can quite readily be satisfied in relation to Armenia" (www.wcd.coe.int). We have enough laws but there is a problem of implementation. In spite of certain shortcomings and gaps our legislation ensures certain level of decentralization. Apart from legislation, much importance should be given to strategy, decentralization policy. Since recent reforms after the collapse of the USSR, 15 years have passed. Now it is very important to decide which way the country will go and how local government will evolve.

Failures and Success of Local Self-Government System

Armenian local self-government system is still in the stage of development and needs improvement. There is certainly need for further legislative changes. From the legislative perspective, the main problem denotes the definition of local self-government. The definitions of this concept are different in the Constitution and in the legislation, and both are different from the definition of the Charter. The law defines "Local self-government is the Constitutionally guaranteed right and capacity of *local self-government bodies* acting at their own responsibility and as provided by the legislation, to manage the community's property and financial resources, and to resolve the problems of community importance with a view to improving the well-being of the population" (Law on Local Self-Government of RA, 2002, Article 3). In the Constitution (2005), "The local self-governance is the right and power of the *community* to resolve on its own responsibility issues of local significance aimed at the welfare of the inhabitants in accordance with the Constitution and the law". On the other hand the Charter defines the concept of local self-government as "the right and the ability of *local authorities*, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population" (European Charter on Local Self-Governance, 1985). In our legislation it is not clear whether it is the right and ability of the community or local bodies, besides the word "to regulate" is not included in our definitions which experts considered an important gap in our legislation.

However, the main problems refer to implementation rather than legislation. For example, we have large number of communities with very little population: out of 915 communities half have less than 1000 people. According to European standards, community is a locality with population of about 5000 (D. Tumanyan, personal communication). Armenian legislation does not have such provision. However, in order to have appropriate capacity to deliver public services the community needs to have an optimal population size or

to become part of a larger intercommunity union because some powers cannot be fulfilled without it. All our communities except Yerevan are granted with the same competencies, irrelevant of their size, which is a disrupting circumstance for the development of the system. In its report the CLRA has also mentioned about this, namely: “Communities may have the “right” to exercise the different categories of power, although it has been noted that many of the powers allocated by the Law of 7 May 2002 are, in fact, are only "delegated" to them by the state. Much more importantly, even if the communities do have the "right", they do not have the “ability””.

Another problem of LSG in Armenia refers to the lack of insufficient level of intercommunity cooperation. The charter says that communities can cooperate by creating intercommunity unions. That is, if a small community cannot fulfill its functions, it delegates them to the union. There are some articles in the Law on Local Self-Governance and some constitutional provisions about it but in practice communities do not use this opportunity to fulfill their powers because the legal provisions are not clear and do not provide enough explanation how the intercommunity unions should be formed and operate.

Next problem concerns the local government financial resources which according to the Charter should be collected from the local taxes. The notion of local tax was introduced in Armenia in 2005 after constitutional changes. Local taxes had not been defined by law before these amendments and now Law on Local Self-Governance defines the local taxes that are assigned to the local budget. However, there is some deviation from the Charter. The Charter says that the tax rate must be determined by the community council based on the law, so the law defines the range of tax rates and the council determines the rate within that range. In our legislation no power is prescribed to local authorities to determine the rates of land and property taxes; they are defined by Law on Land Tax and Law on Property tax. There are also two other types of local taxes: hotel tax and parking tax which are considered source of local

government revenues but they are not regulated in the legislation. The rates of these taxes and the procedures of collecting them are not defined in any law. However, in June 2011 Law on parking fees was adopted where the size of fees are prescribed. So, from local tax it turned into a local fee without making the necessary amendments in Law on Local Self-Governance and other laws.

Another point is about access to capital markets. The Charter (Article 9.8) says that LSG bodies shall have access to the national capital market within the limits of the law for the purpose of borrowing for capital investment. However, our legislation is incomplete in this sense, as no defined procedure exists to regulate this activity. Article 57 in Law on Local Self-Governance mentions that communities can borrow money in form of loans to finance the budget deficit but the provision needs additional secondary legislation to regulate the procedure. There are many limitations for LSG bodies to apply for loans, in particular there are no mechanisms in commercial banks to assess creditworthiness of municipalities and guarantee loan payback and finally, communities have extremely limited ability to pay back. In 2010 the Armenian experts from USAID funded Local Government Program 3 have developed a methodology for rating the communities according to their creditworthiness. Table 2 shows the creditworthiness of some large communities which is expressed by the maximum amount of money (in AMD and USD) they can borrow from a bank to be able to repay.

