

# THE SCOPE OF LOCAL SELF-GOVERNMENT POWERS AND REGULATION MECHANISMS IN THE REPUBLIC OF ARMENIA

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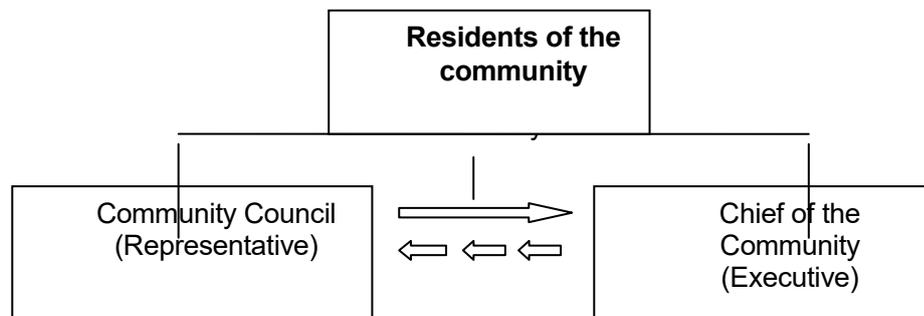
## Introduction

It is quite evident that the effectiveness of handling local issues in the Republic of Armenia is largely dependent on the scope of the local self-government bodies enshrined in the legal norms, which define the scope of responsibility, accountability, control, and compliance assessment and analysis.

In essence, the scope of the local self-government bodies mandate is to ensure the proper quality and accessibility of public services provided to the community's population, as the local self-government bodies are closer to the communities and have greater opportunities to consider the peculiarities of the community, to better assess existing problems and issues.

## The self-government bodies in RA and its structure

According to the RA legislation, the local self-government bodies in the Republic of Armenia are the Community Council and the Chief of the Community, elected by community residents (except for Yerevan, Gyumri and Vanadzor communities) for a five-year term. The Community Council is a representative body, and the Chief is the executive body of the community, both of them exercising their power in accordance to the RA Constitution, the Law "On Local Self-Government" and other relevant laws<sup>1</sup> (Figure 1).



**Figure 1: Structure of Local Self-Government Bodies**

The Community Council is a representative body elected by law which exercises its powers in accordance with the regulation adopted during the meeting by the Council itself. Any issue in the interest of the community may be subject to discussion and, in the course of the discussion, the decisions made are subject to mandatory implementation in the community area. The Community Council may refer to issues which are in the interest of the community though beyond its sphere of competence. In this case the Council adopts messages conveyed to community members, the

<sup>1</sup> RA Constitution, 2015

Chief of the Community, the Head of Region, other public authorities or bodies. Decisions of the Community Council are made by the majority of votes. The sessions are open to the public and every resident of the community has the right to be present and voice his opinions and suggestions on the issues under discussion. However, in exceptional cases, by a decision of the two thirds of the members present at the sitting of the Council, a closed session may be conducted<sup>2</sup>:

The Chief of the Community is the executive body of the community, represents the community and implements the powers provided for by the Constitution of the Republic of Armenia, the RA Law "On Local Self-Government" and other laws of the Republic of Armenia. The Chief of the Community implements his activities by means of appointed officials, community staff, community institutions and non-profit organizations. It is important to note that each settlement incorporated into multi-settlement community (consisting of more than one settlement), with the exception of a central settlement, has one administrative official. The administrative official is appointed by the Chief of the Community and acts in the name of the latter in the territory of the settlement. In fact, the administrative official represents the community's interests in a multi-settlement community and is an intermediary between the Chief of the Community and its residents"<sup>3</sup>:

### **The legal basis of the powers of self-government bodies**

As regards the powers granted to the local self-government bodies under legislation, we can say that they provide adequate conditions for the establishment of a unified local system of local self-government. These powers, in their nature, can be characterized by a number of peculiarities:

