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Local Self-Government in Estonia

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1. Brief historical evolution of local self-government

Estonia was proclaimed a Republic on 24 Februar 1918. Until that time Estonia had been a part of the Russian Tsarist Empire for over 200 years. Rural municipalities (*vald*) as institutions of local self-governance were formed in 1816 in the Estonian province (*kubermang*) and in 1819 in the Livonian province. Rural municipalities were originally established by manorial estates. Rural municipalities became more independent in 1866 when the Rural Community Government Act was enforced. The rural municipality started electing the local council, the local executive board and the mayor, and since then we can talk about local self-government in Estonia that is based on modern principles. Several cities (*linn*) had a tradition of self-governance from the Middle Ages (Town Law of Lübeck). In 1877, the Lübeck Rights became invalid on the territory of the present-day Estonia and the 1870 Russian Cities Act was enacted.

With the Decree of the Russian Provisional Government of 5 July 1917 "On administration and temporary organisation of Self-government in the province of Estonia", Estonia was turned into a determinate autonomous administrative unit the borders of which coincided with the area inhabited by Estonians (incl North-Livonia). The right to issue local legislation of general application i.e. regulations changed Estonia and its people to an autonomous entity where the formal authority of the Russian state was almost nonexistent. So, it is possible to confirm that Estonia achieved independence at the self-government level earlier than at the state level.

Drafting and adopting Estonia's own legislation regulating local self-government to replace the formerly valid legislation of the Russian empire was on the agenda ever since independence of the Republic of Estonia was declared. Chapter VII of the 1920 Constitution regulated local self-government. In the following years, only minor amendments were introduced to Estonian legislation; e.g new local election acts were adopted. The most drastic step was taken in 1933 when a constitutional amendment was adopted abolishing the second level local self-government. In 1937, the Rural Municipality Act was adopted, and in 1938, the City Act followed. A new Constitution of 1938 had also been adopted establishing local self-government at the second (county – *maakond*) level, although, true enough, consisting of the authorised representatives of the first level.

In 1940, local self-government was basically abolished by the Soviet occupation. Soviets (*rahvasaadikute nõukogud*) and their executive committees (*täitevkomiteed*) existed in districts (*rajons*), cities and villages (*külanõukogu*). They had no administrative authority, let alone an independent budget. This was ruled out since each local soviet was part of the unified budgetary system of the Soviet Union. Throughout the Soviet period, higher level soviets had the right to abrogate the decisions and orders of lower level soviets and their executive committees. The schools, hospitals and other institutions completely owned by the state were managed and financed by ministries. Collective farms, state farms and construction enterprises usually provided the infrastructure for various socio-economic services in rural areas as well as the services themselves.

After half a century of centralised management under the Soviet regime, restoration of local self-government began already in 1989. On 8 August 1989, the Estonian Supreme Soviet adopted a regulation on starting an administrative reform which was followed by adopting the Local Self-Government Foundation Act on 10 November the same year[1]. Exactly a month later, on 10 December 1989, the first free local self-government council elections in almost 50 years took place.

Autonomous decision making and self-activity at the local level had been impossible within 50 years, therefore, that was something to change first. Thus, the specific tactics of the administrative reform were devised - the National Administrative Reform Expert Committee granted the administrative-territorial units, one by one, self-governing status but not before they were able to take responsibility for local socio-economic issues. Such an approach guaranteed that the idea of local self-government reached every administrative unit. Re-introduction of local self-government was rapid and successful in spite of the gap that had lasted for two generations.

A significant event in terms of development of local self-government was re-establishment of the Association of Estonian Cities (originally established in 1920) and the Association of Rural Municipalities (originally established in 1921) in 1990. The first one had been a member of the International Union of Local Authorities (IULA) in 1925-1940 and the membership was renewed in 1995.

The Constitutional Assembly (1991-1992) set up a work group for drafting the chapter regulating local self-government. The provisions of the Estonian Constitution conformed to the principles of the European Charter of Local Self-Government ratified by the Parliament (*Riigikogu*) only two years later on 28 September 1994 since the text of the Charter had been available to the Assembly thanks to our foreign colleagues (especially from Finland). This fact has had a great constitutional and practical importance when guarding the interests of local self-government.

Today, it is clear that the administrative-territorial organisation of Estonia must be reformed. The average population of Estonian rural municipalities is less than 2,500 people and, in spite of mergers, there are still inexpedient units where the centrally located settlement is separated from its hinterland in administrative terms.

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[1] At the same time, the Berlin Wall was demolished illustrating the synchronism of democratisation process that began in Europe. The above Act was the first to derive from the immensely popular IME concept (IME – *Isemajandav Eesti* – an acronym for self-sufficient Estonia; also a word play: "*ime*" standing for "miracle" or "wonder" in Estonian).

The actual problem is cooperation between local self-government units in the field of public services especially in the metropolitan area.

An important principle as regards the local self-government development is written in the Judgment of the Supreme Court of Estonia 3-4-1-8-09, from 16 March 2010: "*Upon shaping the system of funding local self-government functions, the legislature must make certain that the money allocated for performance of local self-government functions be distinct from the funds allocated for performance of national duties. This allows a local authority to understand what funds are meant for deciding and organising local issues. This, in turn, allows for deciding how to use the money allocated for resolving local issues. In addition, the distinction between funds allocated for local self-government functions and national functions allows for evaluating the sufficiency of the funds allocated for local self-government functions*."

Efficiency of local self-government depends not only on how large the municipality's revenue base is but also on variety of the revenue base and on the possibilities the rural municipality or city has for independently influencing its revenue. The local self-government council has influence over land tax, loans, income on property and local taxes only. Such income constitutes approximately one-fifth of the total local self-government revenue and indicates how little economic independency Estonian rural municipalities and cities actually have.

2. Basic facts and figures

In 1989-1993, there was a two-level local self-government system in Estonia. Rural municipalities (*vald*) and cities (*linn*) constituted the first level, and 15 counties (*maakond*) and 6 big cities – republican cities (*vabariikliku alluvusega linn*) Tallinn, Tartu, Kohtla-Järve, Narva, Pärnu and Sillamäe the second level. The Local Self-Government Foundation Act (1989) stipulated a single level local self-government system. The tactics of the administrative reform, i.e. the local self-government reform, provided that the first-level administrative units would be granted the self-governing status only if they were capable of fulfilling the most significant tasks of local self-government.

A new, one-level system of local self-government, which exists nowadays, was introduced in 1994 after years of reforming and restructuring of legal and financial basis for local self-government. County administration (*maavalitsus*) became part of central government and the county governor (*maavanem*) became a representative of the central government. The Government of the Republic appoints the county governor to the office for the term of five years.

After the local self-government council elections in 2009, there are 226 local self-government units in Estonia – 193 rural municipalities and 33 cities (Table 1). Cities and rural municipalities may be divided into city district (*linnaosa*) or a rural municipality district (*osavald*) with a limited right to self-governance. The competence of a city or rural municipality district is stated in the statute of the city or rural municipality.

Table 1. **Number of rural municipalities and cities by population size categories (1/1/2011)**

Population size categories	Number of cities/rural municipalities	%	Population	%
Below 1,000	1/39	17.70	29,910	2.19
1,001- 2,000	4/76	35.42	116,112	8.50
2,001-5,000	8/55	27.87	204,239	14.95
5,001-10,000	7/18	11.06	169,303	12.40
10,001-20,000	8/5	5.75	187,280	13.72
20,001-50,000	2/-	0.88	83,518	6.12
50,001-100,00	2/-	0.88	163,198	11.95
Above 100,001	1/-	0.44	411,903	30.17
TOTAL	33*/193	100.00	1,365,463	100.00

*There are, however, 47 cities altogether, since 14 cities are not local self-government units with a local council and a mayor but simply urban settlements within a rural municipality.

Size of local self-government units is very different. The population of 4/5 of the local self-government units is less than 2,500 while only a quarter of the total population of the country resides there. The small size of Estonian local self-government units and, therefore, their administrative capacity is one of the hottest problems of local self-government in Estonia. Only 18 cities or rural municipalities (8%) have a population of more than 10,000 people and ca 2/3 of the total population of the country lives in those local self-government units. The biggest unit is capital city Tallinn, where 30% of total country residents live, which is one of the highest rate in Europe (after Iceland and Latvia).

Table 2. **The biggest and smallest local self-government units in terms of population (1.1.2011)***

The biggest local self-government units		The smallest local self-government units	
cities	population	rural municipalities	population
Tallinn	411,903	Piirissaare	101
Tartu	98,548	Ruhnu	137
Narva	64,650	Torgu	350
Pärnu	42,937	Vormsi	399
Kohtla-Järve	40,581	Nõva	407

*The biggest rural municipality is Viimsi (16,798 inhabitants) and the smallest city is Mõisaküla (946 inhabitants).

An administrative-territorial reform has been an issue since the country regained its independence but there are not many visible results. In 1995, there were 254 local self-government units in Estonia, which was 28 more than in 2011. On 22 February 1995, the *Riigikogu* adopted the Territory of Estonia Administrative Division Act. According to this Act local self-government councils or the Government of the Republic may initiate changes to the administrative division of the territory of Esto-

nia. A public opinion poll must be conducted before any decision on changes can be taken, although the Government of the Republic is not bound by the results of the opinion poll. The Government of the Republic enacts the amendments. All the Governments of the Republic in office since 2002 have supported voluntary mergers.

