

## Republic of Armenia

(Հայաստանի Հանրապետություն)



**Capital:** Yerevan

**Inhabitants:** 3.229.900 (2007)

**Area:** 29.800 km<sup>2</sup>

### 1. Introduction



The Republic of Armenia (Hayastani Hanrapetut'yun) has a typical unitary structure. In terms of centralisation it may be defined as a relatively decentralised state. Total area is 29 740 sq. km. Population totals 3 210 000 (according to the census of 2001). The ethnic composition is: Armenians (96 %), Russians, Yezidi, Kurds, Assirians, Greeks, Ukrainians, Jews and others.

The country is divided into 11 administrative territorial units - provinces or marzer (including the capital Yerevan which has the status of a province). In their turn, provinces are composed of 930 urban and rural municipalities. The capital includes 12 quarter communities.

The existing system of local self-government was formed by the Constitution of July 5, 1995. After the referendum which proclaimed independence of the Republic (21.09.1991) and prior to the formation on the basis of the Constitution of a new legal and institutional system, a former system of local soviets had been functioning. During this period (1995 – 1996) the following acts were enacted: the Law "On Elections of Organs of Local Self-government" (14.05.1996), the Law "On Local Self-government" (30.06.1996), "Transitional Regulations of Relations between Organs of Local Self-government and Organs of Territorial State Government" (14.12.95), the Resolution "On Administrative Territorial Division of the Republic of Armenia" (07.11.95) and so on.

The second period (starting since 1997 and lasting till now) is a time of the development and improvement of the system of state territorial government and local self-government. This period may be divided into two stages.

At the first stage local self-government was modified with the aim to adjust it to the European standards as provided by the European Charter of Local Self-government ratified by the Republic of Armenia on December 4, 2001.



New Law "On Local Self-government" was adopted on May 7, 2002. Several years later it was significantly changed the Law of May 20, 2005. In particular, it introduced new chapter 7.1 which established fundamentals and the procedure of the state control over organs of local self-government.

In the nearest future new legal reforms of local self-government will be implemented as provided by the amendments to the Constitution adopted at the referendum of November 27, 2005. They stipulate, in particular, that Yerevan shall be regarded as a municipal unit and that the peculiarities of the territorial state government there shall be established by law (Article 108).

## 2. Territorial organization

In larger administrative territorial units - provinces (marzer) - territorial state government is exercised in accordance with Article 88.1 of the Constitution. The heads of provinces (marzpets) are appointed and removed from their posts by Government decrees. Such decrees must be confirmed by the President of the Republic. Marzpets implement the territorial policy of the Government, coordinate the activities of local state executive organs, with some exceptions as provided by law.

Territorial state government is based on the principle of deconcentration. It means that marzpets act within their powers as local chains of the state system, appointed by, and responsible to, the Government. Several central executive organs have their own territorial subdivisions at this level (tax, national security, police organs, energy, water, gas and heating supply services and so on). Such organs and services are not subordinated to marzpets,

though the latter ones co-ordinate and harmonise their activities.

Local self-government exists at the lower level – in the municipalities (settlements, cities, quarter communities of Yerevan) and is guaranteed by the Constitution of the Republic. It provides that people may exercise their powers through local elections and referendums and organs of local self-government (Articles 2, 4, 107 and 110). In municipalities there are no consolidating or supervising organs of state government. At the same time the Law "On Local Self-government" stipulates that powers of state organs may be delegated to municipalities, provided they have financial means sufficient for their implementation (Articles 9 and 10).

Local self-government is regarded as the right and ability of municipalities to decide under their responsibility local issues in accordance with the Constitution and laws of the Republic and in the interests of local population.

According to article 104.1 of the Constitution, a municipality unites citizens of one or several settlements, it has the status of a corporate person, it may possess property and have other property rights.

The Constitution and the laws do not establish a distinct legal status for cities; there are no metropolitan regions with specific forms of the governance; there are no autonomous territorial units.

However, Yerevan has certain peculiarities in the functioning of territorial state government and local self-government, as provided by law. For instance, law may provide for direct or indirect elections of a mayor of Yerevan (articles 88.1 and 108 of the Constitution). Such approach is justified taking into account that approximately 1/3 of the population reside



in the capital, it concentrates significant part of national financial resources, and of the scientific, cultural and political potential.

### 3. Institutions of local self-government

#### 3.1. Local political systems

Marzpets are appointed by the Government. There are no representative organs in the provinces.

