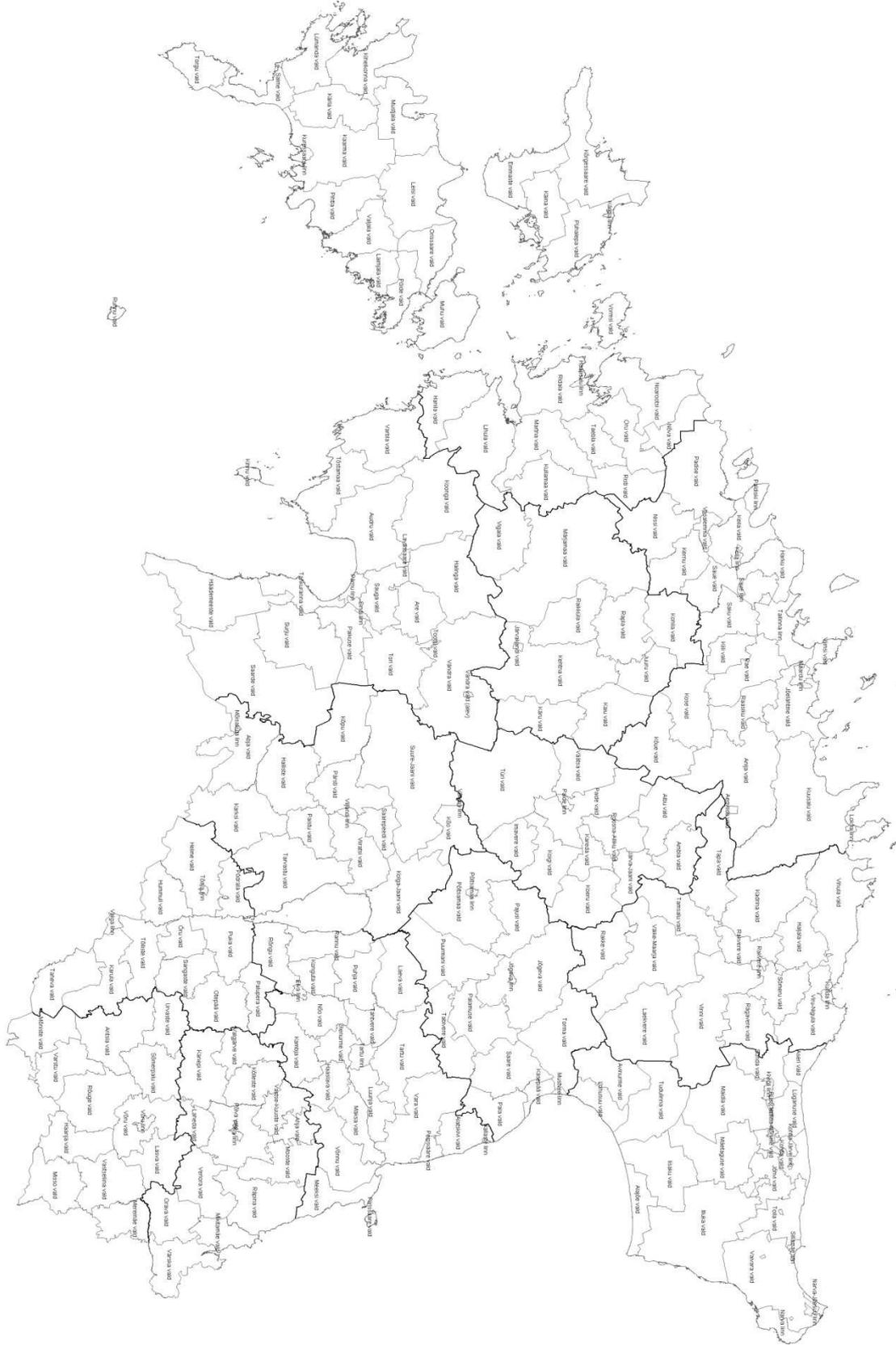




# **STRUCTURE AND OPERATION OF LOCAL AND REGIONAL DEMOCRACY**

**Estonia**

**Situation in 2011**



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*Report prepared in co-operation with the Ministry of the Interior of Estonia, adopted  
by the European Committee on Local and Regional Democracy on 7 October 2011*



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## 1. LEGAL BASIS<sup>1</sup>

### 1.1. Constitutional provisions

The basic provisions concerning local authorities are set out in the Constitution of Estonia, chapter XIV (adopted in 1992):

#### Article 154

1. All local issues shall be resolved and managed by local authorities, which shall operate independently pursuant to law.
2. Duties may be imposed at local government level only pursuant to law or by agreement with the local authority. Expenditure related to duties of the state imposed by law on local government shall be funded from the state budget.

#### Article 155

The units of local government are rural municipalities and cities. Other units of local government may be formed on the basis of and pursuant to procedure provided by law.

#### Article 156

1. The representative body of the local authority is the council which shall be elected in free elections for a term of four years. The elections shall be general, uniform and direct. Voting shall be secret.
2. In local council elections people who reside permanently in the territory of the local authority and have reached 18 years of age have the right to vote, under conditions prescribed by law.

#### Article 157

1. Local authorities shall have independent budgets for which the basis and procedure for drafting shall be provided by law.
2. A local authority has the right, according to law, to levy and collect taxes and to impose duties.

#### Article 158

The boundaries of local government units shall not be altered without taking into consideration the opinion of the local authorities concerned.

#### Article 159

Local authorities have the right to form unions and joint agencies with other local authorities.

#### Article 160

The administration of local authorities and the supervision of their activities shall be provided by law.

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<sup>1</sup> The acts mentioned below are also available on the Internet homepage of the Estonian Translation Legislative Support Centre: <http://www.legaltext.ee/indexen.htm>.

## 1.2. Main legislative texts

Local authorities' activities are regulated by the following legal acts:

– The European Charter of Local Self-Government (passed by the Parliament on 28 September 1994), which sets forth the general democratic principles concerning the organisation of local authorities. The *Riigikogu* (parliament) ratified the charter in full without reservations;

– The Local Government Organisation Act (passed by Parliament on 2 June 1993). This act determines the functions, responsibilities and organisation of local authorities and the relations of local authority bodies with one another and with state bodies. Furthermore, the act sets out the framework for participation in economic activities, the procedure for forming rural municipal districts and city districts, the general structure of the council, the principles for forming the government and the responsibilities of the local authority bodies and other issues;

– State Budget Act (entered into force 1 January 2000). This act provides that expenditure related to duties of the state imposed by law on a local government shall be funded through appropriations from the state budget. Appropriations shall be made from the state budget to a local government budget:

- 1) through the budget equalisation fund;
- 2) as appropriations intended for specific purposes.

The size of the budget equalisation fund in the draft state budget and the distribution of the budget equalisation fund shall be determined on the basis of an agreement between the authorised representatives of the local governments and local government associations and the Government of the Republic. If an agreement is not reached, the size of the budget equalisation fund in the draft state budget and how it is to be distributed shall be decided by the Government of the Republic, which shall present the dissenting opinions to the Parliament (*Riigikogu*) in the explanatory memorandum to the draft budget. The size of the budget equalisation fund and the principles of its distribution shall be provided in the state budget.