At the end of June 2004 the Parliament passed the Promotion of Merger of Local Self-Governments Act to establish the principles and conditions of promotion of their merger, the requirements for the availability of public services for after-merging period, foundations for making appropriations from the State Budget for covering the costs related to the merger, and principles of compensation for reduced appropriations from the State Budget. Until 2005, it was only in the years of local self-government council elections that mergers were allowed. After the constitutional amendment, local self-government unit mergers have also been possible in the period between local self-government council elections.

Implementation of the administrative-territorial reform has so far failed largely due to the fact that the reform has been a purpose in itself. There has been a lot of talk about the need to determine the responsibilities of local self-government units and to formulate the principles of financing them but it has not been done. The administrative-territorial reform would allegedly help lower the number of local officials but in Estonia there are only ca 5,300 local officials who mostly work in big cities. It is an illusion that the administrative-territorial reform would enable a higher number of local self-government units to cope on their own. Considering the municipal revenue base, only the cities or rural municipalities surrounding capital and a few rural municipalities in the oil shale mining area in the North-East of Estonia manage without subsidies from the State Budget (see point 7). The rest of the local self-government units cannot be amalgamated with the above regions; for the local self-government unit established as a result of amalgamation of two or more state subsidies receiving local self-government units to manage on its own the municipal revenue base needs are radical changing. This is not to say that there is no need for an administrative-territorial reform[2].

However, one must be objective when preparing and carrying out the administrative-territorial reform. The often expressed opinion that decreasing the number of rural municipalities would result in retrenchment of resources in terms of the number of local officials and administrative costs is misleading. Those approximately one hundred local self-government units that could merge due to their small size and other factors employ only about a thousand local officials and part of them would also be needed in the local self-government established as a result of merging. But then their work load and responsibility would increase as would their salary.

[2] There is another problem concerning medium-sized cities (population 20,000-100,000). On the one hand, the physical and social environment in those cities is more favourable than in big cities in terms of natural environment; on the other hand, their physical and social environment is more favourable than in rural municipalities in terms of public services. At the same time, 18% of the population of Estonia live in medium-sized cities while 34% of the Finnish population and altogether 50% of the Swedish population live in medium-sized cities. Figuratively speaking – in an economic sense, there is often no middle class in transformation societies and this is also reflected in places of residence.

3. Current basic legal framework of local government and local self-government

Significant guarantees to local self-government are provided by the Constitution of the Republic of Estonia adopted by referendum on 28 June 1992.

Local self-government is mentioned in 26 articles of the Constitution; yet, article 14 and chapter XIV articles 154-160 specifically regulate the institution.

> *Article 14. Guaranteeing rights and liberties shall be the responsibility of the legislative, executive, and judicial powers, as well as of local self-government.*
>
> *Article 154. All local issues are resolved and regulated by local authorities, which operate independently in accordance with the law. Responsibilities may be assigned to local authorities only in accordance with the law or with their consent. Expenditures related to the responsibilities assigned to local authorities by law are financed from the State Budget.*
>
> *Article 155. Rural municipalities and cities are the units of local self-government. Other units of local self-government may be formed in accordance with the principles and procedures established by law.*
>
> *Article 156. The representative body of local authorities is the council, which is elected in free elections for a term of four years*[3]*. The period of authority of a council may be shortened by an Act due to a merger or division of local governments or the inability of the council to act. The elections are general, uniform and direct; voting is secret. All residents who are eighteen years old and who reside permanently on the territory of that local authority, have the right to vote in the municipal elections, in accordance with conditions stipulated by law.*
>
> *Article 157. Local authorities have independent budgets; principles of municipal budget formation and corresponding procedures are established by law. Local authorities have the right, in accordance with the law, to impose and collect taxes and to impose fees.*
>
> *Article 158. The borders of local authorities may not be changed without taking into consideration the opinion of the respective local authorities.*
>
> *Article 159. Local authorities have the right to establish unions and joint institutions together with other local authorities.*
>
> *Article 160. The organisation of local authorities and the supervision of their activities are established by law.*

Chapter XIV establishes the principles of the representative democracy of local self-government units (§ 156), the basis for relationships between the state and local self-government (§§ 154, 157, 158 and 160) and the bases of relationships between

[3] In February 2003, the *Riigikogu* adopted the first amendment to the Constitution since its adoption (1992) and prolonged since 2005 the term of office of local self-government councils from three years to four years.

local self-government units (§ 159). Sections 154 and 157 to 160 of the Constitution along with the European Charter of Local Self-Government grant various rights to local authorities (i.e. constitutional guarantees). The obligated subject of these rights is the state and in this context it means first of all the legislature and the executive.

Chapter XIV of the Constitution regulating local self-government is in accordance with the principles established in the European Charter of Local Self-Government ratified without reservations by the *Riigikogu* only two years later (on 28 September 1994) since the text of the Charter had been available to the Constitutional Assembly. The Charter is directly applicable in Estonia, as shown by the decisions of the Estonian Supreme Court which referred to certain provisions of the Charter and identified them with some of the principles of the Estonian constitution. For example in the Judgment of the Supreme Court of Estonia 3-4-1-8-09, from 16 March 2010: "The *court explains ... that upon opening the essence and scope of the financial guarantees arising from the Constitution, it is important to take into account the European Charter of Local Self-Government ratified by the Riigikogu. According to § 2 of the European Charter of Local Self-Government Ratification Act, the Republic of Estonia undertakes to follow any and all articles of the Charter in the territory subjected to its jurisdiction. The Charter sets out the minimum requirements that the state must keep in mind upon organisation of local self-government, incl. upon funding rural municipalities and cities. The Court finds that the Charter plays an important role in interpreting the provisions of the Constitution concerning the organisation of local self-government…*"

According to the Constitution, local self-government in Estonia enjoys but slightly limited legal autonomy. In order to understand the essence and importance of local self-government in the Estonian society, Article 79 of the Constitution has to be mentioned. Article 79 of the Constitution prescribes that if the President of the Republic is not elected by the *Riigikogu* even in the third round of voting, the President of the *Riigikogu* will convene an electoral body. The electoral body is comprised of members of the *Riigikogu* and representatives of local councils[4].

One of the constitutional guarantees of local self-government results from Article 65 establishing that the *Riigikogu* manages the affairs of the state over which the President of the Republic, the Government of the Republic, other national authorities or local governments hold no power of decision.

According to the Local Self-Government Organisation Act (adopted June 2, 1993, changed 66 times by the beginning of 2011) local self-government is based on the following principles: 1) the independent and final resolution of local issuses, and organisation thereof; 2) mandatory guarantee of everyone`s lawful rights and freedoms in the rural municipality or city; 3) observance of law in the perfomance of functions and duties; 4) the right of the residents of a rural municipality or city to

[4] Each local council elects at least one representative of the electoral body. The number of members of the electoral body representing big towns or big rural municipalities is even higher (e.g Tallinn has 10 representatives, Tartu has 4 representatives; Viimsi rural municipality 2 representatives etc). Therefore, the number of local politicians in the electoral body exceeds the number of members of the *Riigikogu* 2.5 times. Due to mergers, the number of representatives of local self-government units in the electoral body has decreased. It is not insignificant that in 1996, 2001 and 2006, the President of the Republic was elected by the electoral body which means that Estonian local politicians have a significant role in deciding such an important public issue.

participate in the exercise of local self-government; 5) responsibility for the perfomance of functions; 6) transparency of activities; 7) provision of public services under the most favourable terms. One of the principles of local self-government is the right of the citizens of a rural municipality or city to participate in the exercise of local self-governance. According to the Local Self-Government Organisation Act at least one percent of the citizens of a rural municipality or city with the right to vote but no less than five such people have the right to initiate adoption, amendment or revocation of municipal legislation[5]. The rural municipality or city council has the right to organise opinion polls[6] concerning essential issues among the citizens of the territory of the local self-government unit. An opinion poll is obligatory if redrawing the boundaries of the local self-government unit is considered. The results, however, are but of an advisory nature.

According to the Rural Municipality and City Budgets Act, the rural municipality or city budget must be made available to the public at three or four stages of its formation. The draft budget, the approved budget, the amendments to it or the supplementary budget and the report on the execution of the budget all have to be made available to the public. The budget must be based on the rural municipality or city development plan. The draft development plan must also be made available to the public before it is approved by the rural municipality or city council. The significance of such a plan is increasing considerably in terms of Estonia's impending accession to the EU. Many rural municipalities and cities have resorted to meetings, opinion polls and brainstorming when formulating their development plans.

Starting from 2003, the law on permanently inhabited small islands establishes that a general meeting of the islanders has to be convened once a year; the decisions adopted at the meeting are indicative for the municipal council.

Main legislative acts governing structure of local self-government:

1. Local Self-Government Organisation Act
2. Territory of Estonia Administrative Division Act
3. Rural Municipality and City Budgets Act
4. Local Self-Government Council Election Act
5. Local Self-Governments Associations Act
6. Local Self-government Financial Management Act

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[5] The opportunity has seldom been taken but, e. g. in the late 1990s, it happened twice in Tallinn which required at least 3,000 signatures. One initiative concerned the possible construction of a road in a district of Tallinn and the other concerned privatisation of the town's central market. In the first case, the City Council accepted the reasons given in the initiative but the arguments laid down in the second one were not taken into account.