- The powers of the local self-government bodies are an integrity of rights and responsibilities provided for by the law.
- The powers of the local self-government bodies are enshrined in legislation, which guarantees the legality of the latter.
- Any power of local self-government is exercised by the latter via implementing administrative actions aimed at setting rules or norms.
- Local self-government bodies are authorized to settle local issues by own power.
- State-legal regulation of public relations is exercised based on the laws defining the powers of local self-government bodies with the participation of such bodies<sup>4</sup>.
- The powers of local self-government bodies first of all permit to define the limits of their activities, the scope of responsibility, accountability and control, as well as analyze the actions of local self-government bodies in terms of their compliance to the law and the rule of law<sup>5</sup>.

The legal basis for enshrining powers to local self-government bodies in the Republic of Armenia is the Constitution of the Republic of Armenia, which defines local self-government as the rights and capacities of local self-government bodies in the interests of the community's residents for handling significant community issues<sup>6</sup>. We can observe that the above provision stipulates the competence of local self-government bodies to address community issues.

Moreover, the RA Constitution establishes a relevant provision on the powers delegated to the local self-government bodies by the State. Thus, pursuant to Article 182 (2) of the RA Constitution, such

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<sup>2</sup> RA LAW 2002, N-337

<sup>3</sup> RA LAW 2016, N-237

<sup>4</sup> The constitutional right of the Republic of Armenia 2003, 598-599

<sup>5</sup> Harutyunyan 2004, 148

<sup>6</sup> RA Constitution 2015

powers may be delegated to local self-government bodies to ensure effective implementation of powers.<sup>7</sup>

It is quite evident that the scope and peculiarities of the competencies are within the scope of the tasks set by the legislation. Mandatory and voluntary community issues should be distinguished. Mandatory issues are those of community importance the settlement of which guarantees a normal course of life in the community. Mandatory issues as well as the powers of local self-government bodies to handle the issues are defined by law<sup>8</sup>:

### **The types and peculiarities of local self-government powers**

According to the RA Law "On Local Self-Government", the community's mandatory powers are:

- 1) sustainable development of the community;
- 2) improvement of the business environment and promotion of entrepreneurship;
- 3) community property management;
- 4) organization of pre-school education and extracurricular education;
- 5) organization of cultural life of the community;
- 6) social protection of the residents;
- 7) organization of sports life in the community, promotion of physical culture and healthy lifestyle;
- 8) Promotion of housing construction in the community;
- 9) Community development, improvement and greening, waste management and sanitation, maintenance of communal services, as well as maintenance and operation of community cemeteries;
- 10) organization of public transport, maintenance and exploitation of road infrastructures;
- 11) providing supporting to the State in defense issues;
- 12) organization and implementation of measures aimed at disaster risk reduction, protection of residents in emergency situations and protection of civilians;
- 13) promotion of agriculture;
- 14) environment protection;
- 15) promotion of tourism;
- 16) organization of programs and events addressing community youth issues;
- 17) promotion of birth and large families;
- 18) implementation of public health maintenance and improvement programs, creation of effective and affordable primary health care facilities;
- 19) promotion of the participation of the disabled in community life;