Table 2: Rating of Municipalities by Creditworthiness

2009 Ranking	*Community*	*Maximum Borrowing Power in AMD' 000**	*Borrowing Power in USD (1 USD = 370 AMD)*
1	Vanadzor	298,799	807,565
2	Dilijan	181,090	489,432
3	Abovyan	119,869	323,971
4	Sevan	34,694	93,766
5	Armavir	32,065	86,661
6	Kapan	19,478	52,643
7	Alaverdi	14,847	40,128
8	Gavar	8,576	23,178
9	Sisian	5,607	15,153
10	Vaik	4,114	11,118

*30% of capital budget revenues average of previous years 2006 and 2007
Source: Community Budgeting Guidance, 2010, Yerevan

Talking about the shortcomings of the local self-government system, it would be unfair not to mention the successful reforms as well. The fiscal decentralization policy is one of the recent achievements. After the new law on LSG was adopted in 2005 communities were assigned to collect land and property taxes. Previously tax administration and collection was done by state tax inspectorates. This change was rather efficient as it increased the productivity of the work of local government and strengthened the financial system of local government system. There are also some other powers which are transferred to the LSG, particularly to the head of community. For example, in the sphere of defense three mandatory powers are added. They are:

1) “In accordance with legislative procedures, conduct the records of residents eligible for mandatory military service, relevant lists, as well as submit information about addresses, employment changes to the territorial offices of the Military Commissioner;

2) In cases and according to the procedures established by law, participate in organization of recruiting military servants, organizing military trainings and other types of military drillings;

3) In case of having information about community residents who breached military legislation immediately inform the territorial offices of the Military Commissioner in

writing" (Report on Local Self-Government Reforms in Armenia 2009, 2010). However, it should be mentioned that this amendment contradicts the provision of the Charter about the exclusiveness of the powers given to LSGs (Article 4). National defense is the exclusive power of the central government and cannot be shared with the local government. Anyway, among all reforms, the most successful reform is considered the change of the status of Yerevan.

Resources and Powers of Local Government Bodies

The fact that LSG need more resources to fulfill their responsibilities is beyond doubt and this was stated by all the interviewees. However, the present system of local governance, the capacities of LSG bodies to use the resources efficiently, lack of checks and balances between the council and the head of a community does not reveal the potential to control financial resources efficiently. So first of all there is a need to make substantive institutional changes in the system to establish new mechanisms of allocation of financial resources and control. Only after this reform the obtaining of resources would be effective. Even the limited resources that they have nowadays are not used efficiently and there is no confidence that the checks and balances system works between the Council of Elders and the head of community. In these conditions giving new resources to LSG bodies may not be reasonable.

What concerns additional mandates, opinions were diverse. Part of respondents thought that LSGs can have new powers as they have already proved their ability to fulfill new powers. While others thought that they cannot even fulfill their present powers so they cannot have new ones. Power without additional financial resources will be declarative power as the local budget is not enough to fulfill additional powers.

The CLRA expressed its own opinion in this regards. “The funding crisis with all its consequences for staffing and other resources looms large. For the time being, however, it is this stark fact of how little is actually done by communities, in contrast with their extensive formal statutory powers, which dominates” (CLRA Report, 2003).

The Role of Local Democracy

As it turned out, the role of local democracy is of great importance and can have a significant impact on central democracy if it works efficiently. Unfortunately, indicators of the development of LSG system show low contribution to democracy. In our country local democracy is very weak. After seventy years of Soviet rule, it was difficult for local authorities to realize and perceive themselves as an independent body whose function is not to fulfill the orders of central government but to make policies for the sake of the citizens whom they are accountable to. However, some of the interviewees said the progress in this field is evident. At least, heads of communities now understand that they are not subordinate to any authority above them and they are independent in their decisions. Yet many mayors still do not realize this, they think that marzpet is the person to whom they report. So, the problem is not eliminated. The problem is even twofold. On the one hand, there is little motivation for citizens to engage in local politics because of very limited power of the local governments to change the lives of their constituents for better. Usually the heads of communities are among the members of the ruling party, and the other political parties are not very much interested in having their participation in the activities of local government. This is explained by current conditions of LSG system. Should LSGs have enough resources and power, the interest and the involvement of political parties in local self-governance would be higher. Besides, some of the interviewees mentioned another problem that makes

an obstacle in the increase of interest towards this system. In Armenia employment in this system is not prospective for future career; that is why qualified candidates do not strive to get into this system. However, as one of the respondents said, in the Western European countries there is almost no central government member that did not start his/her career from this level of governance.