[6] E. g in Tallinn alone five opinion polls had been conducted by 2011: 1) the poll concerning the issue of construction in Harju Street (in the Old Town) destroyed in World War II (in June 2002); 2) the poll concerning restrictions on sale of alcoholic beverages at night (in April 2004); 3) the poll concerning the position of the monument of liberty (in January 2005); 4) the poll concerning proceeding with the construction of municipal (social) housing for young families (in October 2005); 5) the poll about supporting the passing of the administrative reform in Tallinn and neighbouring Harju county (in February 2009). There were two questions: a) should Tallinn city districts be reorganized and b) should Tallinn start negotiations with its neighbouring cities and rural municipalities for them to join their biggest service and other functions holding centre – Tallinn.

All local self-government units – cities (*linn*) and rural municipalities (*vald*) – are equal in their legal status. There are but two exceptions:

1. Local elections in Tallinn are held by city districts (since 1993 Tallinn consists of 8 districts). According to the Local Self-Government Council Election Act, half of the mandates (40 mandates since 2009) are equally divided (5 mandates each) between the districts irrespective of the number of population, and the other half (39 mandates) is divided according to the number of population.
2. Since 2003 a mandatory meeting of residents has to be held on small islands at least once a year.

Tallinn has lobbied for years for passing the so-called Capital Act in order to make the relationship between the local self-government and the state authorities. An issue hotly disputed is covering the costs of national events taking place in the capital which are largely paid for by the city. Another issue is supervision over the legislation issued by the city. Since 1994, several draft laws on regulating the unique status of Tallinn have been submitted to the Government of Republic or to the Parliament. Late on 7 March 2006, Tallinn City Council adopted a decision to make a motion to amend the Local Self-Government Organisation Act and the State Budget Act so that the specific character of Tallinn among the local self-governments of Estonia, both in terms of its size and the state responsibilities discharged by the city, be taken into account. It was proposed, considering the size of the city, that Tallinn City Council be granted the right to delegate certain statutory municipal responsibilities to a municipal authority or even a local government official which was said, among other things, to ensure an increased speed of decision-making in the city. The motion also included a proposal to amend the State Budget Act so that the state responsibilities discharged by Tallinn as the capital city be financed from the state budget. In May 2006, the Ministry of the Internal Affairs adopted a position that since the motion was in conflict with the Constitution and the European Charter of Local Self-Government, it could not even be submitted to the Government for approval that should have had to submit the motion to the *Riigikogu*. The CLRAE delegations that visited Estonia in 2000 and 2010 both noted in the reports that one of the issues on the agenda was to give a special legal status to the Capital.

According to the Constitutional Review Procedure Act (since 2002), a rural municipality or city council may submit a petition to the Supreme Court to declare an Act which has been proclaimed but has not yet entered into force or a regulation of the Government of the Republic or a minister which has not yet entered into force to be in conflict with the Constitution or to repeal an Act which has entered into force, a regulation of the Government of the Republic or a minister or a provision thereof if it is in conflict with constitutional guarantees of the local self-government. This Act clearly illustrates how safeguarding the rights of rural municipalities and cities has been improved.

4. Competences, powers and services of local authorities

The management of the following socio-economic issues is within the exclusive competence of the rural municipality or city council: 1) the establishment of the procedure for the administration of the rural municipality or city assess; 2) the passage and amendment of the rural municipality or city budgets, approval of annual reports and appointment of auditors; 3) the imposition, amendment and invalidation of local taxes; 4) the imposition of duties; 5) the establishment of the procedure for the grant of benefits and for the provision of services financed from the rural municipality or city budget; 6) the approval and amendment of the rural municipality or city development plans; 8) the taking of loans and assumption of other proprietary obligations; 9) the foundation and dissolution of companies and foundations by the rural municipality or city, and the approval and amendment of the articles of association of such companies and foundations; 10) the resolution of the participation and termination of participation of the rural municipality or city in a company, foundation or non-profit association; 11) the approval, amendment or repeal of the rural municipality or city building regulation; 12) the submission of applications for the expropriation of immovables; the initiation, adoption and amendment of comprehensive plans; 13) the acceptance of comprehensive plans and notification of the public display thereof; 14) the repeal of detailed plans, and adoption of detailed plans in the case where supervision in compliance with the Planning Act over preparation of the plan is mandatory or with which built-up areas of cultural and environmental value are designated; 15) the foundation and restructuring of the rural municipality or city administrative agencies and agencies under the administration of the rural municipality or city administrative agencies, and termination of the operation and the approval of the statutes of such agencies; 16) the establishment of social guarantees for rural municipality or city officials; 17) the approval of the structure of rural municipality or city administrative agencies, of the composition of their staff of public servants, salary rates and wage conditions; 18) the establishment of rules for excavation operations and property maintenance rules in order to ensure maintenance; 19) the establishment of rules for keeping dogs and cats; 20) the establishment of rules for public order to ensure public order; 21) adopting the waste management plan, laying down waste management rules and establishing the limits of fees for shipment of waste.

According to the constitution, functions may be placed to local self-government only by law or mutual agreement. All local issues are dealt with and resolved by self-governing local authorities unless assigned to other persons according to law. The main tasks of rural municipality or city are stated in the Local Self-Government Organisation Act. The functions of local self-government include the organisation, in the rural municipality or city, of social assistance and services, welfare services for the elderly, youth work, housing and utilities, the supply of water and sewerage, the provision of public services and amenities, waste management, physical planning, public transportation within the rural municipality or city, and the maintenance of rural municipality road and city streets unless such functions are assigned by law to other persons.

By contract signed with state agencies local government has the right to provide state functions. Mostly Tallinn has concluded such administrative contracts and primarily with Harju County Government. Tallinn has concluded contracts to delegate/take on a few environmental protection, social welfare, first contact care, and registration of births, marriages and deaths related responsibilities discharged by county governments elsewhere in Estonia. Tallinn has concluded similar contracts with other national authorities (Rescue Board etc) in areas such as fire fighting and rescue.

The functions of a local self-government include the organisation, in the rural municipality or city, of maintenance of: pre-school child care institutions, basic schools, secondary schools, hobby schools, libraries, community centres, museums, sports facilities, shelters, care homes and other local agencies if such agencies are in the ownership of the local self-government. Payment of specified expenses of such agencies from state budget or other sources may be prescribed by law. In addition to those functions rural municipality or city resolve and organise local issues: 1) which are assigned to them by other Acts; 2) which are not assigned by law to other persons for resolution and organisation.

Local self-government units can choose between various management forms to run their services:

1) according to the Local Self-Government Organisation Act a rural municipality or city may found municipal bodies called "municipal agency" (*hallatav asutus*) under the administration of rural municipality or city administrative agencies which are not legal persons for the provision of services;
2) according to the Commercial Code and Local Self-Government Organisation Act a rural municipality or city may be a partner or shareholder in a public limited company (*aktsiaselts* - AS) or private limited company (*osaühing* - OÜ) of significant importance in the development of the rural municipality or city; according to the Foundations Act may found foundations (*sihtasutus* - SA) and be member of a non-profit association;
3) privatization of the service.

Rural municipalities and cities can perform the above tasks themselves or contract for the services provided by private enterprises. Rural municipalities and cities have established local public companies to provide many of the services listed in the first group, e.g. housing and utilities, water services, public transport etc. and either own them or have participating interest in them. Some companies have been let to private enterprises for a long term or even privatised[7]. The services listed in the second group, e.g. schools, libraries etc, are usually provided by institutions under municipal agencies. A radical change was introduced in the health sector. There are a few state owned hospitals but provision of health services is the responsibility of local authorities. Until 2001, the health care institutions were under municipal agencies

[7] E. g the principal heat production enterprise supplying Tallinn with heating (*AS Tallinna Soojus*) was let for 49 years, 51% of the share capital of the only company providing water supply and wastewater services in town (*AS Tallinna Vesi*) were sold to a British company and all the companies providing maintenance and repair services in housing have been privatised.

but the law was amended and all the health care institutions had to be reorganised either into public limited companies or foundations[8].

The largest item of local self-government expenditures in Estonia is the general education. According to the Basic Schools and Upper Secondary Schools Act the basic schools and upper secondary schools are municipal schools. Rural municipality or city governments shall establish municipal schools pursuant to a decision of the rural municipality or city council, on the basis of an education licence issued by the Ministry of Education and Research. Schools which provide services for several local governments shall be established jointly by the rural municipality or city governments of such local governments pursuant to the decisions of rural municipality or city councils, on the basis of education licences issued by the Ministry of Education and Research. Pursuant to a resolution of the Government of the Republic, basic schools and upper secondary schools may also be state schools administered by the Ministry of Education and Research or a county government. The Ministry of Education and Research shall establish state schools only with the consent of local self-government councils.