Elections are held at the lower level. Heads and councils of municipalities are elected for a term of four years (prior to last constitutional amendments – for a term of three years) on the basis of universal, equal and direct voting and secret ballot (Article 4 of the Constitution). At these elections candidates are proposed exclusively on their own initiative, though actually many of them are members of political parties which provide them necessary support.

In the Republic there are no local parties because according to the Law "On Political Parties" the majority of members of the national Parliament are elected according to proportional electoral system (90 out of 131 deputies). Consolidation of national parties may be explained also by the fact that there are no regional elections, only organs of local self-government are elected. These factors strengthen political parties and exclude the formation of purely local parties.

Local elections, as a rule, are held on competitive basis. There are no official data about party affiliation of the heads of communities. But it is known that the majority of them are members of the ruling political coalition.

At the elections of the heads and councils of municipalities the majority electoral

system is used (in order to be elected a candidate have to receive a majority of votes). For the election of the head of municipality the entire territory of the municipality forms a single electoral constituency. Depending on population from 5 (no more than 1 000 residents) to 15 (more than 2 000 citizens) members of municipal councils are elected. At these elections the territory of each municipality forms one multi-seats electoral constituency. Candidates receiving the majority of votes become member of municipal councils. The last municipal elections took place in 2005.

Citizens skeptically regard opportunities of, and policy carried by, local political leaders. Even on issues directly vested in organs of local self-government and marzpets (when they are not exercised or exercised unduly) central republican bodies and their officials remain as the main object of criticism. This has objective reasons. Administrations of provinces do not have their own budgets and revenue sources. Marzpets as representatives of the Government are not independent and are deprived of opportunities to propose own initiatives. Of course, municipal bodies do have such opportunities (they have their revenues and budgets, they independently plan the development of municipalities and independently exercise appropriate activities). Nevertheless, the majority of municipalities will not survive without grants from the state budget. In other words, the actual financial dependence from the state makes impossible genuine institutional and legal autonomy of municipalities. Both local self-government bodies and population have a deeply rooted opinion that local self-government bodies are just a local, lower chain of state government, and not the independent form of public power.

Many local problems may be solved more efficiently and with more economy of



financial means through merger of municipal units. But local self-government bodies are not eager to proceed in this direction. In order to assist communities in this process and to make easier the burden of the state, the Government has prepared a draft Law "On Inter-Municipal Units" which contemplates the mandatory formation of inter-municipal units for the solution of specific issues.

### *3.2. Participation of citizens*

On the whole, the level of participation of citizens is high, though it sharply differs according to location. In rural municipalities, 70 to 100 % of citizens take part in the elections of local self-government bodies. In small cities about 2/3 of citizens, and in big cities and in quarter communities of Yerevan 1/3 to 1/5 of electors participate in the voting. The participation of citizens is much lower when elections of heads and councils of municipalities are held at different time.

The Constitution and legislation lay down only two forms of local democracy: local elections and referendums.

There are no sub-municipal organs of local self-government.

Transparency in the activities of local self-government is partly ensured by publication of normative legal acts in the official "Heralds of Legal Acts of Municipalities". When such publications are not possible, the texts of municipal acts shall be placed on notice boards of municipal councils at the entrance of their premises. In the vast majority of municipalities there are no electronic means of communication. Only three provinces have their own web-cites. No municipality has a web-site. The World Bank and the United Nations have sponsored the creation of the web-site "Gateway to Armenia", but it is still in the

process of formation and is not much informative.

Traditional institutions function in close co-operation with administrations of provinces and local self-government.

### *3.3. Staff of local self-government*

The Law "On Municipal Service" dated December 14, 2004 requires that executive bodies of local self-government shall be formed on the principle of professionalism. Prior to the adoption of this Law, the issues of municipal service were regulated by labour legislation. As a result, local administrations were obliged to resign after new elections of heads of municipalities. Now in such situation only deputy head and secretary of municipality have to resign. The law requires that municipal service shall function, regardless of the correlation of political forces and the results of local elections.

In urban municipalities executive bodies of local self-government, as a rule, function more professionally. This may be explained by the fact that the budgets of urban administrations have larger resources and accordingly provide more opportunities for hiring qualified employees. For instance, Geganist, a village of Shirak province with 1 200 inhabitants, has only 5 municipal employees. Meanwhile the centre of the same province, Gumri, a city with 151 000 residents, has 83 municipal employees.

There is no available information about corruption in organs of local self-government. Nevertheless, it is evident that corruption exists involving heads of municipalities and certain employees of local administrations. With the aim to prevent corruption and to organise struggle against it, the Government adopted a Decree "On Approving Anti-Corruption Strategy and the Program of its Realisation" (November 6, 2003). The



requirements of this act were taken into account in the laws "On Municipal Service", "On Fundamentals of Administating and Administrative Process" (February 18, 2004), in amendments to the Law "On Local Self-government".