On the other hand, local democracy develops when there is demand from below, that is, people should make their local authorities responsive to their problems. There are LGs which are elected democratically, they are ready to engage citizens in decision-making but they often face cynicism and low interest. Among the reasons for this dissatisfaction with services delivered by LSGs, distrust to the authorities, indifference to the future of the state or general shortage of political culture in our society can be mentioned. This is the opinion of the respondents, which is supported by the data obtained in the Public Opinion Poll done in 2008 by Asparez Club of Reporters NGO in Gyumri. The poll has shown that people are not satisfied with the work of their mayor or council. 1000 people were included in the poll. More than half of the people think that the work of the Mayor is satisfactory or bad, and 52.4% think that the councils do not work at all (Press Release on Gyumri Poll, 2008). So people are not satisfied with their local authorities and have no interest or motivation to engage in the activities of LSG bodies.

Taking into account the importance of development of local democracy and the participation of community members, in 2009 the member states of the Council of Europe adopted an additional protocol to the Charter on the right to participate in the affairs of a local authority. Armenia has signed the protocol but has not ratified it yet. Even before the protocol was signed, citizen participation was reflected in our legislation, for example, the sessions of the council are open to public, citizens and representatives of NGOs can attend the sessions, community budget and the development program are considered public documents and the

LSG should discuss them publicly. However, practically these points are not fulfilled because of some reasons such as lack of mechanisms or lack of interest.

The Protocol says that for the exercise of the right to participate information and communication technologies should be encouraged to be used. However, accessibility of information on activities of Armenian local self-government bodies is low. Out of 915 communities only 19 have websites, out of which 12 are operational. Observations of the web sites of these 12 communities show that in many cases the sites are merely a source of superficial information, where one would find, for example, a snapshot of the town's history, photographs of the towns, etc (Report on Local Self-Government Reforms in Armenia 2009, 2010). These sites may hardly be qualified as official sites of communities since it is impossible to find any information on the activities of the relevant local self-government body. Besides, out of 915 communities only 645 have billboards which are not used as intended. They should contain information about sessions of the community council, community budget, decisions, reports, however it's not the case. E.g. in Ashtarak community billboards contained information about flats for sale, various types of private services (Report on Local Self-Government Reforms in Armenia 2009, 2010).

However, there are also some improvements. Particularly in the communities, where mass media have their outlets and where local newspapers and TV broadcasting exist, the participation is efficiently encouraged. From another point of view, civil society is already active enough through NGOs and some youth programs are organized. In other communities, the budget is discussed openly in a big auditorium or participation is provided through elections. It is interesting to see that in small villages the participation is even more active than in large communities due to the fact that any information on the activities of local authority is spread very quickly and transparency level is more than in large communities.

In order to have full participation which will contribute to the development of local democracy, experts suggest that three elements of participation must be implemented. First, citizens must be informed about the work of government bodies. Second element is the consulting process; citizens must be consulted before making decisions. And the third element is the active participation. If community is organized well, the citizens must be actively involved through NGOs or non-formal groups.

Armenia and the European Standards

After fifteen years of development of local self-government system, it would be more effective to appraise the current level of the system by comparing it with the system of European states, especially with those which have ratified the Charter and have implemented the reforms that the Charter suggests. However, as all the interviewees assured, it is very difficult to do a comparison of the whole system as communities differ in various aspects.