Until 2010 the basic schools and upper secondary schools were mainly municipal schools. There were only some private schools and no state schools. In 2010 several county centre (Haapsalu, Tartu, Valga, Viljandi) city councils made an application to the Ministry of Education and Research to change upper secondary schools into state schools in those cities. The main reason was to guarantee to a school financial security (also for investments). The Minister of Education and Research shall approve the budget of a state school. The budget of a municipal school shall be approved by the rural municipality or city council. Based on the number of students in municipal schools, grants shall be allocated to rural municipality and city budgets from the state budget each year in concordance with the State Budget Act in order to cover the expenses related to the remuneration of, social tax for and in-service training of teachers of municipal schools and acquisition of textbooks. Other rural municipalities or cities shall fully participate in covering the operating expenses of a municipal school in proportion to the number of students attending the school who permanently reside in their administrative territories. The law provides for inter-municipal settlements in the case of schools of general education. The rural municipality or city the students of which attend a school owned by another local self-government unit (particularly in some bigger cities) have to pay the latter the calculated price of a student place per student. It often causes friction between local self-government units, which have been known to take other rural municipalities or cities to court over the matter.

To characterize the division of competences between state and local self-government level in the general education field we note that according to the Constitution both of them shall ensure the opportunities to acquire secondary education for those interested therein. The rural municipality or city council shall approve the service area of a school. The service area of a school which provides services for several

[8] In Tallinn, the hospitals were reorganised into two big public limited companies but in counties (there are 15 counties in Estonia), municipalities mostly established a foundation to manage the hospital in their county.

local self-government units shall be approved jointly by the corresponding councils of rural municipality and city councils. The procedure for admission, transfer from one school to another, leaving school and expulsion from school of students of basic schools and upper secondary schools shall be established by a regulation of the Minister of Education and Research. The Government of the Republic shall establish the bases of remuneration of teachers of state schools. The Government of the Republic, the authorised representatives of local self-government and a delegation formed by the representatives authorised by registered associations of teachers shall agree on the minimum salaries of teachers nationally by each grade to which teachers are appointed upon evaluation. If no agreement is reached, the Government of the Republic shall establish the minimum salaries of teachers of municipal schools nationally by each grade to which teachers are appointed upon evaluation. Rural municipality or city council shall approve the bases of remuneration of teachers of municipal schools, and upon approval of the salary grades and rates of teachers, above mentioned agreement shall be taken into account. If no agreement is reached, the minimum salaries of teachers of municipal schools established by Government of the Republic shall be the basis. The officials of the Ministry of Education and Research and a county governor shall exercise state supervision over the schooling and education in schools.

Social care is mainly a shared function. Paid from the state budget are pensions, child or family benefits, financed social care of disabled people and unemployment benefits. Local self-government provides the social assistance for elderly people, disabled people, pays benefits for poor people to enable them a minimum income. In recent years local self-government have extended their activities in the field of social services and local self-government units pay additional benefits for families and children.

In 2002, there was established in co-operation by the associations of local self-government the Estonian Regional and Local Development Agency (*Eesti Regionaalse ja Kohaliku Arengu Sihtasutus*). The aim of the Agency is to act as a national grass-roots development organization, which: 1) uses the benefits arising of co-operation between local self-government units; 2) supplies local self-government units, public and private institutions and organizations with a variety of goods and services, called for in their development activities with the overall aim to assist regional and local development.

5. Basic organisation

The Local Self-Government Organisation Act determines the general principles of the institutional structure and administration of local self-government units. The statute (*põhimäärus*) of each rural municipality or city prescribes the institutional structure and rules of procedure of the specific local self-government. As the acts define the area quite broadly local self-government units are practising different rules of procedure. The council (*volikogu*) and the government (*valitsus*) are since 1993 two bodies of local self-government in each rural municipality and city. In 1989-1993, there were four local self-government bodies – the council, the executive board, the mayor and the council auditing committee.

Rural municipalities and cities are legal persons in public law, which are represented by the council, the chairman of the council, the rural municipality or city government and the rural municipality or city mayor or representatives authorised thereby, within the limits of their competence, on the basis of acts, the statutes of the rural municipality or city and pursuant to the established procedure.

The current council determines the number of members in the following council. The number depends on the population of a local self-government unit (min 7 members) and shall be uneven: 1) for more than 2,000 residents not less than 13 members; 2) for more than 5,000 residents not less than 17 members; 3) for more than 10,000 residents not less than 21 members; 4) for more than 50,000 residents not less than 31 members and 5) for more than 300,000 residents not less than 79 members[9]). The law does not fix the maximum number of members. The highest number of members have the city councils of Tallinn (79 members) and Tartu (49 members). A council shall form one electoral district in the territory of a rural municipality or city. Several electoral districts may be formed: a) in local self-government units with more than 50,000 residents; b) in local self-government units which are formed due to a merger or division during the past two election cycles; c) in local self-government units which rural municipality or city districts have been formed. In Tallinn, the council shall form electoral districts by city districts, based on the principle that one electoral district shall be formed in one city district.

Political parties which are entered in the non-profit associations and foundations registered not later than on the last day for the nomination of candidates may participate in the local self-government council elections. Only the political parties have been allowed to participate in the parliamentary elections since 1999. The *Riigikogu* prohibited formation of election coalitions also in the 2002 local self-government elections, but the Supreme Court abrogated the decision because it has violated the Constitution. Estonian citizens and citizens of the EU who have the right to vote may form an election coalition for local self-government council elections[10].

For years, it has been a problem that members of local self-government councils can also be members of Parliament. It is especially characteristic of Tallinn City Council where about one-third of the council members have simultaneously been members of the *Riigikogu*. On the one hand, we could support it and argue that this way the members of Parliament can be well informed about local self-government matters. Unfortunately, this has caused many problems, for example members of the Parliament are too busy to attend the local self-government council meetings etc. Therefore, starting in 2005, members of the rural municipality or city council can no longer simultaneously be members of the *Riigikogu*.

Voter turnout in the local elections meanwhile decreased even below 50% but has increased again significantly in the 2009 elections (Table 3). Certain influence especially to the younger voters' activity might be caused by the new methods (I-voting) implementation.

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[9] Until the local self-government council elections in 2009 not less than 63 members.

[10] In 2005 all the citizens of the EU member states could, for the first time, participate in the municipal election on an equal footing with the citizens of Estonia. Only 11 citizens of other EU member states exercised their right to stand as a candidate (the total of 14,689 people stood for municipal councils). Two people out of those 11 candidates were elected to municipal councils (the total number of people elected to municipal councils was 3,109).

Table 3. **Voter turnout in local government council elections**

Elections year	1989	1993	1996	1998	2002	2005	2009
Voter turnout	72.4	52.8	52.5	49.8	52.5	47.0	60.6

In 2002, the *Riigikogu* adopted the Local Self-Government Councils Election Act, which established the right of citizens to vote electronically on the web page of the National Electoral Committee on the days of advance polling (in 2005 three days, in 2009 seven days). It was first introduced in the local elections of 2005, when more than 9 thousand voters cast their ballot via the Internet (this corresponded to 1.9 per cent of all participating voters). This was the first time that electronic voting was used at elections all over the country, not as an experiment, for example, just in one municipality[11]. In the local self-government council elections in 2009, 104,413 voters (15.8 per cent of all participating voters) used I-voting method.

The chairman (*volikogu esimees*) is the head of the council. The local self-government council may form both standing and ad hoc committees (*alaline/ajutine komisjon*) as determined in the statute of a rural municipality or city. Law prescribes only the formation of an audit committee (*revisjonikomisjon*). The chairmen of all committees and all members of the audit committee must be elected from among the council members. The majority of the council elects the chairman of the council by secret ballot.

Upon the premature termination or suspension of the authority of a rural municipality or city council member, the new council member (alternate member) shall be the first candidate who was not elected of the same political party and who ran as a candidate in the same electoral district as the council member to be replaced. The law provides for the possibility that all the council members are replaced by their alternates. The council is considered incapable of performing its duties if: 1) it has not approved the rural municipality or city budget within three months into the financial year, or within three months after the adoption of the State Budget if the latter was not adopted by the beginning of the financial year; 2) it has not elected the chairman and the mayor within two months after the first meeting of the new composition of the council was adjourned, or it has not appointed members of the executive board within four months after the first meeting of the new composition of the council was adjourned.

Alternate members are members of the same political party or the election coalition as the council member they replace, and this makes it highly questionable whether their economic-political approach to the establishment of the budget can be any different from that of the council member. The fact that not all the political parties or election coalitions have a list of alternate members changes the political structure of the council and enables it to take certain decisions. This, however, no longer reflects the will of the electorate. Rural municipality or city councils have

[11] Today, I-voting with binding results has been carried out five times in Estonia: in the local elections in October 2005, the parliamentary elections in March 2007, the European Parliament elections in June 2009, the local elections in October 2009 and the parliamentary elections in March 2011.

regrettably often been incapable of performing their duties and it has usually been the result of a purposeful action with the intention of changing the political structure of the council[12].

Local self-government bodies are required to conduct internal supervision. Each rural municipality or city council is required to establish an audit committee. The audit committee monitors: 1) the conformity of the activities of the municipal executive board with the regulations and resolutions of the local self-government council; 2) the accuracy of accounting of the municipal agencies and agencies under the administration of municipal agencies, and the purposeful use of municipal funds; 3) the timely collection and registration of revenue and the conformity of expenditure with the rural municipality or city development plan; 4) the performance of contracts entered into by the municipality; 5) the lawfulness and purposefulness of the activities of the municipal executive board and the agencies thereof.