– Rural Municipality and City Budgets Act (entered into force 1 January 1994). This act provides the procedure for the preparation, passage and implementation of rural municipality and city budgets;

– The Local Taxes Act (entered into force 24 October 1994). This act governs local taxes, the procedure for levying local taxes and the requirements for local taxes. Local authorities may levy local taxes only in accordance with the law;

– Territory of Estonia Administrative Division Act (entered into force 27 March 1995). This act sets down the administrative division of Estonia's territory into counties, rural municipalities and cities, and the bases and procedure for alteration of boundaries, changes to the names of administrative units, amalgamation procedures carried out at the initiative of local government or Central Government;

– The Public Service Act (entered into force 1 January 1996). This act lays down the conditions for the employment of public officials and their rights and obligations. The act regulates the evaluation of officials, their promotion and dismissal, the obligations of officials, and so on. In Estonia local authority public services and state public services are not uniformly regulated. Recently an effort has been made to standardise public services; this is also being taken into account in the preparation of the draft law on local authorities;

– The Local Authority Council Election Act (approved by Parliament on 27 March 2002). This act regulates the formation of electoral districts and polling stations, the registration of voters, the nomination and registration of candidates and so on. Pursuant to the law, local authorities receive funds from the state budget for this purpose;

– The Promotion of Local Government Merger Act (entered into force on 25 July 2004). The purpose of this Act is to promote:

- 1) the merger of local governments and structuring of the administrative division of the territory to increase the administrative capacity of local governments and their ability to prepare successful project applications;
- 2) improvement of the accessibility and quality of public services offered by local governments within their territory; and
- 3) growth of the cooperative ability of local governments.

Merger grants are allocated from the state budget to the local governments formed as the result of a merger.

– Local Government Associations Act (entered into force 1 January 2003) provides the specifications for the foundation and activities of regional associations of local governments and national associations of local governments as compared to the Non-profit Associations Act.

## **2. STRUCTURE OF LOCAL/REGIONAL AUTHORITIES**

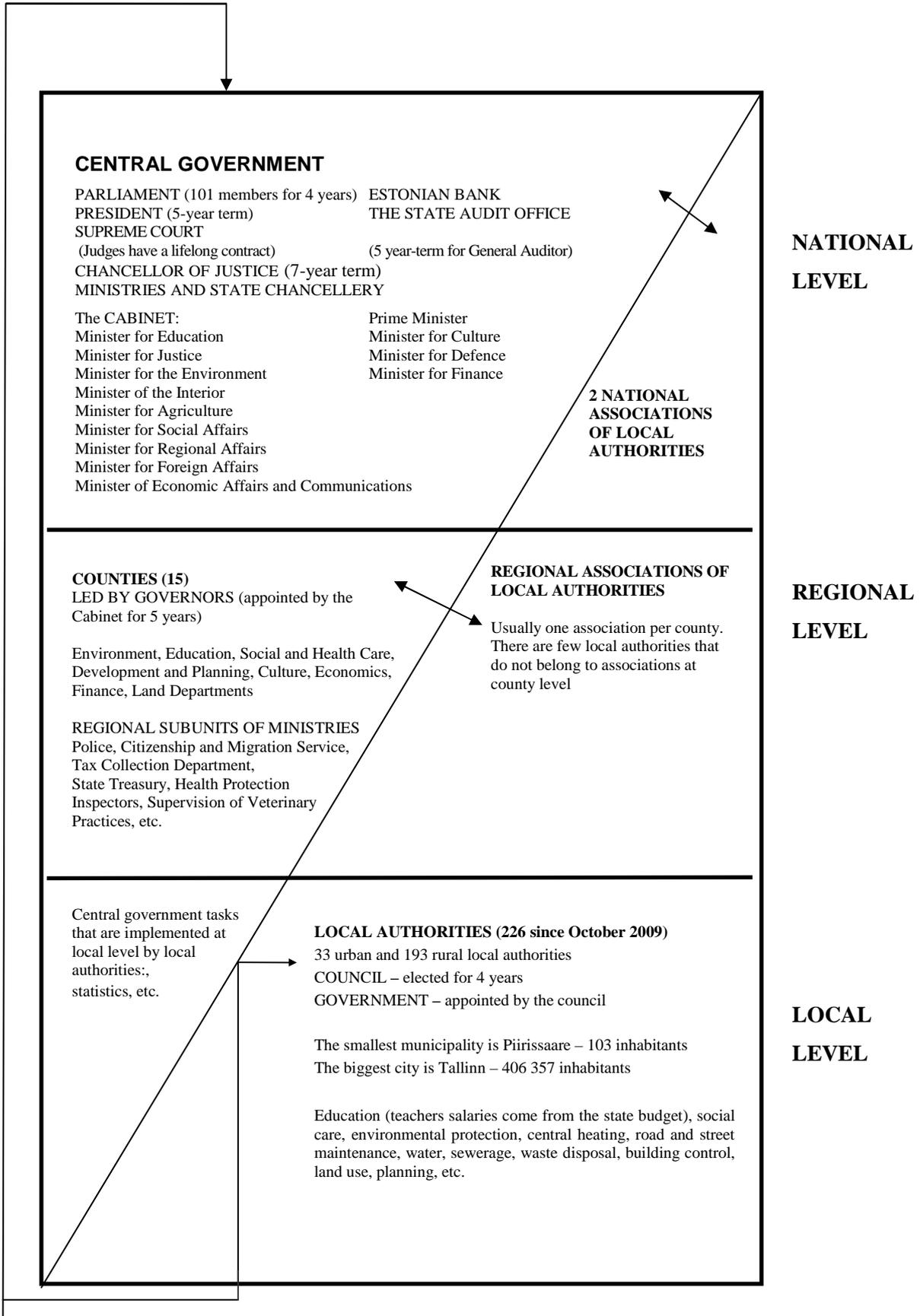
### **2.1. Main subdivisions**

There is a one-tier local authority system in Estonia: 226 municipalities (33 cities and 193 rural municipalities as from October 2009) operate within fifteen counties (regional units of the Government of the Republic).

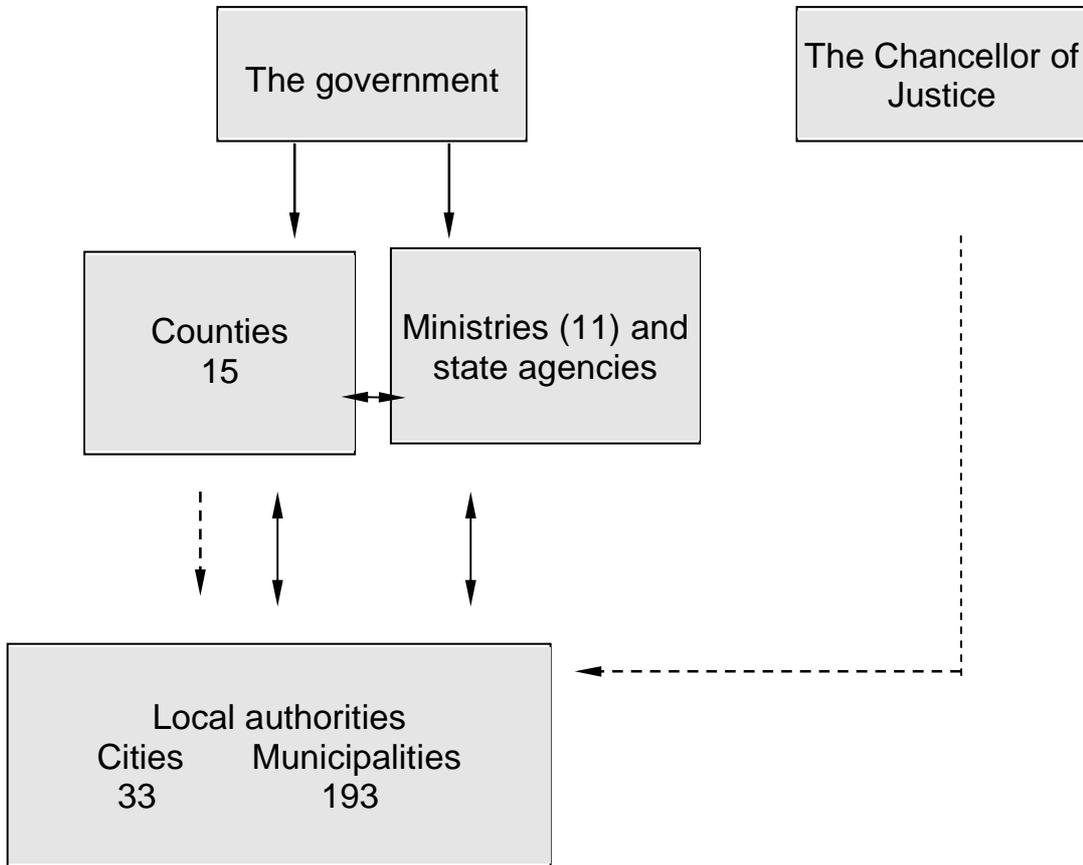
Municipalities have the right to form voluntary associations at county (regional) and state level. Associations of local authority units perform non-mandatory tasks on behalf of local authorities. The following chart illustrates the relationship between local authorities and central government at different administrative levels.