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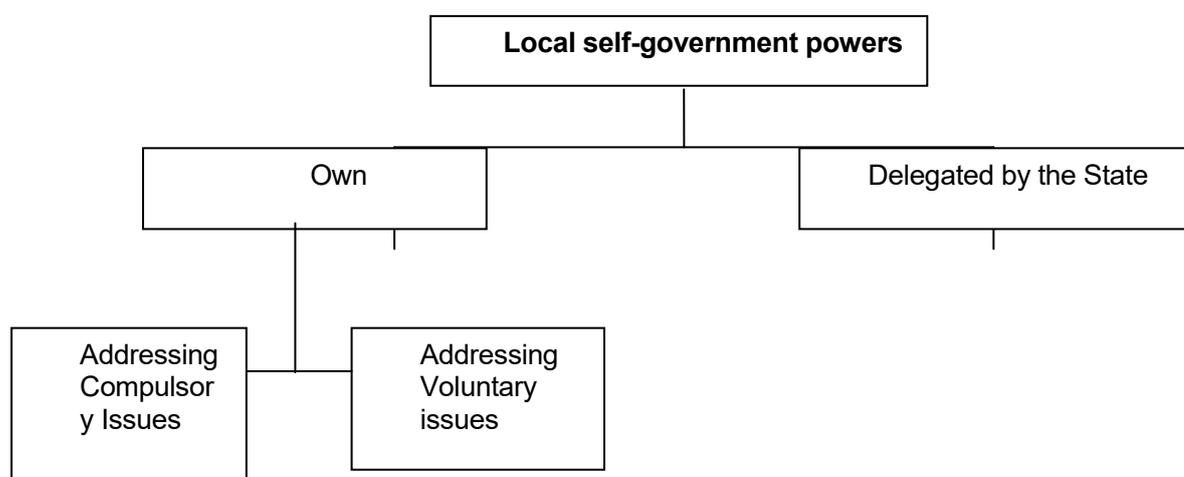
<sup>7</sup>RA Constitution 2015

<sup>8</sup> RA LAW 2002, N-337

20) promotion of charity for the establishment, supporting and maintain of financial independence of institutions involved in culture, education, research, health, sports, social and other issues.<sup>9</sup>

As regards voluntary powers, it should be noted that the latter are not directly conditioned by the normal course of community life and can only be implemented in case additional financial resources are available. Additionally, voluntary issues, the authority to address them and the manner in which they are implemented are defined by the Community Council decision. Also, voluntary issues concerning social assistance issues are resolved by the standards set by the Community Council.

For the effective handling of the issues assigned to the Local self-government bodies, the powers assigned to them by the legislation of the Republic of Armenia fall under own – those that address mandatory and voluntary powers of the community, and those delegated by the State, aimed at effective implementation of state body's powers (Figure 2)<sup>10</sup>:



**Figure 2: Types of Powers of the Local Self-Government Body**

According to the RA legislation, mandatory powers have a priority over the voluntary ones. Regardless of the fact that the implementation of these two types of powers is financed by the community budget, the implementation of voluntary powers is dependent of the availability of resources and the urgency of the relevant issue. The RA Law "On Local Self-Government" defines that pursuant to other laws of the Republic of Armenia the powers prescribed to local self-government bodies can be implemented as voluntary powers. In addition, local self-government bodies can carry out any other activities arising out of community benefit, in contradiction to the RA legislation.

Powers delegated by the State to local self-government bodies are also priority and should be immediately settled in the manner prescribed by the RA laws. The powers delegated by the State shall be exercised through the procedure established by the Government of the Republic of Armenia and shall be subject to funding from the state budget at the expense of the allocations for funding delegated powers. Local self-government bodies are obliged to ensure, in the manner prescribed by law, the priority of their respective authorities for the settlement of the community's mandatory issues.

The powers, provided for under the legislation, intended for a community with specific number of population, are considered own powers to handle voluntary issues in the case of the rest of the

<sup>9</sup>RA LAW 2002, N-337

<sup>10</sup>RA LAW 2002, N-337

communities. Other powers ascribed to local self-government bodies, except for the powers delegated by the State, are exercised by the communities as their own powers.<sup>11</sup>

Referring to the main types of local self-government bodies, it should be noted that among them are the ownership of fixed assets and the collection of their own revenues, which is the basis for the proper exercise of other powers and the settlement of local issues.