The local self-government collegial executive body, named "government" (*valitsus*), consists of the mayor (*linnapea* in cities and *vallavanem* in rural municipalities) and members that are appointed after approval by the council for the local election period. The mayor forms the government according to a procedure provided for in the rural municipality or city statute. The government prepares issues to be discussed at the council based on the position of the government or council resolutions. He also resolves and manages local issues assigned to him by the council or the municipality statutes, or other issues coming outside the council exclusive competence. The government represents the local self-government in the courts. While rural municipality or city council sessions are generally open, the government sessions are not public unless the government decides otherwise.

The mayor is the head of the rural municipality or city administration. Usually the administration consists of departments and the office (*kantselei*). The organisational structure of rural municipality or city administration is determined by the rural municipality or city council. Local self-government staff is employed by the mayor. The rural municipality or city secretary (*vallasekretär*, *linnasekretär*) is the head of the office. The main tasks of the secretary are to prepare the materials for the sessions of the government and the council. The secretary is also responsible for the regulations that are being passed to be legally correct. In Tallinn and in other larger cities, council office is separated from government office.

In Estonia, members of the council have had no right to be members of the rural municipality or city government since 1989. As the only exception in 1989-1993 the chairman of the council of the first level was at the same time also the mayor, to favour the re-establishment of local self-government. Since 1993 this is not allowed. In 1999, municipal officers were prohibited from being members of the council. Initially, it was forbidden for a member of any municipal council to be a municipal officer in any rural municipality or city. In 2002, the law was amended and now it is forbidden simultaneously to be an officer and council member of the same rural municipality or city. Thus, it is now possible in Estonia to be the chairman of the

[12] E. g. both above reasons caused the City Council of Paldiski to become incapable of performing its duties in 2002. Therefore, it would be reasonable to introduce in Estonia the system of permanent alternate members who could replace council members at council and committee meetings whenever it is necessary.

council of one rural municipality or city and a municipal officer, a member of the rural municipality or city government or even the mayor of another. Usually, rural municipality or city governments have 3-7 members. Tallinn City Government has 7 members – the mayor and six deputy mayors.

Not less than one fourth of the members of a council may initiate an expression of no confidence in the chairman of the council, deputy chairman of the council, chairman of a council committee, deputy chairman of a council committee, a member of the audit committee, the government, the rural municipality or city mayor or a member the government. The vote of no confidence is public and to adopt the decisions the majority of votes of the council members is required. If an expression of no confidence finds no support in a council session, an expression of no confidence in the same person shall not be initiated for the same reason within three months.

In order to better fulfil the functions of local self-government, the rural municipality or city may divide itself into rural municipality or city districts. A rural municipality or city district is a unit which operates in the territory and within the composition of a rural municipality or city pursuant to the statutes of the rural municipality or city district approved by the rural municipality or city council. In Estonia, there are (in 2011) city districts in Tallinn and Kohtla-Järve and rural municipality districts only in Vinni rural municipality. The office of each district is managed by an elder, and the elders are appointed by the rural municipality or city government, upon proposal of the mayor and after having heard the opinion of the administrative councils of the district. In Tallinn, there are 8 administrative councils, with a total 135 members, working with the district offices and district elders. The city council confirms the composition of the district administrative councils on the basis of city council election results. The number of members, in each district administrative council, equals twice the district´s mandate in the city council plus one member. In general, the administrative council discuss questions on which draft legislation has been proposed, and on which the district elder has taken a position. Administrative council decisions are recommendations to the district elder, city government and city council, and are not part of Tallinn´s legislation.

A small town or village elder may by elected by the small town (*alev*, *alevik*) or village (*küla*) meeting. In Estonia there are *ca* 5,000 small towns or villages and *ca* 1,200 small town or village elders. The performance of tasks of rural municipality government by a small town or village elder shall be provided for in a contract. A rural municipality council may adopt the statute of mayors of cities without local self-government status (in 2011 – 14 cities, see Table 1), a small town and village elder, which sets out the procedure for the election of mayors of cities without local self-government status, small town and village elders, the requirements for candidates, the rights and obligations and the term of authority. The term of authority of mayors of cities without local self-government status, small town and village elders shall not be restricted by the term of authority of the rural municipality council.

According to the Local Self-Government Organisation Act local self-government units have the right to form associations and joint institutions to express, represent and protect common interests and to exercise joint tasks of rural municipalities or cities.

There are two national associations of local self-government units in Estonia:

1) the Association of Estonian Cities (*Eesti Linnade Liit* - ELL) in 2011 consisting of 48 members (32 cities and 16 rural municipalities).
2) the Association of Rural Municipalities of Estonia (*Eesti Maaomavalitsuste Liit* - EMOL), in 2011 consisting of 139 members (rural municipalities).

The Association of Estonian Cities was founded in 1920 and the Association of Rural Municipalities of Estonia was founded in 1921. Both associations were re-established in 1990. In the late 1990s, there were heated discussions concerning the legal status of local self-government units associations. The main issue was whether the associations should be public or private legal persons. That was the time when county associations of local authorities began to disappear. On the one hand, it was caused by the confusion regarding their legal status; on the other hand, it was caused by restrictions imposed on their decision-making power - until 1999, the county associations participated in distributing the resources allocated to the national investment programme from the State Budget but since 1999, the ministries have been distributing the financial resources. Therefore the county associations lost any interest in economic co-operation.

In the autumn of 2002, the Local Self-governments Associations Act was finally adopted. The Act establishes the associations as private non-profit associations. There can be no more than two national associations in Estonia since a national association can be formed if 1) more than a half of the country`s local self-government units become members of the association (in the Association of Rural Municipalities of Estonia there are ca 2/3 of the country´s local self-government units) or 2) more than a half of the country`s population resides in the local self-government units that form the association (2/3 of the country`s population resides in the members of the Association of Estonian Cities). The objectives of a national association are, through the joint activity of the local self-government units, to foster the development of rural municipality or city in general, to represent its members on both national and international levels, to protect the common interests of its members, to promote co-operation between its members and to create possibilities for improved performance of the functions prescribed by law for its members by law.

A joint organ, the Co-operation Assembly of Associations of Local Self-Government units (*Omavalitsusliitude Koostöökogu*), was established in 1994 with the main task to conduct negotiations with the Government of the Republic on local self-government issues, especially on the subsidies allocated to rural municipalities or cities from the State Budget and the horizontal distribution principles of the subsidies.

As there is no regional level local self-government in Estonia, the co-operation of local self-government units within a county is of great importance for rural municipalities and cities in terms of their relations with central authorities and co-ordination of their own activities. The Local Self-Governments Associations Act provides that there can be but one association in each county since more than a half of the local self-government units of the county have to be members of the association. There are 15 counties in Estonia. In every county there is a regional association uniting all or most of the rural municipalities and cities of the county.

Co-operation is mainly carried out by joint provision of public services especially in areas such as waste management, education, transport, social care and health care. Local self-government units co-operate also in elaborating development plans and organizing cultural events. Joint foundations, non-profit organisations and enterprises can be established or specialists hired to work for a group of local self-government units. Many small rural municipalities or cities buy public services from neighbouring cities or rarely from rural municipalities too. This type of co-operation is usually carried out on a contractual basis and is especially widely used in the area of general education.

Membership of the national and regional association is voluntary. The scope of activities of the associations depends on the needs of the local self-government units involved. National as well as regional associations of local self-government units are mainly financed from budgets of member rural municipalities or cities. Regional as well as national associations may perform local self-government or state functions within the limits set up by law. The functions which require the exercise of powers of public authority may be transferred to an association for performance only if corresponding authorisation provided by law has been granted.

The regional (county) associations have formed the Union of the Estonian Associations of local self-government units (*Eesti Omavalitsusliitude Ühendus - EOÜ*).

6. Human resources

In Estonia, there are 141,200 employees in the public sector, half of them (49%) in the local self-government sector. The employment relations in the local self-government are regulated by the Public Service Act and Employment Contracts Act. The public service is employment in a rural municipality or city administrative agency (*ametiasutus*). An administrative agency is an agency which is financed from rural municipality or city budget and the function of which is to exercise public authority. Rural municipality and city administrative agencies in which employment is considered to be public service shall be: 1) office of rural municipality or city; 2) rural municipality or city governments (as agencies) together with their structural units; 3) governments of a district of a rural municipality and of a district of a city (as agencies); 4) city government executive agencies; 5) bureaus of local self-government units associations. There are three categories of public servants: 1) officials; 2) support staff; 3) non-staff public servants. The employees in the municipal agencies (in the pre-school child care institutions, basic schools, secondary schools, hobby schools, libraries, museums, sports facilities, care homes etc) are working according to the Employment Contract Act.

There are 28,632 officials in Estonia (data from 31.12.2009) *incl* 23,307 central government officials and 5,325 local self-government officials (1,451 men and 3,874 women). The largest local self-government administrations in Estonia are in Tallinn (1,424 officials as of 31 December 2009), Tartu (289 officials) and Narva (195 officials). Many small rural municipalities or cities employ but 3-5 municipal officials, the smallest in Piirissaare rural municipality (3 officials).