A rural municipality or city council may found rural municipality districts or city districts within the municipality or city on the basis of administrative units in order to provide municipal services. A rural municipality or city district operates in the territory of a rural municipality or city pursuant to the statutes of the rural municipality or city district approved by the council. The procedure for forming rural municipality districts and city districts is regulated by the Local Government Organisation Act. Rural municipality and city district governments and rural municipality and city district elders do not have the right to pass legislation of general application. This remains an exclusive competence of the council or municipality or city government. Supervision over orders issued by a rural municipality or city district elder is exercised by the rural municipality or city mayor pursuant to the procedure provided for in the statutes of the rural municipality or city.

**ORGANISATION OF THE PUBLIC SECTOR IN ESTONIA**



# THE POSITION OF LOCAL AUTHORITIES IN ESTONIA'S PUBLIC ADMINISTRATION SYSTEM



Administrative subordination -  $\longrightarrow$

Supervision -  $\text{-----}\longrightarrow$

Contractual relations -  $\longleftrightarrow$

## 2.2. Statistical data

The following statistical data is from 2 November 2009.

**Table 1: Estonian counties: area, population, and number of municipalities**

| County         | Area (sq km)  | Population       | Number of municipalities |
|----------------|---------------|------------------|--------------------------|
| Harju          | 4 333         | 554 986          | 23                       |
| Hiiu           | 1 023         | 10 322           | 5                        |
| Ida-Viru       | 3 364         | 166 979          | 22                       |
| Jõgeva         | 2 604         | 35 370           | 13                       |
| Järva          | 2 623         | 34 940           | 12                       |
| Lääne          | 2 383         | 27 622           | 12                       |
| Lääne-Viru     | 3 465         | 66 443           | 15                       |
| Põlva          | 2 165         | 31 066           | 14                       |
| Pärnu          | 4 806         | 90 604           | 20                       |
| Rapla          | 2 980         | 37 179           | 10                       |
| Saare          | 2 922         | 35 925           | 16                       |
| Tartu          | 2 993         | 148 838          | 22                       |
| Valga          | 2 044         | 34 057           | 13                       |
| Viljandi       | 3 422         | 53 636           | 15                       |
| Võru           | 2 305         | 37 878           | 13                       |
| <b>Total</b>   | <b>43 432</b> | <b>1 365 845</b> | <b>226</b>               |
| <b>AVERAGE</b> | <b>2 895</b>  | <b>91 056</b>    |                          |

**Table 2: The largest and smallest municipalities and counties in terms of area and population**

|          | Area               | Population             |                 |                   |
|----------|--------------------|------------------------|-----------------|-------------------|
|          | County (in sq. km) | Municipality(in sq km) | County          | Municipality      |
| Average  | 2 895              | 192.2                  | 91 056          | 6 310             |
| Largest  | 4 806 (Pärnu)      | 874,18 (Märjamaa)      | 554 986 (Harju) | 406 357 (Tallinn) |
| Smallest | 1 023 (Hiiu)       | 1,9 (Tootsi, Võhma)    | 10 322 (Hiiu)   | 103 (Pirissaare)  |

**Table 3: Breakdown of municipalities according to the size of the population**

| Number of inhabitants | Number of municipalities | Percentage of total population |
|-----------------------|--------------------------|--------------------------------|
| Under 2 000           | 119                      | 10,70%                         |
| 2 001-5 000           | 63                       | 14,86%                         |
| 5 001-10 000          | 26                       | 12,77%                         |
| 10 001-20 000         | 13                       | 13,66%                         |
| 20 001-100 000        | 4                        | 18,26%                         |
| Over 100 001          | 1                        | 29,75%                         |
| <b>Total</b>          | <b>226</b>               | <b>100%</b>                    |

### **2.3. Regulations governing changes in the municipal structures**

The Government of the Republic and the municipal council may propose changes to municipality boundaries. Municipal councils present the proposals to the municipality's citizens and those of neighbouring municipalities. Changes in boundaries proposed by the state may take place after consultation of the citizens and consideration of the council's opinion (the latter does not determine the outcome). Appeal by citizens lies to the rural municipality or city government.

In every case, it is the State that takes the final decision on boundary changes, in accordance with the Promotion of Local Government Merger Act and Territory of Estonia Administrative Division Act.

### **2.4. General units of state administration at local/regional level**

The most important state administration unit at regional level is the county government. The functions of a county governor and a county government are laid down by the Government of the Republic Act.

The main tasks of a county governor are:

- to represent the interests of the state in the county and to ensure that the county is developed in a comprehensive and balanced manner;
- to co-ordinate co-operation between regional offices of ministries and other executive agencies in the county;
- to conclude, with the authorisation of the Government of the Republic, administrative contracts with municipalities so that they can carry out state obligations;
- to supervise the legality of acts passed by the councils and governments of local authority units in the county concerned and, in cases and to the extent provided by law, to supervise the legality and appropriateness of the use of state assets by the local authorities;
- to inform the Government of the Republic and local authorities on issues concerning relations between the central executive power and local authorities.

Besides the county government there are several other state administration units (subordinate state agencies) at regional and local level. These units are regional offices of ministries and other executive agencies, for example local offices of the Tax and Customs Board (4).

## **3. ORGANS OF EACH CATEGORY OF LOCAL OR REGIONAL AUTHORITY**

### **3.1. Municipal Council**

The legislative body of the local authority is the municipal council. The council is elected by general, uniform and direct elections by secret ballot using the proportional representation system. The council is elected for a period of four years. General voting of the municipal council occurs on the third Sunday in October.

The council is considered to be unable to act if it cannot adopt the budget or confirm the leaders of the council or the members of the local government. If the council is unable to act its members are replaced or in case there are no substitutes and the council is unable to act supplementary elections will be held.

The number of members in a council is determined by the previous membership of the council based on the number of residents in the municipality. The Local Government Council Election Act prescribes the number of council members as follows:

- at least seven members for up to 2 000 residents;
- no less than thirteen members for more than 2 000 residents;
- no less than seventeen members for more than 5 000 residents;
- no less than twenty-one members for more than 10 000 residents;
- no less than thirty-one members for more than 50 000 residents;
- no less than seventy-nine members for more than 300 000 residents.

Under the Local Government Organisation Act, decisions on the following issues are the exclusive responsibility of rural municipalities or city councils:

- issues relating to the budget, taxes, duties, loans and tax incentives, the creation of funds, foundations and associations of the local authority;
- issues relating to municipal property;
- approval of development plans and the statutes of the local authority;
- the setting up of rural municipality or city districts;
- resolution of general issues concerning the council and government (executive body) of the local authority (election of the council chair and the mayor, confirmation of the local government, determination of the principles of remuneration for the council and government, etc.);
- approval of building regulations, draft comprehensive spatial development plans and detailed plans;
- other issues.