The notion of European standards is also very vague because Europe is multifaceted. If Europe is perceived with all its states regardless of their membership to the Council of Europe, Armenia is significantly lagging behind from these countries. Table 3 contains data on shares of local budget expenditures in total public expenses and GDP which indicates the degree of decentralization in the given country. These are internationally recognized criteria that show the level of decentralization. Armenia stands far behind the countries listed in the table, as per the share of community budgets in the total public expenses can be compared with only three countries of European Union (EU) (Greece, Cyprus, and Malta). Comparison with other countries is even more unfavorable for us in terms of shares of community budgets

in GDP. This number is 1.7 in Armenia which is incomparable with this indicator in other countries and here even Greece and Cyprus are ahead of us.

Table 3: Share of community spending in total public expenditures and GDP in EU countries, (2007)

Countries	Municipal spending in total public expenditures, %	Municipal spending in GDP, %
Denmark	63.5	32.5
Spain	54.5	21.5
Germany	44.5	19.5
Poland	32.5	13.5
Lithuania	30.0	12.0
Czech Republic	26.5	12.0
Bulgaria	17.5	7.5
Armenia	**7.2**	**1.7**
Greece	6.0	2.5
Cyprus	4.5	2.0
Malta	1.5	1.0

Source: Sub-national public finance in the European Union, Dexia, December 2008

If Europe is perceived as states that signed the Charter and are member of the Council of Europe, the image is quite different. There are 47 states which can be divided in 3 groups: developed democratic (France, Germany), Eastern Europe states (Hungary, Poland, Estonia) with very short transition period and the third group that includes post-soviet, post-Yugoslav states and Albania which are the least developed members of the Council of Europe. Here are also two subgroups in the last group – states that are obviously behind (Azerbaijan) and the ones which are comparatively ahead (Georgia).

In this variety of states it is difficult to say where Armenia stands in terms of its decentralization level. However, it can be viewed in the following way. The Charter just defines some principles of LSG, explains its notion, role and fields of activity. These are the minimal principles that any European state should comply with. After ratifying these principles, each state defines the role of LSG system according to the national peculiarities and legislation. The charter is a minimal norm which defines the basic principles, the extent of decentralization is based on distribution of powers between central and sub-national governments in each state and these decisions are matters of internal policy. There is no international institution that can dictate or impose any state's decentralization level. So, what we have today in Armenia is a result of internal policy and the level of implementation of the provisions of the Charter directed towards development of LSG system. There is no other, international charter, treaty or agreement, ratification of which will contribute to the development of our LSG system.

Though there is no other international treaty which may have impact on decentralization policy, there is an international acting body which Armenia has not joined yet. It is the European Union which seems to bring new changes to the development of LSG system of any state. Anyway EU has no special requirements in this regards. EU is an economic union and its political standards are those that CoE formulates. There is another important point: LSG have a great role in the development of economy in terms of small and middle business. Anyway, provision of the Charter's points will guarantee the capacities of local government to contribute to the economic development of the state.

After ratifying the Charter, Republic of Armenia has always been collaborating with the Council of Europe in the process of implementation of the Charter. The collaboration was both in the form of monitoring and joint actions. The Congress of Local and Regional Authorities regularly conducts monitoring activities to assess the application of the Charter in

the states that have ratified it. The CLRA undertakes regular general country-by-country monitoring missions; fact-finding missions to look into specific cases of concern; and the observation of local and regional elections. The Institutional Committee, one of four statutory Congress committees, is responsible for preparing reports on the development of local and regional democracy (www.coe.int).

The monitoring team made two visits to Armenia, on 19-22 June 2003 and 2-5 October 2003. These meetings were very useful for the initial stage of implementation process as our authorities got a feedback from European representatives about the present situation of the local self-government and received recommendations about the necessary steps for improvement of the system. The monitoring team came to the following conclusion that "Local self-government in Armenia currently remains very weak and it is clear that large elements of the European Charter on Local Self-Government remain unimplemented. Across Armenia as a whole, but especially in the rural communities, local government bodies, although their profile has undoubtedly risen, have few substantial powers and their autonomy is compromised by an unsatisfactory financial regime and a lack of other resources such as a strong municipal civil service" (Report on local democracy on in Armenia, 2003).

Taking into account the poor conditions of LSG system, the government launched an initiative which was called Action Plan on reforms of local self-government system between Armenia and the Council of Europe in 2003. One of the important steps of the Action Plan was to reform the dismissal process of the head of the community. According to acting legislation government can remove a mayor only according to conclusion of constitutional court (RA Constitution, Article 109). This means that the heads of 915 communities have the same protection as the President. Other important issues refer to financial independence of communities and formation of local tax system.