Significant changes have been introduced in the salary system of local officials. Until 1992-1993, all local self-government units were required to apply the salary

system approved by the Government of Republic for civil servants. After the Constitution was adopted which established budget autonomy for local self-government units (article 157), the financially better off cities such as Tallinn established their own salary systems. Soon the Government of the Republic accepted this but only in the case of the rural municipalities and cities receiving not state subsidies. The rest of the self-local government units, i.e. about 95% of them, were still required to apply the Central Government approved salary system. According to the Public Service Act which became effective on 1 January 1996, approving the salary levels of the members of the local self-government executive board falls within the exclusive competence of the rural municipality and city council. This has resulted in vast differences in officials' average salary from one local self-government to another. The significant question is whether the area should be left at the mercy of competition, and if the answer is affirmative then to what extent? All the local officials are required to fulfil the tasks imposed on them by law. The less well off municipalities are facing an increasingly acute problem of attracting competent officials.

The state has imposed requirements on professional qualifications of one local official – the rural municipality or city secretary (municipal clerk). The rural municipality or city secretary participates in the meetings of the rural municipality or city executive board with the right to speak and counter-signs the local self-government legislation. The rural municipality or city secretary is appointed and removed from office by the mayor. The person to be appointed as the rural municipality or city secretary must be an Estonian citizen who is at least 21 years old and has the qualification of a lawyer or a certificate testifying to his/her meeting the requirements on professional qualifications established by the Government. The compliance of rural municipality and city secretaries with professional qualification requirements is supervised and certificates of compliance are issued by the Rural Municipality and City Secretaries Professional Qualifications Committee established by the Government of the Republic (in the Ministry of the Interior).

7. Financial resources of local government

Rural municipalities and cities may use the following means to finance their expenditures:

1) the taxes imposed by the state;

2) allocations and appropriations from the state budget;

3) local taxes;

4) economic activity, including proceeds from municipal property;

5) loans.

The taxes imposed by the state fall into two categories: a) taxes the rate of which local authorities cannot change (personal income tax and natural resources user fees); b) taxes the rates of which local authorities can change (land tax).

The principal sources of rural municipalities and cities revenues are the taxes imposed by the state and subsidies from the State Budget. Other significant sources of revenue are loans and revenue received by selling or letting municipal property. The biggest portion (ca ½) of income for local budgets comes from the state personal income tax (Table 4).

Table 4. **The structure of local self-government income in 2005 and 2009**

Type of revenue	2005		2009	
	million euros	%	million euros	%
Personal income tax	406,793	43.43	634,097	49.09
Land tax	32,325	3.45	48,249	3.74
Environmental fees	8,685	0.93	15,627	1.21
Local taxes	7,533	0.80	9,452	0.73
Proceeds from economic activity (incl selling goods and services)	98,459	10.51	139,923	10.83
Income from property	45,238	4.83	11,484	0.89
Budget equalisation fund	60,716	6.48	70,399	5.45
Block grants	186,498	19.91	220,886	17.10
Earmarked grants from ministries to rural municipalities and cities for special purpose	34,053	3.64	28,336	2.19
Other income	56,376	6.02	113,359	8.77
TOTAL	936,676	100.00	1,291,812	100.00

Separate items of revenue carry a different weight in local self-government units revenues. E.g. the weight of personal income tax varies from 10% to 90%; the weight of personal income tax is generally more significant in cities. The weight of land tax varies from 1% to 50%; the weight of land tax is more significant in rural municipalities where there are many senior citizens or people with low salaries. The considerable weight of natural resources user fees in the revenue of a few rural municipalities located in the area of oil shale mining (Ida-Viru county). It is quite risky if the municipal revenue depends largely on one type of tax. There have been cases when a half or even more than a half of the municipal revenue consists of the personal income tax of one-two local businessmen. The situation becomes extremely difficult if the businessman decides to move (it has been known to happen) or has, in a particular year, sold a number of shares and paid high income tax which is one of the significant indicators for receiving subsidies for general purposes from the State Budget (budget equalisation fund).

Until 1994, personal income tax was in full paid to residence rural municipality or city budgets. As the Constitution guaranteed rural municipalities and cities budgets autonomy, the state could no longer demand the local self-government units with a larger revenue base make allocations to the State Budget like previously. The amount of personal income tax paid to rural municipality or city budgets had to be reduced in order to cover the State Budget expenditure, including the finances necessary for horizontal equalisation of local self-government units revenues. In 1994, the law was amended and since then only 52% of personal income tax was paid in rural municipality or city budgets (the calculations were based on the revenue base of

Tallinn in order to make sure that the town with the largest revenue base would be able to perform the duties of a local authority without the state support). The same year the proportional personal income tax rate (26%) was established. Soon, during the parliamentary elections campaign, it appeared that the municipal revenue base was too small and since 1996, 56% of personal income tax was paid in rural municipality or city budgets.

In 2003, the *Riigikogu* amended the Income Tax Act so that within the next years the rate of personal income tax is going to decrease by one-two per cent a year. Due to the decreasing rate of income tax, it is no longer possible to continue the practice where 56% of the total personal income tax received was accrued to rural municipality or city budgets and 44% to the national budget. The local self-government revenue base is also affected since, from time to time, the *Riigikogu* increases the amount of the basic exemption deductible from the income. It was decided, in order to avoid the negative effect on the local self-government revenue base, that the percentage of personal income tax accrued to rural municipality or city budgets is going to be 11.4% (2004), 11.6% (2005) etc. regardless of the income tax rate and the amount of basic deductible exemption or other tax exemptions (Table 5).

Table 5. **The distribution of personal income tax between national budget and local self-government budgets**

Year	Personal income tax (%)	to national budget (%)	to rural municipality or city budget (%)
2003 (and before)*	26	44	56
2004	26	14.6	11.4
2005	24	12.4	11.6
2006	23	11.3	11.7
2007	22	10.1	11.9
2008	21	9.07	11.93
2009	21	9.6	11.4*
2010	21	9.6	11.4
2011	21	9.6	11.4

*26%=100%

In the situation of the global economic crisis, Estonia began to cut its national budget deficit and the growth of its national debt, an action which is indispensable in order to ensure the financial stability of the country, as well as to comply with the "Maastricht criteria" which have to be met by countries wishing to join the euro zone. Since the total local self-government deficit amounted to no less than 22% of the state deficit, the Government of the Republic took preventive measures against local self-government debt and national deficit growth. For this reason, the 2009 budget act was twice amended, considerably reducing government expenditure, and consequently rural municipalities and cities income base. Their share of personal income tax, for example, was cut from 11.93% to 11.40%, and a number of

specific grants, such as subsidies for education, culture and road maintenance, were also reduced[13].

For years, it has been suggested that personal income tax should consist of the national and local personal income tax, and rural municipality or city councils should be allowed to increase or decrease the local personal income tax rate. It would also serve the purpose of providing local self-government units with additional means for executing their economic policy. So far, rural municipalities and cities have little interest in improving conditions for entrepreneurship or reducing unemployment. It is even useful for rural municipalities and cities, especially the small ones, to have their residents go to work in big cities with a higher average salary.

Land tax is also a national tax, but all its revenues are paid into local self-government budgets. The rural municipality or city council determines the tax rate within limits given by law. Land tax is 0.1–2.5 % of the estimated value of land[14]. In case of agricultural land the rate is 0.1–2.0 %. Land tax is not imposed on land where economic activities are prohibited by law or pursuant to the procedure provided by law; land in public use etc.

The purpose of application of environmental charges is to prevent or reduce the possible damage related to the use of natural resources, emission of pollutants into the environment and waste disposal. The proceeds from environmental charges shall be divided between the state budget and the budgets of the rural municipality or city of the location of the environmental exploitation. The rates for the natural resources extraction charge shall be established per ton or cubic meter by a regulation of the Government of the Republic. The Environmental Charge Act stipulates that equal part (50 per cent) of the natural resources user fees (user fees for oil shale, sand, gravel etc) are paid in municipal revenue. This has a direct effect on rural municipalities in the North-East region of the country with many oil shale mines where the so-called factor tax can constitute up to 50-60% of rural municipality revenue. Therefore, those local self-government units, although located in an ecologically difficult area, have the largest revenue base per person in the country.

The above three state imposed taxes (personal income tax, land tax and natural resources user fees) are significant because the total amount of the taxes determines the amount of subsidies for general purposes allocated to rural municipalities and cities from the State Budget. The total amount of the above three taxes paid by a rural municipality or city are divided by the population of the rural municipality or city. The amount of subsidy for general purposes due to the rural municipality or city from the State Budget is calculated on the basis of a formula which takes into account the demographic structure of the municipality (the number of children at pre-schools, the number of students, the length of local roads and city streets etc)[15]. The amount of

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[13] In 2009 the percentage of personal income tax was one month 11.9%, 3 months 11.93 % and 8 months 11,4%.

[14] The National Land Board periodically fixes the taxable value of land depending on the location and the purpose of its use (agricultural land, commercial land, land designed for transport, public land etc).

[15] In 2002, the formula used for calculating the amount of resources to be allocated from the state budget with the purpose of horizontal equalisation of municipal budgets was changed. The previous, m-formula took into account only the total of three income articles – personal income tax, land tax and natural resources royalties. The new formula takes into account also certain significant socio-economic factors that have an influence on municipal expenditure such as the age structure of local population and road network, and the difference between such expenditure in difference rural municipalities and cities.

the equalisation fund in a draft state budget and its distribution is determined by the negotiations between the representatives of the associations of local self-government units and the Government of the Republic.