The council may form both standing and *ad hoc* committees as set out in the municipality's statutes. Only the forming of an audit committee is prescribed by law. The chairs of all committees and all members of the audit committee must be elected from among the council members.

The audit committee deals with internal audits according to the law. In general, external experts must be involved in the committee's work, since members of the audit committee (at least 3 members) may not audit all the activities themselves. The audit committee is responsible for auditing the local authority and supervising the conformity of the rural municipality/city government with legal acts of the council.

The National Audit Office exercises external economic control over local governments in so far as it audits their use of immovable and movable state property transferred into their possession, allocations for specific purposes, subsidies granted from the state budget and funds allocated for carrying out state functions. The National Audit Office verifies whether public funds have been used successfully – economically, efficiently and effectively – and lawfully. The National Audit Office may not, however, assess the expediency of the activities and use of money by local governments in order to avoid conflict with the principle of autonomy of local governments. In other words, the National Audit Office cannot conduct performance audits in local governments.

Although the committees play quite an important role in the running of the council, they have no right to enact legal acts – matters examined by them have to be approved by the council, the local government, the rural municipality or the city mayor or a respective official. The law states that each committee must have a chair who is a member of the council. Other members of the committee do not need to be members of the council. This is not the case for the audit committee, whose members must all be members of the council.

The Committee's main duties are set out in the municipal statutes and are the following:

- preparation of the position to be taken on issues under review by the council;
- preparation of draft regulations and resolutions;
- checking of letters sent to the council and other matters referred to it;
- involvement of citizens and experts in the preparation and implementation of decisions.

Because of the need to co-ordinate the activities of the council, the local government and local officials, a board has been set up in several councils as a committee. Its task is to prepare and examine issues on the agenda to be discussed by the council. Such committees usually include the council leadership (chair and deputy chair), chairs of the committees and the municipal mayor.

The work of the local government and the council is also co-ordinated by groups within the council. Members of the local government and officials are also involved in this work. The legal status of these groups is regulated by the municipal statutes and their resolutions have no legal effect, but are recommended to the members.

### **3.2. Municipal government (executive body)**

The municipal government is the executive body of the local authority. The government is confirmed in office for the duration of the council's mandate and works under the same principles as the council.

Members of the municipal government are confirmed in office on the proposal of the municipal mayor. The mayor organises the work of the rural municipality or city government in accordance with the law. A rural municipality or city mayor shall not hold any other state or local government office, be employed by any agency under the administration of the state or a local government, or belong to directing bodies of companies with local government participation.

A member of the municipal government may have another employment; for example, in several rural municipalities or cities some, if not all, members of the government are not appointed from among administrative staff, but may be chosen from "outside". The members of the local government become administrative staff of the city. The government may also include political appointees.

Council members cannot be members of the local government. The council has the right not to confirm members of the government in office but it may not, however, make alterations to the membership of the government on its own initiative.

While council sessions are generally open, government sessions are closed. Working procedures of the government are determined by municipal statute.

The competence of the government includes the right to:

- resolve local issues which are not in the council's field of competence;
- represent the local authority in court;
- perform other responsibilities and tasks as required by law or by the council.

### **3.3. Political head of the local authority**

The chairman is the head of the council. A council majority elects the chairman of the council by secret ballot. The chairman organises the work of the council, represents the council and fulfils other duties as required by law or municipal statute.

The chair of the council organises and manages council activities as a representative body of the local government and represents the local government at festive events in accordance with municipal statutes.

### **3.4. Head of administration**

The municipal government's activities are directed by the mayor who is also the head of the administrative apparatus of the rural municipality or city, and he or she employs officials and employees unless he/she has delegated this right to the others.

A rural municipality or city mayor is elected under the conditions and pursuant to the procedure provided for in the Local Government Organisation Act and the statutes of the rural municipality or city, for a period of up to four years. To elect a rural municipality/city mayor to office or to relieve them of office, a majority vote from the council members is required.

A mayor also:

- submits drafts prepared by the executive body (government), and presents the executive body's position to the council session;
- chairs the government sessions and organises the activities of the administration;
- enters into agreements on behalf of the municipality;
- directs the letters, applications and complaints, sent to the municipality for resolution, to the competent council committees (either through the council chair or directly);
- signs bank documents and letters to be sent in the name of the rural municipality or city;
- carries out other activities.

### **3.5. Division of powers and internal structure of the local authority**

The division of powers and responsibilities between the different organs of the municipality is set out in the Local Government Organisation Act. This Act determines the general principles of the institutional structure and administration of municipalities. Regulations govern council committees (e.g. the council shall form an audit committee of not less than three members), government staff and some other municipal entities. As the acts define the area quite broadly, local authorities follow different rules of procedure.

The statute of each municipality lays down its institutional structure and rules of procedure. The organisational structure of municipal administration is determined by the municipal council.

Usually the administration comprises departments and an office. The municipal secretary is the head of the office. According to the Local Government Organisation Act the municipal secretary is not a member of the municipal government.

The secretary's main tasks are to prepare drafts and documents for government and council sessions. The secretary is also responsible for ensuring the legality of regulations under approval. In Tallinn and other larger local authorities council offices are separated from government office.

#### **4. CITIZEN PARTICIPATION IN DECISION-MAKING**

Residents of a municipality can directly influence local life through public initiatives, referendums and plebiscites. Council committees sometimes involve citizens in their activities. Citizens are involved in the decision-making process through the publication of drafts on municipal revenue and development plans before they are given final approval by the council.

All the normative acts passed by the local council and the local government must be available for every citizen.

Local councils may carry out public hearings on important matters among the people residing in a municipality. Such hearings are not binding upon the council. Until now public hearings have mostly been held on the amalgamation of municipalities.

At least 1% of the residents of a municipality who have the right to vote, (but no less than five residents), have the right to initiate the adoption, amendment or repeal of legally binding decisions on local issues by the council or local government. Such initiatives must be debated within three months by the competent body of the local authority (council or government). Persons who instigate these initiatives are entitled to take part in the debates.

#### **5. STATUS OF LOCAL ELECTED REPRESENTATIVES**

##### **5.1. Conditions for standing in local elections and restrictions on the activity of elected representatives**

According to the Local Government Council Election Act Estonian citizens and citizens of the European Union who have attained 18 years of age by election day and whose permanent residence, i.e. the place of residence recorded in the Estonian population register, is located in the corresponding rural municipality or city have the right to vote. Non-nationals have the right to vote if they meet the conditions specified above and reside in Estonia under a long-term residence permit or the right of permanent residence. Every Estonian citizen and citizen of the European Union who has the right to vote and whose permanent residence is located in the corresponding rural municipality or city on 1 August of an election year has the right to stand as a candidate. Non-nationals may not, however, stand as a candidate for the local council. Local elections are held every fourth year on the third Sunday in October.

A regular member of the Defence Forces or a person who has been convicted of a criminal offence by a court and is serving a prison sentence is not entitled to stand as candidate for election to a council.

Local council members are elected according to the proportional electoral system on the basis of candidate lists. Both nationally registered parties, election coalitions and candidate lists with no specific party connection may be presented for registration at the elections. In addition, candidate lists of single candidates may participate. Mainly in larger towns national parties stand for council elections with their own candidate lists. In the majority of towns and rural municipalities local candidate lists are predominantly composed of members of different parties and of non-party candidates. Candidates from lists which acquire more than 5% of the valid votes will become members of the local council.

A person who has been elected to a municipal council cannot act as a municipal councillor if they are elected as mayor, or they have been appointed to the municipal government, or appointed as a member of the Government of the Republic, or if they are the General Auditor, the Legal Chancellor or a county governor, or have to perform military service (or equivalent service).