Another Action Plan was signed in 2010 to contribute to the further development of the system. With this action plan, Armenia expresses its compliance to proceed with the work to improve the LSG system, to develop local democracy, to increase the efficiency of LSG system. This document was prepared by the Ministry of Territorial Administration with the help of experts of the Council of Europe. It refers to four main issues: the correspondence between the powers of local government and financial resources, the efficiency of public administration on local level, legislative framework of local self-governance in Armenia and efficient use of law on Yerevan. The Action Plan includes the main purpose of each step, certain actions and solutions, the timeframe for fulfillment and responsible bodies for implementation. The action plan is supposed to be fulfilled in the period of 2010-2014 (Action Plan, 2010).

Conclusion

The concept of local self-government despite the long history has never been given so much importance like it is nowadays. It is mainly preconditioned by democratic system of governance adopted in most of the states in the world. For democracy to be sustained and enhanced in transitional societies, the improvement of democracy at the local level is very important. At the local level people have the opportunity to participate directly in community life, and every decision made on this level affects their everyday life.

After obtaining its independence Armenia was in an adverse political and economic situation, anyway, the establishment of state institutions and introduction of public administration system were priorities for the state.

Local self-government system of the country was established in 1995 when the constitutional basis for the formation of the system was laid down. Taking into account the country had to build a new system of LSG, functioning completely different from the previous Soviet one, Armenia has shown remarkable progress in governance decentralization reforms since 1996. Accession of the country to the Council of Europe had a strongest impact on this process. The ratification of the European Charter of Local Self-Governance moved the development of the system on a new stage. The Charter is the cooperation between the Council of Europe and Armenia with a purpose to improve the work of LSG and it brought fundamental changes to the system.

After the collapse of the Soviet Union, LSG bodies were perceived as the extension of central government. It took long time even for the local authorities to perceive themselves as independent acting bodies which should make decisions without any external pressure or intervention and be accountable to their constituents. Situation concerning other issues have changed much as well.

Reforms were made in all aspects of LSG: system structure, legislative framework, financial issues, local democracy, citizens' participation, municipal service and human capacity building and so on. Some successful reforms such as transferring the power to collect local taxes and transformation of Yerevan into community were of paramount importance for the further development of the LSG system.

However, problems and challenges are also an inseparable part of the system. Local government units in Armenia, i.e. the municipalities, continue to remain extremely fragmented. There are very many small and weak municipalities, which are not in a position to implement a large part of the powers assigned to them by the law. Communities need more resources in order to fulfill their present powers and to obtain new ones. Though Armenian legislation reflects the principles of the European Charter, there are still gaps and drawbacks in the legislative framework. Armenia is yet significantly lagging in practical application of the principles of the European Charter of Local Self-Government.

Considering citizen participation one of the important components of local democracy, the Republic of Armenia signed an additional protocol to the Charter on the right to participate in the affairs of a local authority. All the necessary mechanisms for activating citizens to have their participation in the local governance are prescribed. However, the implementation of these mechanisms is still vague and ineffective.

Taking into account all the analyses above, we can try to answer the main question of the research: Is the Republic of Armenia compliant with the obligations undertaken by the European Charter on Local Self-Governance? We think that Armenia is partially compliant with requirement of the Charter. Though formally, from legislative point of view the compliance can be considered complete with some reservations, from the implementation perspective there is a huge gap between the provisions of the Charter and their actual implementation (See Appendix A).

Recommendations

Taking into account that complete fulfillment of the obligations prescribed in the Charter will lead to further decentralization and successful functioning of LSG system, the following recommendations are made for the government and local authorities:

- Adopting a comprehensive decentralization strategy program will define the necessary reforms in compliance with our international obligations and local legislation. The system of our local self-governance is still a teenager which means that the future development of the system should be directed by a certain strategy in order to have productive, sustainable and tangible improvement of the system.
- Conduct an assessment of community capacities, dividing all the communities into groups according to their financial resources and population size and consider assigning different powers to different communities depending on their size and financial capacity. As one of the major problems of the system is that the resources and the mandatory powers of communities are not commensurate, the above mentioned suggestion may be a solution to the problem.
- Provide local governments opportunities to access investments capital. Develop necessary legislative framework to regulate the access of communities to the capital markets. Create a special body attached to Ministry of Finance which will deal with appraising community's borrowing capacities according to certain criteria and define the creditworthiness of communities. Based on these data banks will provide communities with loans.
- Make necessary legislative changes to prescribe the power of defining the local tax rates (land tax and property tax) to local government. Define the procedure of collecting hotel tax by passing a special law.
- Review the powers of local self-government in order not to violate the provision of the Charter about the exclusiveness of the powers given to LSGs.