The support T allocated from the budget equalisation fund to a rural municipality or city budget for 2010 was calculated as follows:

$$T = (AK - AT) * k, \text{ where}$$

$$AK = \sum_{n=1}^{6} C_n * P_n$$

$$AT = (TM_{2009} + RM_{2009}) * 0,5 + (TM_{2008} + RM_{2008}) * 0,3 + (TM_{2007} + RM_{2007}) * 0,2 + MM_{ARVEST}$$

- T • size of the budget equalisation fund in the specific local self-government;
- AK • calculated average operating expenses of the specific local self-government;
- AT • calculated revenue of the specific local self-government;
- k • coefficient of level of support;
- Cn • the number of children (0–6 years of age), number of school-age children (7–18 years of age), size of the working population (19–64 years of age)and the number of elderly persons (more than 65 years of age) according to the data in the population register, the calculated length of local roads and streets (roads with solid surface by coefficient 0.26, city streets by coefficient 0.74; roads with non-solid surface by coefficient 0.047) in kilometres according to the national register of roads and the weighted average number of disabled persons who are taken care of and to whom caregiver services are provided according to the caregiver's allowance report 2006-2008 at the specific local self-government;
- Pn • calculated average operating expenses in kroons per child, school-age child, person of working age, elderly person, disabled person who is taken care of and person to whom caregiver services are provided and per kilometre of the calculated length of local road and city street in local self-government units;
- $\sum_{n=1}^{6} C_n * P_n$ • the total amount of the number of children, school-aged children, persons of working-age, elderly persons, the weighted average number of disabled persons who are taken care of and to whom caregiver services are provided in the specific local self-government multiplied by the calculated length of local roads and city streets in kilometres adjusted by coefficients and the calculated average operating expenses of local self-government units in kroons calculated per unit in respect of each corresponding indicator;
- TM • receipt of personal income tax at the specific local self-government in 2007, 2008 and 2009, respectively, multiplied by 11.4 and divided by the calculated income tax rate for the local self-government in force in the relevant year (in 2009 the calculated income tax rate is 11.9 per cent for one month, 11.93 per cent for three months and 11.4 per cent for eight months);
- MM_{ARVEST} • calculated land tax (1.25 per cent of the price of taxation of general land and 0.6 per cent of the price of taxation of agricultural land in 2009) in the specific local self-government;
- RM • receipt of the extraction tax for the mining right and the fee for the special use of water in the specific local self-government in 2007, 2008 and 2009, respectively.

More than 80% of rural municipalities and cities (in 2009 – 183 from 226 rural municipalities or cities) in Estonia are entitled to the above subsidy for general purposes. The rural municipalities and cities surrounding the capital Tallinn are the exception since the revenue they raise from personal income tax is extremely high. Some rural municipalities in the North-East region of the country do not receive the above subsidy for general purposes either since they generate quite a lot of revenue due to natural resources user fees.

Local self-government units provide large scale functions and a remarkable share of public infrastructure has to be given to maintenance by local authorities. The most important area is education, as local authorities are obliged to maintain school houses and pay salary to teachers. General purpose block grants are allocated to local self-government units to enable them funds to cover expenses like salaries of teachers, subsistence benefit etc. Block grants from the State Budget amounts to ca. 1/5 of local government revenues (see Table 4). The distribution between local self-government units of the support allocated to a rural municipality or city budget from the budget equalisation fund and of the funds for education costs, subsistence benefits, funds for provision of social benefits and services, support for stabilising the revenue base of local self-government units, supplementary payments to rural municipalities of islands and rural municipalities which include small islands and the extent of, conditions of and procedure for distribution shall be established by the Government of the Republic.

The Local Taxes Act (1994) determines the types of local taxes, the subject of taxation, exemptions from tax, the basis of assessment and the rate of taxes. Under these legal conditions, rural municipality and city may decide about the type and rate of local taxes. Local taxes are: advertisement tax; road and street closure tax; motor vehicle tax; animal tax; entertainment tax; parking charge. Since 1994 local taxes were also sales tax and boat tax, but after the decision Tallinn City Council to implement them starting from 2010, the *Riigikogu* decided to abolish them from 2012. The importance of local taxes is in Estonia less than one percentage from local self-government revenues (Table 4).

Advertisement tax, road and street closure tax and parking charge are the most often imposed local taxes. More than 3/4 of local self-government units have not imposed any local taxes. The issue of local taxes has led to diametrically opposite opinions being voiced in Estonia. It has been said that there is no need to impose local taxes in Estonia. On the other hand, the right to impose local taxes is one of the most significant characteristics of local self-government. This is supported by subparagraph 9 (3) of the European Charter of Local Self-government which assumes that at least part of municipal revenue is generated by imposing local taxes.

Rural municipalities and cities can borrow to cover the investments prescribed by the rural municipality or city development plan. The amount to be borrowed cannot exceed 60% of the budget revenue of the current year and the repayment profile has to be drawn up so that the repaid amount does not exceed 20% of the revenue in each given year.

Several ministries allocate earmarked grants to local authorities for special purpose or to support municipal investments. Local self-government may freely decide on fees and charges paid by users for public services. They may have some resourc-

es from municipal assets, for example, from the privatization of municipal property. But there are significant differences between the cities and rural municipalities in their capacity to get revenues from this source.

The principal items of municipal expenditure are education (above 40% of municipal expenditure on average), public transport, road maintenance, social welfare and general administrative costs. On average, 1/10th of municipal expenditure is spent on covering administrative costs but it varies from 5-20%.

Table 6. **The structure of local self-government expenditure in 2005 and 2009**

Expenditure	2005		2009	
	million euros	%	million euros	%
Administration	131,328	13.68	183,907	13.54
Education	408,158	42.52	607,311	44.70
Economy	167,464	17.45	227,519	16.75
Culture, leisure and sport	132,443	13.80	168,250	12.39
Social welfare and health care	73,640	7.67	115,179	8.48
Environment protection	43,662	4.55	50,822	3.74
Public order	3,186	0.33	5,442	0.40
TOTAL	959,881	100.00	1,358,430	100.00

The Constitution guarantees rural municipalities and cities autonomous budgets. In the Judgment of the Supreme Court of Estonia 3-4-1-8-09 (16 March 2010) the Court explains that the right and obligation to independently decide and organise all local issues based on law arising from subsection 154 (1) of the Constitution also includes making decisions regarding how to use the funds allocated for resolution of local issues. Subsection 157 (1) of the Constitution specifies the right to municipal self-administration and stipulates that a local authority has its own budget whose drafting bases and procedures are provided by law. The budget of a local authority is part of the public sector budget, but not part of the State Budget. The right to municipal self-administration extends to budgeting and adoption of a budget insofar as it concerns incurring expenses required for performance of local self-government functions.

8. Property and assets

Rural municipalities and cities have quite comprehensive autonomy to manage their property and earn revenues[16]. A local self-government council shall establish the procedure for the administration of the property of the rural municipality or city. A rural municipality or city may transfer an immovable which has been transferred into its ownership without charge by the state if such immovable ceases to be neces-

[16] A significant amount of municipal revenue of big cities is generated from letting or selling municipal property. The latter is, naturally, one-time income. E. g. Tallinn received ca 60 million euros for 51% of the shares of the company providing the town with water supply and wastewater services (*AS Tallinna Vesi*) in 2001.

sary or has become unsuitable for the performance of the functions of the local self-government. An immovable transferred by the state without charge may be transferred only pursuant to the procedure established by the local government council. A rural municipality or city has the right of pre-emption upon the transfer of structures located within its administrative territory by persons in private law if such structures were, in whole or in part, used by an educational, health care, cultural or child care institution for not less than one year prior to the transfer. The provisions of the Law of Property Act apply to the right of pre-emption otherwise.

The biggest problems regarding municipal property are related to land property. According to the National Audit Office overview from December 2010 of the land of rural municipalities and cities, there is no one in the state who knows exactly how much land rural municipalities and cities have and what kind of land they need. The state's databases give a complete overview of land owned by persons in private law, but it is impossible to say how much land in Estonia is owned by rural municipalities or cities on the basis of the information contained in national databases. The reason is that rural municipalities and cities do not have to enter the land in the Land Register. Only the land with which further transactions will be performed is generally registered. The National Audit Office finds that entering land in the Land Register should be made mandatory for rural municipalities and cities so that a complete overview of the land belonging to local self-government can be obtained, and state fees should be taken to a level that would allow account to be kept of municipal land at a reasonable expense.

Rural municipalities and cities believe that the main problem they have is that they don't have enough land for the performance of their duties. When preparing the overview, the National Audit Office found that the local self-government need for land has not been ascertained and there is no overview of how much land they already have, as it is impossible to obtain comprehensive information about this from the state's databases.

Rural municipalities and cities received most of their land free from the state in the course of the land reform. Almost 15,000 plots of land with a total area of circa 30,000 hectares (i.e. less than 1% of all land registered in Estonia) had been given to local self-government units like this by 2010. Rural municipalities and cities obtained the remaining plots of land either by buying or inheriting them, by receiving them as gifts, and from the state when it sold its land to them. Some rural municipalities and cities received hundreds of hectares of land (manor land that belonged to local self-government before 1940 or military land from the Soviet times) from the state in the course of the land reform and have used it for developments and earning income; others have had to acquire land.