## **5.2. Financing election campaigns**

Expenses incurred in the course of the organisation of elections of a rural municipality or city government, or rural municipality or city electoral committee and division committee shall be covered by the rural municipality or city budget.

Election campaigns for political parties, election coalitions and independent candidates cannot be financed by municipal budgets. Political parties represented in the parliament have the right to proportional dividends from the state budget.

A political party and an election coalition shall submit a report on its election campaign expenditure and the sources of funds used to the Parliamentary committee specified in subsection 14(2) of the Anti-corruption Act within one month after election day. The Parliamentary committee shall disclose the reports. An independent candidate shall submit a report to the rural municipality or city electoral committee within one month after election day. The rural municipality or city electoral committee shall disclose such reports.

The report is audited in accordance with the law.

## **5.3. Duties and responsibilities of local elected representatives**

The members of the council are obliged to present a declaration of their economic interests. This must include a list of her/his real estate and vehicles, sources of income (as well as salary), stocks and other bonds if the ownership leads to a conflict of interests. A conflict of interest is a situation whereby the official has to make an economic or administrative decision that directly affects their own or their relatives' interests.

They also have to declare their debts to banks or other persons, and other liabilities that are greater than six month's worth of salary or 50 000 EEK (if a salary is not paid in the office they work in) and gifts (including holiday or travel expenses paid by other persons) given since they last made a declaration. Also they have to declare any supplementary income and taxable income.

The council determines the working conditions and the indemnities of its members. Salaries are subject to taxation.

The elected official may be ordered by a court to pay compensation for damages caused by gross negligence or a criminal act, which also applies regressively.

#### **5.4. Representation of the sexes in local authorities**

Elections for municipal councils were last held on 18 October 2009. As a result of these elections the representation of the sexes in municipal councils was as follows: out of 3 076 seats women hold 910 seats and men hold 2 166 seats. The percentage of seats held by women is therefore 29.6 %.

### **6. DISTRIBUTION OF POWERS BETWEEN LOCAL AND NATIONAL AUTHORITIES**

Specific legislation specifies the tasks which local authorities must carry out. In addition to these tasks local authorities also perform voluntary local tasks which have not been specifically assigned by law to any other legal person for resolution and organisation.

#### **6.1. State and Local Government Associations Co-operation Assembly negotiations**

- ◆ The aim of negotiations is:
  - ◆ to give foundations to the local government revenue base, establish the principles of financing and the budget;
  - ◆ to incorporate in the State budget strategy and sectoral development plans local government interests and possibilities by involving local government associations representatives;
  - ◆ To plan into the state budget future local government grants and long-term allocations;
  - ◆ Other issues of local government activities and financing.
- ◆ The main aim behind yearly negotiations is to:
  - ◆ reach agreement over the local government revenue base and the size of the equalisation fund;
  - ◆ ensure the local government revenue base and equalisation fund evolves appropriately in the state budget strategy;
  - ◆ reach an agreement over the amount and distribution of allocations from the equalisation fund and grants from state budget.

Other issues on funding local government which are incorporated in the state budget:

- ◆ Working groups are set up to carry out negotiations. They consist of relevant ministers and representatives from the Local Government Associations Co-operation Assembly:
  - ◆ Financing and taxation
  - ◆ Education and youth
  - ◆ Work, social issues and health
  - ◆ Transport, roads and information society
  - ◆ Culture and sports
  - ◆ Environment and land issues

The following table presents the distribution of powers between municipalities and the state.

*The distribution of competencies between municipalities and the state**Estonia*

| Function                      | Competent authority |        |              | Type of competence |        |            |               | Exercise of the competence |          |              |                       | Remarks |
|-------------------------------|---------------------|--------|--------------|--------------------|--------|------------|---------------|----------------------------|----------|--------------|-----------------------|---------|
|                               | State               | County | Municipality | Exclusive          | Shared | Compulsory | Discretionary | Direct                     | Indirect | In own right | For another authority |         |
| <b>General administration</b> |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Security, police              | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Fire protection               | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Civil protection              | •                   | •      | •            |                    | •      |            |               | •                          |          |              |                       |         |
| Justice                       | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Population register           | •                   | •      | •            |                    | •      |            |               | •                          |          |              |                       |         |
| Statistical office            | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Education</b>              |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Pre-school education          |                     |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Primary education             | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Secondary education           | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Vocational and technical      | •                   |        | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Higher education              | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Adult education               | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Other                         |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Public health</b>          |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Hospitals                     | •                   | •      | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Health protection             | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |

*The distribution of competencies between municipalities and the state**Estonia*

| Function                              | Competent authority |        |              | Type of competence |        |            |               | Exercise of the competence |          |              |                       | Remarks |
|---------------------------------------|---------------------|--------|--------------|--------------------|--------|------------|---------------|----------------------------|----------|--------------|-----------------------|---------|
|                                       | State               | County | Municipality | Exclusive          | Shared | Compulsory | Discretionary | Direct                     | Indirect | In own right | For another authority |         |
| <b>Social welfare</b>                 |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Kindergarten and nursery              |                     |        | •            | •                  |        |            |               | •                          |          | •            |                       |         |
| Family welfare services               |                     |        | •            | •                  |        |            |               | •                          |          | •            |                       |         |
| Welfare homes                         | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Social security                       | •                   | •      | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Other                                 | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| <b>Housing and town planning</b>      |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Housing and town planning             |                     |        | •            | •                  |        |            |               | •                          |          | •            |                       |         |
| Town planning                         |                     |        | •            | •                  |        |            |               | •                          |          | •            |                       |         |
| Regional/spatial planning             | •                   | •      |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Environment, public sanitation</b> |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Water and sewerage                    |                     |        | •            | •                  |        |            |               | •                          |          |              |                       |         |
| Refuse collection and disposal        | •                   |        | •            |                    | •      |            |               | •                          |          |              |                       |         |
| Cemeteries and crematoria             |                     |        | •            |                    |        |            |               |                            |          |              |                       |         |
| Slaughterhouses                       |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Environmental protection              | •                   |        | •            |                    |        |            |               |                            |          |              |                       |         |
| Consumer protection                   | •                   |        |              |                    |        |            | •             |                            |          | •            |                       |         |
| <b>Culture, leisure and sports</b>    |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Theatres and concerts                 | •                   |        | •            |                    |        |            |               |                            |          | •            |                       |         |
| Museums and libraries                 | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Parks and open spaces                 | •                   |        | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Sport and leisure                     | •                   | •      | •            |                    | •      |            |               | •                          |          |              |                       |         |

**The distribution of competencies between municipalities and the state****Estonia**

| Function                      | Competent authority |        |              | Type of competence |        |            |               | Exercise of the competence |          |              |                       | Remarks |
|-------------------------------|---------------------|--------|--------------|--------------------|--------|------------|---------------|----------------------------|----------|--------------|-----------------------|---------|
|                               | State               | County | Municipality | Exclusive          | Shared | Compulsory | Discretionary | Direct                     | Indirect | In own right | For another authority |         |
| Religious facilities          |                     |        |              |                    |        |            |               |                            |          |              |                       | *       |
| Other cultural facilities     |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Traffic, transport</b>     |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Roads                         | •                   |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Transport                     | •                   | •      | •            |                    |        |            |               |                            |          |              |                       |         |
| Urban road transport          |                     |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Urban rail transport          |                     |        | •            |                    | •      |            |               | •                          |          | •            |                       |         |
| Ports                         | •                   |        | •            |                    |        |            |               |                            |          |              |                       |         |
| Airports                      | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Other traffic and transport   |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Economic services</b>      |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| Gas                           |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| District heating              |                     |        | •            | •                  |        |            |               |                            |          | •            |                       |         |
| Water supply                  |                     |        | •            | •                  |        |            |               | •                          |          | •            |                       |         |
| Agriculture, forests, fishing | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Electricity                   | •                   |        |              |                    |        |            |               |                            |          |              |                       |         |
| Economic promotion            | •                   | •      | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Trade and industry            | •                   |        | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Tourism                       | •                   |        | •            |                    |        |            | •             |                            |          | •            |                       |         |
| Other economic services       |                     |        |              |                    |        |            |               |                            |          |              |                       |         |
| <b>Other functions</b>        |                     |        |              |                    |        |            |               |                            |          |              |                       |         |

Local authorities resolve and organise local issues which are not specifically assigned by law to other persons for resolution and organisation.