- Develop efficient mechanisms to increase participation of civil society in local self-government decision-making, raise the public awareness of the local governance and increase understanding of the decentralization reform.
- Adopt Law on Intercommunity Unions to regulate the terms of cooperation and to define the fields of collaboration. The regulation is necessary to make the unions operate productively and efficiently, especially for those communities which have low capacity and resources to manage their property and deliver public services independently.
- Design and deliver innovative and intensive training programs for the municipal employees to provide them with the necessary knowledge and corresponding skills to be able to carry out their responsibilities.

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Appendix A: The Correspondence of Armenian Legislation and Implementation with the European Charter on Local Self-Governance*

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
1	The Parties undertake to consider themselves bound by the following articles in the manner and to the extent prescribed in Article 12 of this Charter.	Not bound			
2	The principle of local self-government shall be recognized in domestic legislation, and where practicable in the constitution.	Applies	Corresponds	Implemented	Chapter 7 of the Constitution is devoted to Local Self-Governance and was amended after the ratification of the Charter in 2005.
3 3.1.	*Concept of local self-government* Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.	Applies	Corresponds	Implemented partly	Though their right is prescribed by law, their ability is too much limited to have a tangible impact on public affairs.

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
3.2.	This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.	Applies	Corresponds	Implemented Partly	Local authorities are elected by secret ballot like it is supposed, however our councils (the Aldermen) are very weak as an institution and do not provide the checks and balances system. It is mostly of formal nature.
4 4.1.	*Scope of local self-government* The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.	Applies	Corresponds	Implemented	The basic powers and responsibilities of LSG bodies are prescribed in Law on Local Self-Governance.

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
4.2.	Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.	Applies	Corresponds	Implemented Partly	In practice not all heads of communities have the independence to come up with initiatives as they are financially dependent on state government; therefore they fulfill the will of state government.
4.3.	Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.	Applies	Does not correspond	Not implemented	

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
4.4.	Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.	Applies	Corresponds	Implemented	In our Law on LSG there are some powers which are not exclusive: in the sphere of defense, the Chief of a Community shall exercise some voluntary powers such as assist to military service calls, military assemblies, which are also assigned to central government.
4.5.	Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.	Applies	Corresponds	Implemented	
4.6.	Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.	Applies	Does not correspond	Not Implemented	Local authorities are hardly consulted by the central government in discussing matters, even the ones which concern their activities.
5	*Protection of local authority boundaries* Changes in local authority boundaries shall not be made	Not Bound			

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
	without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.				
6 6.1. 6.2.	*Appropriate administrative structures and resources for the tasks of local authorities* Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management. The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and	Not Bound Not Bound			

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
	career prospects shall be provided.				
7	*Conditions under which responsibilities at local level are exercised*				
7.1.	The conditions of office of local elected representatives shall provide for free exercise of their functions.	Applies	Corresponds	Implemented	
7.2.	They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.	Not Bound			

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
7.3.	Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.	Applies	Corresponds	Implemented	
8	*Administrative supervision of local authorities' activities*				
8.1.	Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.	Applies	Corresponds	Implemented Partly	Administrative supervision (oversight) is executed according to Law on Local Self-government, (Chapter 7^1) however, there are numerous ways of overly close oversight without justification.
8.2.	Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level	Applies	Corresponds	Implemented	

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
	authorities in respect of tasks the execution of which is delegated to local authorities.				
8.3.	Administrative supervision of local authorities shall 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.	Applies	Does not correspond	Not implemented	The interests should include the correspondence of the activities of LSG bodies with the legislation but in fact the interests of controlling body have great role as well.