The local self-government units that have been given the most land in terms of area in the course of the land reform are the city of Tallinn (3,722 ha), the city of Tartu (1,315 ha) and Rae rural municipality (1,084 ha). 40% of local self-government units have received less than 50 hectares of land free of charge in the course of the land reform. The majority of land (81%) is land given in municipal ownership on the basis of the resolutions of county governors while the decisions in remaining cases were made by the Government of the Republic, whose discretion in deciding on municipalisation was broader.

In the exclusive competence of the rural municipality or city council is the submission of applications for the expropriation of immovables. The rural municipality or city council must submit an expropriation application of private property to the Minister of Internal Affairs, who shall submit the application to the Government of the Republic within one month with his or her opinion appended thereto.

9. Control, supervision and oversight of local authorities activity

Local self-government bodies are required to conduct internal control. Each rural municipality and city council is required to establish an audit committee with no less than three members for the duration of its term of office. All members of an audit committee shall be elected from among the council members. The audit committee monitors: 1) the conformity of the activities of the municipal executive board with the regulations and resolutions of the municipal council; 2) the accuracy of accounting of the municipal agencies and agencies under the administration of municipal agencies, and the purposeful use of municipal funds; 3) the timely collection and registration of revenue and the conformity of expenditure with the rural municipality or city development plan; 4) the performance of contracts entered into by the rural municipality or city; 5) the lawfulness and purposefulness of the activities of the rural municipality or city government and the administrative agencies thereof. In addition to internal control by council audit committee, many bigger cities (Tallinn, Tartu, Pärnu) have professional internal control office. Since 2003 rural municipalities and cities are required to add an independent auditor's report to the annual report and report of execution of the budget.

External state control and supervision is effected by Chancellor of Justice (*Õiguskantsler*), the National Audit Office (*Riigikontroll*) and County Governor (*maavanem*). The purpose of supervision is to ensure the lawfulness of municipal activities (article 160 of the Constitution). It has to be understood that state control and supervision over local self-government can be conducted only based on law if the law so stipulates. We can say metaphorically that local self-government has no superior than law.

According to the Constitution (article 139), the Chancellor of Justice (Legal Chancellor) shall be, in conducting his or her work, an independent official who shall monitor whether the legislative acts adopted by local self-government bodies are in accordance with the Constitution and the law. If the Chancellor of Justice deems that legislation adopted by a local self-government body contradicts the Constitution or the law, he proposes to the body which has adopted that act that it bring the act into accordance with the law within 20 days. If the act is not brought into accordance with the law within 20 days, the Chancellor of Justice proposes to the Supreme Court (*Riigikohus*) that the act be declared null and void. The Chancellor of Justice is required to present an annual report to the Parliament on whether the legislation adopted by the state legislature and executive and by local self-government bodies are in accordance with the Constitution and law.

Another important constitutional task entrusted to the Chancellor of Justice is the function of the ombudsman that was given to him under the Chancellor of Justice Act passed on 25 February 1999. According to this, the Chancellor of Justice monitors

whether state agencies comply with people's fundamental rights and freedoms and with the principles of good governance. An amendment to the Act that entered into effect on 1 January 2004 further expanded the functions of the Chancellor of Justice as an ombudsman – now the Chancellor of Justice also supervises local self-government units, legal persons in public law and private persons who exercise public functions. By exercising these closely related tasks, the Chancellor of Justice focuses on the review of compliance with the fundamental constitutional values – human dignity, democracy, rule of law, social state.

According to the Constitution (article 133) the National Audit Office shall supervise the use and control of state assets which have been transferred into the possession of local self-government units. The National Audit Office conducts economic supervision over local self-government units in so far as they use immovable and movable property of the state transferred into their possession, allocations for specific purposes and subsidies granted from the State Budget, and funds allocated for the performance of state functions. The National Audit Office audits use of the funds of the European Union allocated through the state or the local self-government units and meeting of obligations to the European Union assumed in connection with such funds. With regard to the end users of the funds of the European Union and persons who have obligations to the European Union, the National Audit Office has the right to perform procedural acts in order to ascertain the validity of the circumstances which were the basis for the receipt of such funds and the legality of the use of the funds and the performance of the obligations.

A county governor has the right to exercise supervision over the legality of legislation of specific application of local self-government councils and governments of the given county and, in the cases and to the extent provided by law, also over the legality and purposefulness of the use of state assets in the use or control of local self-government. A county governor or an official authorised by the county governor's order has the right to control the performance of state functions assigned to local self-government by law or assumed by local self-government by an administration contract. A county governor has no authority to stop or declare void any measures taken by local self-government body; he can only suggest that the local self-government body take the necessary measures to comply with the law. If the rural municipality or city does not change the act in order to comply with the law, the county governor has to appeal to court. In cases set by the law, county governor also has the right to file a petition with the Chancellor of Justice or make a report to the National Audit Office.

The system of state supervision over the legal functioning of local self-government has been unchanged in Estonia since the early 1990s. Heated discussions over granting the National Audit Office more rights to inspect municipal property started in the late 1990s. The management of the National Audit Office and many Members of the Parliament wanted to amend the National Audit Office Act by granting the Office as extensive rights to inspect the use of municipal property as it had to inspect the use of public property. Local self-government units associations opposed the idea since it would have significantly decreased the degree of municipal autonomy established in the Constitution. However, the new National Audit Office Act adopted in 2002 granted the National Audit Office considerably more rights in the area. The

National Audit Office was granted the right to audit a) the use of municipal property in municipalities; b) non-profit organisations and foundations provided there was a municipality among their founders or members; c) companies in which a municipality has a majority holding.

The National Audit Office has the right to inspect 1) internal control, financial management, financial accounting and financial statements of the audited entity; 2) the legality of the economic activities, including economic transactions of the audited entity; 3) the reliability of the information technology systems of the audited entity. According to the National Audit Office Act the National Audit Office shall exercise economic control over the municipal use of state and municipal assets, allocations for specific purposes and subsidies granted from State Budget, funds allocated for the performance of state functions and funds of the EU and performance of obligations to the EU thereof. In 2006, a department was established at the National Audit Office for auditing municipalities. The Local Government's Audit Department audits rural municipalities and cities, focusing mainly on the legality of the internal control systems, financial management, financial accounting and economic transactions, trustworthiness of information technology systems, and the legality and efficiency of use of the state assets given to rural municipalities and cities, targeted assistance granted from the State Budget and funds allocated for performance of state functions.

The principal judicial institutions inspecting public institutions, including municipal institutions are administrative courts (four in Estonia) and the Constitutional Review Chamber of the Supreme Court. These institutions are not interested in whether local self-government act inexpediently; these institutions exercise control over legality of their activity. As regards private law transactions of local governments, these fall within the jurisdiction of civil courts.

Rural municipalities and cities cannot delegate their rights and tasks to central government institutions. General policy planning in area of local self-government legal basis – structures and functions as well as the development of the local self-government system in Estonia – responsibilities of the Ministry of the Interior. The Ministry of Finance is responsible for local self-government finance and budget issues.

10. Protection of local self government

A rural municipality or city has the right to apply to the court to defend its legal rights or for resolving arguments. In order to protect the common interests of its members, an association has the right to file an action with an administrative court.

According to the Constitutional Review Procedure Act, the Supreme Court shall verify the conformity of legislation of general application, the refusal to issue an instrument of legislation of general application or the conformity of an international agreement with the Constitution on the basis of a reasoned request, court judgment or ruling. The President of the Republic, the Chancellor of Justice, a local self-government council and the *Riigikogu* may submit requests to the Supreme Court. According to this Act, a rural municipality or city council may submit a petition to the Supreme Court to declare an Act which has been proclaimed but has not yet

entered into force or a regulation of the Government of the Republic or a minister which has not yet entered into force to be in conflict with the Constitution or to repeal an Act which has entered into force, a regulation of the Government of the Republic or a minister or a provision thereof if it is in conflict with constitutional guarantees of the local self-government.

11. Local government and the European Union

Estonia has 6 (until 2014 – 7) seats in the Committee of the Regions of the EU. In the Committee of Regions the Association of Estonian Cities has 3 full and 3 alternate members and the Association of Rural Municipalities of Estonia has 3 full and 3 alternate members in Estonia´s national delegation. All members are either members of rural municipality or city councils (including chairman of Tallinn City Council etc.) or mayors of rural municipality or city. Members of the Committee of the Regions have active user rights in the electronic system of EU documents (ELIS).

The Brussels Office of the Association of Estonian Cities and of the Association of Rural Municipalities of Estonia was opened on 13 October 2005 so as to work proactively and promote the joint interests of Estonian local self-government units in EU legislation, funding and policy as well as to provide a direct communication channel to EU institutions, organisations and networks.

The implementation of the EU cohesion policy is carried out at the central level. The Ministry of Finance has overall responsibility for the management of structural funds. Each priority has its own implementing ministry: of Education and Research; of Economic Affairs and Communications and of the Environment. In the period of 2007-2013 Estonia was allocated more than 3.4 billion euros from the Structural Assistance, which will be channelled to the following fields: energy economies, entrepreneurship, administrative capability, education, information society, environment protection, regional and local development, research and development activities, healthcare and welfare, transportation and labour market. Local self-government units have to amalgamate or at least draw up joint projects in order to deploy the EU structural funds.