\* Religious facilities (churches) belong to legal persons and are governed under private law (non-profit making).

Relations between municipal authorities and central government authorities are based on law and contract. A municipality has the right to apply to the court to defend its legal rights or to resolve arguments. Municipal authorities cannot delegate their tasks and rights to central government institutions.

Matters concerning local government and its development are the responsibility of the Ministry of Regional Affairs and the Department of Local Government and Regional Administration. The Ministry of Finance is responsible for the specific field of local budgets. Negotiations are held between the Government of the Republic and local authority associations to settle issues concerning local budgets, especially allocations from the state budget to local budgets through the local budgets support fund.

## **7. CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL/REGIONAL AUTHORITIES**

### **7.1. Co-operation for the performance of tasks of common interest**

According to the Local Government Organisation Act local authority units have the right to form associations and joint institutions with other local authority units in accordance with the conditions and procedures set by law. In order to represent, express, defend and perform joint tasks municipalities may: co-operate with each other, allow other rural municipalities or towns to act as proxies for them, and form leagues of local authority units.

Co-operation is carried out mainly by joint provision of public services in areas such as waste treatment, social care and health care. Municipalities also co-operate to draw up development plans, spatial development plans and organise cultural events. Foundations and enterprises may be set up to foster co-operation. In several regions three or four municipalities have formed associations to carry out tasks. Municipalities often jointly employ specialists.

Most small local government units buy public services from neighbouring municipalities. It is usually carried out on the basis of contracts. Such forms of co-operation are widely used in the spheres of education and social care. Contracting out to the lowest bidder (from the private sector) is widely practised, especially for technical tasks.

### **7.2. Regional associations of municipalities**

As there is no regional self-government tier in Estonia, co-operation between municipalities within a county is of great importance to municipalities both in their relations with central authorities and in co-ordinating their own activities. There are fifteen counties in Estonia. In every county there is a regional association for the municipalities of the county. Usually most municipalities in a county will belong to the regional association. The associations sphere of activities depends on the needs of the municipalities involved. Through the associations municipalities organise cultural events at the county-level and co-operate in the fields of education and development. In addition they carry out several tasks required by law, e.g. they agree on the candidate for the post of county governor and distribute state allocations between municipalities. Regional associations of municipalities are financed from local budgets (membership fees), grants and donations, income received from the activities of the association as specified in its statutes, and allocations from the state budget as stipulated by law.

### **7.3. International and national co-operation**

The representative bodies of local authority associations or other bodies that are designated as proxies are entitled to sign contracts with state agencies on behalf of these associations to carry out obligations in connection with the state. The local authority association unit assumes new obligations provided that this is supported by every council who belongs to it.

### **7.4. National associations of local authorities**

There are two national associations of local authorities in Estonia: the Association of Estonian Cities (AEC) and the Association of Estonian Rural Municipalities. The Association of Estonian Cities brings together forty-nine municipalities with a combined population of almost a million. The Association of Estonian Rural Municipalities has one hundred and fifty-three members.

The main tasks of the national associations of local authorities are:

- to represent and protect the common interests of the member municipalities;
- to participate in the legislative process of normative acts for regulating the functioning of municipalities;
- to organise co-operation between the municipalities belonging to the associations;
- to develop the municipalities' foreign relations and twinning arrangements;
- to serve as a body for consulting the member municipalities and exchanging information.

The Bureau of the AEC is the administrative body of the Association of Estonian Cities and the Union of Estonian Associations of Local Authorities.

In 1994, the Co-operation Assembly of Associations of Local Authorities was established as a joint organ of the two national associations of local authorities. Its tasks are to conduct negotiations with the Government of the Republic and to co-ordinate co-operation between associations of local authorities.

### **7.5. International relations**

Local authority units have the right to work with international organisations. When dealing with international organisations the council or the body of representatives appointed by the council represents the government unit.

Since the beginning of the 1990s Estonian municipalities have been active in establishing foreign relations. The majority of Estonian local government units have "friendship" municipalities in Finland and Sweden but also in Germany, Denmark, Norway and Latvia.

The Association of Estonian Cities is a member of the International Association of Local Authorities (IULA) and of the Council of European Municipalities and Regions (CEMR). The Association of Estonian Cities represents the interests of Estonian associations of local authorities in these organisations. The Congress of Local and Regional Authorities of the Council of Europe is an important international forum for Estonian local government units. With the help of associations of local authorities, Estonian municipalities participate in many international projects at both national and regional level. Estonia's membership of the European Union has increased opportunities for co-operation. The Association of Estonian Cities and the Association of Estonian Rural Municipalities have a joint permanent representative in Bruxelles.

The Ministry of Interior develops co-operation between local authorities through its contacts with the Council of Europe and relevant institutions in Finland, Denmark and other countries.

## **8. FINANCE**

The procedure for the preparation, approval and implementation of local budgets is set out in the Rural Municipality and City Budgets Act. The same act regulates also the relationships of local budgets and the state budget.

Pursuant to the Rural Municipality and City Budgets Act the municipal budget consists of a local authority's total revenue, expenditure and financial transactions for one budgetary year. The amount of revenue and expenditure shall be balanced.

The interrelation of municipality and city budgets and the state budget is regulated by law.

Draft budgets, approved budgets, amendments to budgets, supplementary budgets and annual reports shall be published pursuant to the procedure provided for in the statutes of the rural municipality or city.

According to the economic content, budget revenue includes:

- 1) taxes;
- 2) sale of goods and services, including fees;
- 3) sale of tangible and intangible assets;
- 4) income on assets;
- 5) benefits, including foreign aid;
- 6) other income, including fines.

Budget expenditure shall be classified administratively and according to the economic content. According to the economic content, budget expenditure includes:

- 1) staff expenditure;
- 2) management expenditure;
- 3) subsidies for enterprise;
- 4) social benefits;
- 5) allocations to non-residents;
- 6) allocations to other public sector;
- 7) other allocations;
- 8) procurement and renewal of tangible and intangible assets;
- 9) interest and charges arising from obligations;
- 10) other expenditure.

Use of budget appropriations:

Appropriations specified in a budget shall be used only for the prescribed purposes and their amount may be amended only by an amendment to the budget.

Resources allocated to a budget from the state budget for specific purposes shall be used only for the prescribed purposes.

A rural municipality government, city government or an authority thereof has the right to assume obligations requiring financial expenditure only within the limits of the expenditure prescribed for this purpose in the budget.

The local council must approve the budget within three months after the beginning of the budgetary year (1 January).

## **8.1. Taxes**

Pursuant to the applicable Taxation Act, the tax system in Estonia consists of state taxes provided for in, and imposed by, Acts concerning taxes and local taxes levied by a rural municipality or city council in its administrative territory pursuant to law.

The state taxes are: income tax, social tax, land tax, gambling tax, value added tax, customs duty, excise duties and heavy goods vehicle tax.