The quality of local public services and the culture of management are still not high, though the state undertakes appropriate measures with the aim to solve this problem.

#### 4. Relations between central and local organs

##### 4.1. General issues

Legislation on local government utilises the following main notions: municipality, population of a municipality, own (facultative and mandatory) and delegated powers, municipal budget, municipal property, program of the development of a municipality, head of a municipality, deputy head of a municipality, secretary of the administration, municipal council, removal of the head of a municipality, administrative boundaries, local referendums and so on.

In the Republic there are no central organs responsible for issues of local self-government. At the same time all supreme state organs within their powers deal with these issues (National Assembly, Government, Ministry of Territorial Management, Constitutional Court, Auditing Chamber of the National Assembly and so on). At the regional level, marzpets in behalf of the Government co-operate with local self-government bodies. All these state organs and officials are obliged to observe the constitutional principle of independence of local self-government.

The Constitution lays down the following main guarantees of local self-government:

- territorial (according to the Constitution, changes in administrative boundaries ought to be approved by local referendums);
- organisational (local self-government bodies are formed by direct elections);
- financial-economic (municipalities have their own budgets and revenues, budgetary expenditures are exercised at their discretion);
- legal (organs of local self-government within their province may adopt any normative and individual acts and such acts may be revoked only by courts in the event they violate laws).

##### 4.2. Control over local self-government

The Constitution and legislation lay down the principle of non-interference in the management of municipal affairs. According to article 108.1 of the Constitution: "With the aim to ensure legality in the activities of local self-government bodies and in the procedure as established by law, a control over legality shall be exercised. The procedure for state control over execution of powers delegated to municipalities shall be established by law".

Control is exercised by marzpets and the Ministry of Territorial Management.

So, when an act of a municipal council contravenes legislation of the Republic, marzpets may ask chairmen of municipalities to convene an extraordinary meeting of the municipal council to amend accordingly the disputed act within three days. If such act is not changed or if the meeting is not convened, marzpets have the right to file a complaint in the court.

Financial control is used exclusively for examining proper use of means received



from the state budget (only in the course of execution of mandatory and delegated powers).

Specialised branch or administrative control is also exercised by marzpets and the Ministry of Territorial Management. Control over legality is implemented by marzpets and the Ministry of Justice.

In the event of numerous violations revealed in the process of control and on the initiative of a municipal council and (or) a marzpet, the Government of the Republic may, on the basis of the decision of the Constitutional Court, remove the head of a municipality from his post.

Municipal councils, on the contrary, may not be dismissed. They may suspend acts of heads of municipalities and initiate court proceedings with the aim to revoke them. Heads of municipalities do not have the right to suspend the acts of municipal councils, but they may lodge complaints against disputed acts in courts.

The aforesaid powers are rarely applied, because the majority of members of municipal councils and heads of municipalities represent, as a rule, the same parties. This excludes any competition between them, mutual control and contradictions.

According to the Constitution and the Law "On Local Self-government" conflicts between local self-government bodies and private persons (physical and corporate) may be resolved exclusively by courts (in a non-judicial procedure they may be resolved with consent of appropriate parties).

Since 1995 municipal self-government actually resulted in the destruction of municipal social services and utilities due in the main to the shortage of financial means. Currently the state organs are

more actively involved in local policy. But the plans for assisting municipalities are still fragmentary and basically conservatory. At the same time there are several state programs which provide for the development of municipalities (credits to small business, the sale of agricultural machinery at reduced price, revival of cultural and educational institutions, assistance in irrigation, water and gas supply and so on).

#### *4.3. Protection of the right to local self-government*

Organs of local self-government may file in courts of general jurisdiction complaints against actions and decisions of state organs and officials violating the rights of municipalities.

According to the Constitution (after the reform of November 27, 2005) organs of local self-government may request the Constitutional Court to check the conformity to the Constitution of the normative acts of state organs infringing the right to local self-government (art. 101, par.5 of the Constitution).

There are no national institutions representing interests of local self-government. However, the Decree of the President dated July 6, 1998 has established a special Committee of the President on Local Self-government, which is primarily responsible for the elaboration of the principles of a uniform state policy in the sphere of local self-government. As was mentioned above, the Ministry of Territorial Management has to implement the state policy in provinces and municipalities. But all these organs represent the executive branch of the state power.

There are about 20 public associations established for promotion of local self-government.