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
9	*Financial resources of local authorities*				
9.1.	Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.	Applies	Corresponds	Implemented	
9.2.	Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.	Applies	Does not correspond	Not implemented	The amount of financial resources is not commensurate with the prescribed powers.
9.3.	Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.	Applies	Corresponds partly	Implemented partly	The resources comprise mostly local taxes but the rates are determined by laws and local authorities do not have the power to determine the rates.
9.4.	The financial systems on which resources available to local authorities are based shall be of a	Applies	Corresponds	Not implemented	Though the law defines a variety of sources of revenues, in practice the bulk of financial resources

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
	sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.				occur predominantly from collecting two major local taxes.
9.5.	The protection of financially weaker local authorities calls for the institution of financial equalization procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.	Applies	Corresponds	Implemented	The equalization mechanism is implemented, however, it does not fully serve the purpose mentioned in the article as the mechanism of distribution allows large and rich communities to get significant financial support from the government, which is more needed in many small communities.
9.6.	Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be	Applies	Does not correspond	Not implemented	As the procedure of redistribution is defined by law according to certain criteria, there is no necessity to consult communities.

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
9.7.	allocated to them. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.	Applies	Does not correspond	Not implemented	Equalization grants are not earmarked for a specific project, their spending is at local authorities' discretion. However, legislation also provides for subventions, or earmarked grants approved by the central government upon a prescribed procedure of submission and review.
9.8.	For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.	Applies	Does not correspond	Not implemented	Legislation allows local authorities to borrow; however, lack of appropriate secondary legislation and staff capacity are obstacles to put local borrowing in practice

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
10	*Local authorities' right to associate*				
10.1.	Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.	Applies	Corresponds	Not implemented	The Law on Local Self-government does not provide sufficient legal basis for functioning of intercommunity unions. A few ICUs established in the country are in fact unions of legal entities and operate under the provisions of Civic Code as non-for-profit organizations.
10.2.	The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognized in each State.	Applies	Corresponds	Implemented	Local authorities are entitled the right to be part of an association to achieve common purpose.

Article #	European Charter Provisions	Compliance of Armenia to the provision	Correspondence with Armenian Legislation	Implementation In Armenia	Comment
10.3	Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.	Not Bound			
11.	*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.	Applies	Corresponds	Implemented	

*Appendix A is based on the format of "Analysis of the Number of Articles of the European Charter of Local Self-Government that Armenia Meets" by Sos Gemishyan, the content of the table is based on the findings of the research. The table shows the correspondence of Armenian legislation with the Charter and the implementation level of each provision.

Appendix B: Questionnaire for the Interviews Conducted for the Purpose of Master Essay

1. How would you overall evaluate the current capacity of the local self-government system in Armenia? Is it efficient enough? Somewhat efficient? Somewhat non-efficient? Non-efficient.
2. Armenia has signed the European Charter after becoming the member of Council of Europe. How much do you think Armenia complies with provisions of the Charter that it committed to?
3. What do you consider to be the most successful reform and the failures after signing the European Charter?
4. Does the local government need more resources to execute its mandates?
5. Do you think the local government can have more mandates currently?
6. Do you consider the legal framework in Armenia sufficient enough to implement local self-government policies?
7. What other provisions of the charter should Armenia adopt in order to improve the work of local self-governance?
8. How do you evaluate the role of local government in terms of promoting democracy in the country?
9. In 2009 the member states of the Council of Europe, signatories to the Charter adopted an additional protocol to the Charter on the right to participate in the affairs of a local authority. What do you think the government of Armenia should undertake to ensure implementation of this protocol in Armenia?
10. What other steps should Armenia take to bring the level of local self-governance close to the European standards?

Appendix C: List of the Interviewees

1. Emin Eritsyan – Congress of Regional and Local Authorities of the Council of Europe, Vice President of the Delegation
2. Vache Terteryan - The Ministry of Territorial Administration, First Deputy Minister
3. Hovhannes Margaryan – Standing Committee on Territorial Management and Local Self-Government, Committee Chair
4. Araik Hovhannisyan – Standing Committee on Territorial Management and Local Self-Government, Member of Parliament
5. Styopa Safaryan - Standing Committee on European Integration, Member of Parliament
6. David Toumanyan – Community Finance Officers Association, vice-president
7. Edgar Ghazaryan – Armenian State Economic University, Head of Eghegnadzor Branch
8. Hayastan Stepanyan - Counterpart Armenia, CSLGSP, Legal and Policy Advisor