Local taxes are levied by a rural municipality or city council regulation in compliance with the conditions provided by the Local Taxes Act.

### 8.1.1. Shared taxes

The main source of taxation for local authorities includes the following taxes:

- personal income tax (collected by the state);
- land tax;
- fees for the use of natural resources (generally known as resource tax).

Personal income tax: this represents a flat 21% of the income of a private individual.

The share of Personal income tax transferred by the Estonian Tax and Customs Board to local budgets constitutes 11.4% of the amount received by the Tax Board of gross personal income. The Estonian Tax and Customs Board then transfers the amount received from inhabitants officially residing in a rural municipality or a city to the respective local government unit.

All of the land tax which has been collected is paid into the local authority budget. Land tax makes up 0.5-2.0% of the assessed value of land. The concrete tax rate is determined by the local authority council, which must disclose this figure to its inhabitants and to the taxpayers of the respective local authority. The local authority submits information about taxpayers and the amount to be paid by them to the tax office.

The Government of the Republic issues a decree specifying what fee is charged for the special use of water and natural resources; the decree decides how much should be paid into the local budget. These sources of income are not regarded as taxes by the local authority; rather, they are seen as sources of revenue, fixed to their budget and as such are taken into account in the calculation of state financial support to the municipality. The share of such receipts in a local budget is minimal, except for some rural municipalities in Ida-Virumaa (county), where oil shale is mined.

In addition to state taxes, local authorities may levy local taxes pursuant to the provisions and procedure stipulated by law. The Local Taxes Act, adopted on May 2004, provides the list of these taxes, the procedure for imposing them and other requirements concerning them.

#### 8.1.2. Own taxes

Revenue from taxes raised by the municipality goes entirely to the local budget, and the local government regulates the collection of these taxes.

Local taxes include:

##### *Sales tax*

Sales tax is paid by natural persons conducting business within the territory of the rural municipality or city, and by businesses whose headquarters, according to information submitted at the time of registration, are located within the territory of the rural municipality or city. Sales tax is levied on goods and services sold by the taxpayer to the consumer, according to their price. The council establishes the rate of sales tax which cannot exceed 1% of the value of the goods and services. This is levied every quarter. Collection of sales tax, like local income tax, may be delegated to the local office of the Tax Board.

##### *Boat tax*

Boat tax is paid by owners of boats, yachts and launches which are up to 12 metres long. Boat tax is levied annually and is paid entirely into the local authority's budget.

##### *Motor vehicle tax*

Natural and legal persons who own motor vehicles registered by the state must pay motor vehicle tax according to rates established by the council and based on the unit of motor power, tonnage or the number of seats in a vehicle. The taxable period for motor vehicle tax is one calendar year. The registrar of motor vehicles (Motor Vehicle Registration Centre) is required to submit information concerning motor vehicles that are registered or removed from the register.

##### *Advertisement tax*

Advertisement tax is paid by natural and legal persons for notices and advertisements posted in the territory of the local authority, or displayed on public transport vehicles registered as belonging to natural persons resident or legal persons whose home is located within the territory of the local authority. The list of notices and advertisements that are subject to taxation and places for posting thereof are established by the council which also establishes the respective rates. The advertisement tax is paid into the local authority's budget during the term established by the council.

##### *Road and street closure tax*

Road and street closure tax is paid by natural and legal persons when demonstrations, parades and other events are organised, and in the event of construction or maintenance work, if the closure of a public road, street, square, park, rest area or part of one of these is involved. The council establishes the rate or differentiated rates of this tax, and it is paid into the local authority's budget during the term established by the council.

*Animal tax*

Animal tax is paid by the owners of animals for keeping them in the respective municipality or city. The council establishes a list of animals and sets the rates for this tax. The taxable period for animal tax is one calendar year. Animal tax is paid into the local authority's budget.

*Entertainment tax*

Entertainment tax is paid by:

- the organisers of recreational events within the territory of the rural municipality or city, for which people have to pay an entrance fee;
- the owners of recreational establishments located within the territory of the rural municipality or city.

Entertainment tax is charged on the value of the tickets sold. Tickets for recreational events with an entrance fee are subject to registration with the local government of the rural municipality or city within the territory of which the event takes place. Entertainment tax is paid into the local authority budget during the term established by the council.

*Parking charge*

A parking charge is established with the aim of organising parking within public fee-charging parking zones.

Assessment and collection of the parking charge is organised in accordance with and pursuant to the procedure provided for in the Traffic Act. The provisions of the Taxation Act apply to parking charges to the extent provided by the Traffic Act.

**Table 4: Income derived from taxes**

| <b>Type of tax or fee</b>           | <b>Amount received in 2008 (in EEK)</b> | <b>Percentage of total local income</b> |
|-------------------------------------|---|---|
| Personal Income tax                 | 11 487 355 863,71                       | 50,5%                                   |
| Land tax                            | 755 104 823,00                          | 3,3%                                    |
| Motor vehicle tax                   | 0,00                                    | 0,0%                                    |
| Boat tax                            | 0,00                                    | 0,0%                                    |
| Animal tax                          | 55 537,35                               | 0,0%                                    |
| Sales tax                           | 2 073 469,20                            | 0,0%                                    |
| Advertising tax                     | 51 415 275,92                           | 0,2%                                    |
| Road and street closure tax         | 22 957 652,95                           | 0,1%                                    |
| Entertainment tax                   | 0,00                                    | 0,0%                                    |
| Parking charge                      | 108 081 419,02                          | 0,5%                                    |
| Natural resource fee                | 175 344 368,30                          | 0,8%                                    |
| Fee for special use of water        | 74 937 819,58                           | 0,3%                                    |
| <b>Total tax and fee income</b>     | <b>12 677 326 229,03</b>                | <b>55,7%</b>                            |
| All other income (State grants etc) | 10 075 435 555,53                       | 44,3%                                   |
| <b>Total income</b>                 | <b>22 752 761 784,56</b>                | <b>100,0%</b>                           |

## **8.2. Grants from higher authorities and financial equalisation**

According to the State Budget Act the following resources are allocated to the municipal budgets from the state budget.

Pursuant to the State Budget Act the equalisation fund of local governments comprises the financial resources allocated from the state budget for supporting the local budgets. The equalisation formula consists of the calculated expenditure need and accounting revenues. The deficit in revenues to cover the expenditure need is compensated by the equalisation grant.

### **8.2.1. Equalisation fund**

The purpose of the equalisation fund is to balance excessive differences among the income bases of different local authorities to make it possible for the weakest municipalities to provide adequate public services to its inhabitants. The amount of the equalisation fund in a draft state budget and its distribution is determined during negotiations between the representatives of the local authority associations and the Government of the Republic.

In 2008 there were 1.43 billion EEK in the State budget set aside for equalisation between local governments.

### **8.2.2. Earmarked grants**

Local governments carry out large scale tasks and a sizeable share of the public infrastructure is maintained by local authorities. The most important area is education, as local authorities are responsible for maintaining school buildings and paying teachers' salaries. General purpose block grants are allocated to local governments to cover expenses such as teachers' salaries, subsistence benefits etc. Most public utilities are under the responsibility of local government. Several ministries allocate earmarked grants to local authorities for specific purposes or to support municipal investments.

In 2008 3.76 billion EEK was allocated as earmarked grants in the State Budget for equalisation between local governments.

The 3.76 billion EEK was spent as follows:

- 3.23 billion was spent on staff and equipment for education (principals and teachers salaries, investments, inventory and study books);
- 225,66 million EEK was spent on school lunches;
- 150 million EEK was spent on pre-school services: 75 million for improving the study environment and 75 million on salaries;
- 78,4 million EEK was spent on subsistence benefits;
- 32 million EEK was spent on social benefits;
- A subsidy of 6,5 million was paid to the small inhabited islands.