## 5. Functions of organs of local self-government

Local self-government bodies have the following main functions: ensuring participation of citizens in local policy, managing municipal property and means, providing for the complex development of the municipality, residential utilities (communal economy), solving other vital needs of population, protecting public order.

The powers of organs of local self-government are mainly laid down in the Law "On Local Self-government". Two kinds of powers are distinguished: own powers of municipalities, which are divided into facultative and mandatory, and delegated powers. The Law specifies general features and peculiarities of each kind of powers. So, facultative powers may be established only by acts of local self-government bodies and they may not contravene the ultra vires principle. Organs of local self-government are obliged to fulfil first mandatory and delegated powers and then facultative powers.

**Planning.** On the proposal of the head of the municipality, the municipal council approves a three-year plan for the development of the municipality. On the basis of such plan the municipal council, on proposal of the head of the municipality, enact the annual budgets of the municipality.

**Education.** All state educational institutions (secondary schools, schools of professional education, higher schools) were transformed according to the Law "On State Non-commercial Organisations" into non-profit corporate persons. Currently the state represented by the Government is the charter founder of such institutions.

At the same time on the basis of the Law "On Local Self-government" all

kindergartens, libraries, theatres, clubs, institutions of culture located in the territory of municipalities were transferred free of charge to municipal property.

In the sphere of education the state defines general educational plans and standards. All powers of local self-government bodies in this field are specified as delegated.

Social services are also in the province of the state. State bodies may delegate municipal bodies the power to assist in the provision of social services. At the same time municipal bodies have their own social programs.

**Public health.** Heads of municipalities are obliged to organise and to manage activities of municipal healthcare organisations and institutions. They may exercise facultative powers promoting the improvement of the public health, implementing sanitary, hygienic, anti-epidemic and quarantine measures.

**Energy and water supplies.** Inter-municipal systems of gas, energy and water supplies according to the Law "On Local Self-government" may be transferred to municipal property.

**Public transport.** Inter-municipalities and internal municipal passenger transport is basically operated by private transport organisations.

Heads of municipalities pursuant to the results of tenders grant licenses for provision of internal municipal transport services (licences for inter-municipal transport are granted by marzpets and licences for inter-provincial transport are granted by the Ministry of Transport and Communication). The heads of municipalities organise the construction (facultative power), maintenance and exploitation of roads, bridges and other



public works of municipal significance (mandatory power), give consent for installation and removal of traffic signs (delegated power).

Support of economic development. The main mechanisms for promoting economy of municipalities are grants; transfer of state property to municipal property; assignment of state revenues to municipalities (property tax – 100%, land tax – 100%; the shares transferred from other state taxes and payments, for instance, income tax, ecology and road payments are annually defined by the Law On State Budget); budget credits; subsidies.

The decentralised tasks of local self-government include the organisation and management of municipal housing and utilities, efficient raising and expenditure of municipal revenues, efficient management of municipal property, the complex development of the municipality.

The centralised tasks of local self-government include the improvement of the demographic situation (in particular, in highland and border regions), the restoration and development of local economy (in particular, agriculture, small business), the restoration and construction of irrigation and road systems.

## 6. Local finances

### 6.1. Revenues of local self-government

Article 106 of the Constitution states that municipalities form their budgets independently and that sources of municipal revenues are established by law. The law shall provide for such financial resources that permit municipalities to exercise their powers.

Delegated powers ought to be financed completely by state budget.

State revenues are assigned to municipalities: property tax – 100%, land tax – 100%; shares transferred from other state taxes and payments, for instance, income tax, ecology and road payments as annually defined by the Law on State Budget.

Municipalities may impose local taxes and payments within limits, as provided by law. They may also establish duties for services provided by their organs and institutions. Such right was introduced by constitutional amendments of November 27, 2005.

The rates of local duties within the limits as provided by law are established by the municipal council on proposal by the head of the municipality prior to the approval of annual budgets. In quarter communities of Yerevan, in addition, consultations with the mayor of the capital are required.

The rates of local payments and duties are equal to all payers. It is prohibited to make changes in local payments and duties approved for the current year.

The state endeavours to balance municipal budgets. So, the Law “On the State Budget of 2006” stipulates that revenues and expenditures of municipalities will total 33 milliard drams. Such balance is mainly achieved by subventions (349,543.1 thousand drams) and equalising subsidies (14,583,629.9 thousand drams) from the state budget. Consolidated data on the breakdown of municipal revenues are not available.

**Dr. V.V. Rafaelyan**

University of Erivan

**Dr. A.G. Kazynyan,**

Ministry of Territorial management

**Dr. E.E. Shatiryan,**

University of Erivan