The ownership right of the Community is protected by the Constitution of the Republic of Armenia. The ownership of the community generates from:

- 1) transferring the state-owned property to the ownership of the community;
- 2) the activities of community-based institutions and organizations;
- 3) the community budget revenues and other financial entries not prohibited by law;
- 4) the property acquired at the expense of community budget;
- 5) the charity donations or donations from citizens, institutions and organizations;
- 6) other sources not prohibited by the legislation.<sup>12</sup>

Local Self-Government bodies may establish institutions, commercial and non-profit organizations based on the decision of the Community Council. Community institutions and organizations may be:

- 1) budgetary institutions;
- 2) 100% commercial property owned by the community and non-commercial organizations founded by the community;
- 3) commercial organizations with community participation.<sup>13</sup>

The financial resources required for the implementation of community responsibilities are allocated from the community budget, as well as from subsidies from the state budget and targeted allocation of funding costs (subventions).

Powers of local self-government bodies can also be distinguished by the nature of their functions. In this regard, they can be classified into two types:

1. powers merely relating to administration functions;
2. powers associated with public service delivery management as a result of decentralization.<sup>14</sup>

An important step towards the expansion of the powers of local self-government bodies was the RA Law "On Local Self-Government", adopted by the National Assembly on December 16, 2016.

With regard to the decentralization of power, some of the 36 amended powers in the law are of decentralizing nature. Among them the following are worth to be mentioned:

1. The power delegated to the Chief of the Community by the State in the area of the protection of the population and the organization of civil defense in emergency situations;

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<sup>11</sup> RA LAW 2002, N-337

<sup>12</sup> RA LAW 2002, N-337

<sup>13</sup> RA LAW 2002, N-337

<sup>14</sup> Shahbazyan, Yeritsyan 2012, 7

2. The power delegated to the Chief of the Community with respect to health, physical culture and sports, according to which the Chief shall organize out-patient medical care and service in the community.
3. The powers prescribed to the Chief of the Community in the sphere of social security directly related to the requirements of the RA Law on Social Assistance. In addition, a social worker institute is set up in a community of more than 5,000 residents, whose basic rights and responsibilities are also set out in the RA Law on Social Assistance<sup>15</sup>:
4. In the field of agriculture, one of the top powers prescribed to the Chief of the Community consists in the accounting of agricultural resources, the procedure of which is defined by the Government of the Republic of Armenia,
5. The powers of the Chief of the Community in the tourism area.

### **Conclusion**

It should be noted that in terms of decentralization of managerial authority, the RA Law "On Local Self-Government", adopted 16 December 2016, stipulates regulations for the communities of Gyumri and Vanadzor.

Especially notable are the following powers delegated to the two communities mentioned in the law:

- Road traffic regulation in the community through the installation of road markings, as well as traffic signs and traffic lights (except for temporarily installed ones in the cases envisaged by legislation).
- Participation in the management of the state-owned medical aid and service institutions and sports organizations in the manner specified by law.
- Implementation of State social security programs in the community;
- Implementation of activities envisaged by the State Environmental Protection Program.

In summary, it should be noted that the powers assigned to local self-government bodies play a very important role in the natural development of communities and the effective settlement of local issues. Therefore, it is necessary to gradually expand the scope of these powers and to clearly define the mechanisms and tools for their implementation. In this regard, for the purpose of organizing the process of empowerment and decentralization in our country, the RA Law "On Local Self-Government", adopted 16 December 2016, stipulates certain legislative instruments for organizing the implementation of local self government powers.

### **References**

RA Constitution, RA OB 2015.12.21/ Special Issue

RA LAW <<On Local Self-Government>>N-337, RA OB 2002.06.21/21(196)

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<sup>15</sup> RA LAW 2016, N-237

## **ՀՀ ՏԻՄ-ԵՐԻ ԼԻԱԶՈՐՈՒԹՅՈՒՆՆԵՐԻ ՇՐՋԱՆԱԿԸ ԵՎ ԿԱՐԳԱՎՈՐՄԱՆ ՄԵԽԱՆԻԶՄՆԵՐԸ ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅՈՒՆՈՒՄ**

### **Աշոտ Ավետիսյան**

Հայաստանի Հանրապետությունում տեղական նշանակության խնդիրների լուծման արդյունավետությունը մեծապես կախված է իրավական նորմերում ամրագրվող տեղական ինքնակառավարման մարմինների լիազորությունների շրջանակից, որոնք ամրագրում են այդ մարմինների գործունեության պատասխանատվության, հաշվետվողականության, վերահսկելիության շրջանակները:

ՏԻՄ-երի լիազորությունների շրջանակը կոչված է ապահովելու համայնքի ազգաբնակչությանը մատուցվող հանրային ծառայությունների պատշաճ որակը և մատչելիության բարձրացումը, քանի որ ՏԻՄ-երն ավելի մոտ գտնվելով համայնքների ազգաբնակչությանը, ավելի մեծ հնարավորություններ ունեն հաշվի առնելու տվյալ համայնքի առանձնահատկությունները, ավելի խորությամբ գնահատելու առկա խնդիրները և հիմնահարցերը:

Ակնհայտ է, որ տեղական ինքնակառավարման մարմիններին վերապահված լիազորությունները շատ կարևոր դեր են խաղում համայնքների բնականոն զարգացման ու տեղական նշանակության խնդիրների արդյունավետ լուծման համար, ուստի, անհրաժեշտ է աստիճանաբար ընդլայնել այդ լիազորությունների շրջանակը և օրենսդրությամբ հստակ սահմանել դրանց իրականացման մեխանիզմները և գործիքակազմերը:

**Բանալի բառեր.** Տեղական ինքնակառավարման մարմիններ, վերապահված լիազորություններ, օրենսդրություն, համայնքներ, պարտադիր և կամավոր խնդիրներ

## **THE SCOPE OF LOCAL SELF-GOVERNMENT POWERS AND REGULATION MECHANISMS IN THE REPUBLIC OF ARMENIA**

### **Ashot Avetisyan**

The effectiveness of solving local issues in the Republic of Armenia largely depends on the scope of the local self-government bodies set out in the legal norms, which defines the scope of accountability, accountability and oversight of the activities of these bodies.

The scope of authority of the LSGs is to ensure the proper quality and accessibility of public services provided to the community's population, as the LSGs are closer to the community's population, have greater opportunities to consider the peculiarities of the community, to better assess existing issues and issues.

Obviously, the powers assigned to local self-government bodies play a crucial role in the normal development of communities and the effective solution of local issues, so it is necessary to gradually expand the scope of these powers and to clearly define mechanisms and tools for their implementation.

**Key words.** Local Self-Government Bodies, Authorized Powers, Legislation, Communities, Mandatory and Voluntary Issues.

## **РАМКИ ПОЛНОМОЧИИ ОРГАНОВ МЕСТНОГО САМОУПРАВЛЕНИЯ И МЕХАНИЗМЫ РЕГУЛИРОВАНИЯ В РЕСПУБЛИКЕ АРМЕНИЯ**

**Ашот Аветисян**

Эффективность решения местных вопросов в Республике Армения во многом зависит от сферы полномочий органов местного самоуправления, установленных в правовых нормах, которые определяют сферу подотчетности, подотчетности и надзора за деятельностью этих органов.

Сфера полномочий органов местного самоуправления заключается в обеспечении надлежащего качества и доступности государственных услуг, предоставляемых населению сообщества, поскольку органы местного самоуправления ближе к населению сообщества, имеют более широкие возможности для рассмотрения особенностей сообщества, для лучшей оценки существующих проблем и вопросов. Очевидно, что полномочия, возложенные на органы местного самоуправления, играют решающую роль в нормальном развитии сообществ и эффективном решении местных проблем, поэтому необходимо постепенно расширять сферу действия этих полномочий и четко определять механизмы и инструменты для их реализации.

**Ключевые слова:** Органы местного самоуправления, уполномоченные полномочия, законодательство, сообщества, обязательные и добровольные вопросы