**Table 5: Local Government revenues and expenditures**

| <b>Local Governments revenues and expenditure 2003-2008 (thousand EEK)</b> | <b>2003</b>       | <b>2004</b>       | <b>2005</b>       | <b>2006</b>       | <b>2007</b>       | <b>2008</b>       |
|--|-------------------|-------------------|-------------------|-------------------|-------------------|-------------------|
| <b>Revenues</b>  | <b>11 695 279</b> | <b>12 854 384</b> | <b>14 655 765</b> | <b>18 103 974</b> | <b>20 148 716</b> | <b>22 752 762</b> |
| Local taxes  | 5 435 958         | 6 114 821         | 6 988 560         | 8 482 564         | 10 576 482        | 12 427 044        |
| - personal income tax (PIT)  | 4 907 995         | 5 544 471         | 6 364 928         | 7 833 256         | 9 853 706         | 11 487 356        |
| - land tax   | 449 195           | 475 872           | 505 771           | 517 343           | 552 451           | 755 105           |
| - other local taxes  | 78 768            | 94 478            | 117 861           | 131 965           | 170 325           | 184 584           |
| Income from economic activities and property                               | 980 695           | 1 405 669         | 1 526 360         | 1 634 805         | 1 790 378         | 2 197 479         |
| <b>Equalisation fund</b>   | <b>1 123 500</b>  | <b>933 592</b>    | <b>950 000</b>    | <b>1 143 826</b>  | <b>1 460 031</b>  | <b>1 430 004</b>  |
| <b>Block grants from the State Budget</b>                                  | <b>2 175 300</b>  | <b>2 388 225</b>  | <b>2 918 057</b>  | <b>3 093 078</b>  | <b>3 224 511</b>  | <b>3 759 530</b>  |
| <b>Earmarked grants for current expenditures from the State Budget</b>     | <b>444 309</b>    | <b>491 710</b>    | <b>532 807</b>    | <b>438 849</b>    | <b>510 031</b>    | <b>537 702</b>    |
| <b>Investment grants from the State Budget</b>                             | <b>416 421</b>    | <b>525 433</b>    | <b>424 000</b>    | <b>766 260</b>    | <b>954 703</b>    | <b>1 026 790</b>  |
| Transfers from foundations and NGOs  | 163 727           | 153 357           | 221 836           | 377 085           | 365 911           | 401 703           |
| Sale of property   | 376 082           | 519 479           | 707 814           | 1 549 665         | 576 745           | 214 918           |
| Other revenues   | 579 288           | 322 097           | 386 332           | 617 842           | 689 923           | 757 592           |
| <b>Expenditure</b>   | <b>12 209 116</b> | <b>13 079 152</b> | <b>15 018 932</b> | <b>17 845 823</b> | <b>20 415 409</b> | <b>23 745 821</b> |
| Allocations  | 1 632 883         | 1 207 450         | 1 561 316         | 1 757 849         | 1 803 820         | 2 214 443         |
| Staff costs  | 4 740 575         | 5 243 196         | 5 723 962         | 6 298 184         | 7 479 309         | 8 946 016         |
| Economic costs   | 3 564 494         | 4 405 696         | 4 918 022         | 5 690 083         | 6 375 674         | 7 423 782         |
| Investments  | 2 003 543         | 2 014 655         | 2 634 716         | 3 937 216         | 4 054 885         | 4 333 880         |
| Other expenses   | 267 622           | 208 155           | 180 917           | 162 492           | 701 722           | 827 700           |

### 8.3. Other sources of income

Charges paid by users of municipal services and income from municipal assets only constitute a small amount of local budget revenue.

Revenue from taxation, along with services rendered by the local authority and the sale and lease of municipal assets, form one part of the budget revenue of local authorities, which is fixed in the Local Taxation Act.

As regards service fees, the local authority has a large scope of freedom. Some local authority services are financed in full by fixed taxes. The setting of fee rates for municipal services is often the responsibility of the municipal enterprises or institutions which provide the service. The relevant procedure is still prepared by the council.

In the administration of municipal assets, local authorities have the same rights as any other owner. Drawing up the procedure for alienating assets and the receipt of other income from the assets falls exclusively within the competence of the local council. Certain state restrictions and obligations apply to the assets transferred by the state to municipal ownership.

#### **8.4. Borrowing**

A rural municipality or city may take loans or financial leases or issue securities which certify obligations (hereinafter debt instruments) and assume other debt obligations under the following conditions:

- 1) the total amount of all unrepaid loans, unpaid financial lease payments, issued debt instruments and other debt obligations together with the loan or financial lease to be taken out, the debt instruments to be issued and other financial obligations shall not exceed 60 per cent of the proposed budget revenue (exclusive of state budget allocations for specific purposes) for that budgetary year;
- 2) the total amount of repayable loans, loan interest, financial lease payments, financial lease interest payments, expenditure for redemption of debt instruments and other debt obligations specified in clause 1 of this subsection shall not exceed, in any budgetary year, 20 per cent of the proposed budget revenue (exclusive of state budget allocations for specific purposes) for the budgetary year during which the loans or financial leases are taken out and debt instruments are issued;
- 3) loans and financial leases are taken out and debt instruments are issued to carry out investments specified in the rural municipality or city development plan.

The limits provided do not apply to bridging loans. Pursuant to § 36<sup>1</sup> of the State Budget Act, bridging finance is the payment of foreign aid granted by a foreign aid donor to a foreign aid recipient before the foreign aid is received or the conditions for payment of the foreign aid are met. When entering into a bridging loan, a rural municipality or city must seek the permission of the Minister of Finance, unless the loan is taken from the state.

#### *Restrictions on borrowing by local governments*

The Republic of Estonia has ratified the Treaty Establishing the European Community. Under Article 104c of the Treaty, member states must refrain from excessive government deficits – 3% of GDP. The EC Monetary Committee monitors the budgetary status and national debt of member states. Under the Treaty establishing the European Community, the Republic of Estonia undertook to make the transition towards the common currency, the euro. For this reason, Estonia is required to adopt all domestic measures ensuring compliance with the requirements of the Treaty Establishing the European Community.

The primary objective of the additional restrictions on borrowing (Section 8(1) of the Rural Municipality and City Budgets Act (RMCBA)) is to keep the consolidated deficit of local governments under control. The objective of restricting the local governments' budget deficits is to reduce pressure on government sector budget deficits. The budget deficit and high debt burden could jeopardize Estonia's country rating assigned by credit rating agencies. A downward correction of Estonia's country rating stemming from a worsening economic outlook would immediately increase interest rates on loans, which would in turn make domestic loan capital more costly for all who operate in the economy.

Establishing restrictions on local governments must have a sufficiently important objective stemming from the general requirement of proportionality of government action. The restriction must be a measure suitable and necessary for achieving this objective yet at the same time it must also be moderate, leaving local governments as independent as possible.

To reduce the intensity of the restriction, the restriction set forth in Section 8(1) of the Municipality and City Budget Act is temporary and it shall be in force until the end of 2011 at which point forecasts have called for a stabilisation of the economy. The restriction also allows loans to be taken to cover self-financing for EU fund-related projects, for bridging finance and co- and re-financing of existing obligations. If the local government unit omits to follow the regulation on debt rules, the minister of finance has the right to stop transfers to the local government up to the amount of debt involved.

The Chancellor of Justice of the Republic of Estonia has also given his opinion on this matter in constitutional review proceedings, stating that a restriction with a temporarily limited validity is an appropriate and fair measure and that its objective is more important than the extent of the restriction of financial autonomy resulting from the provision. As a result it is not in conflict with the Constitution of the Republic of Estonia.

## **9. SUPERVISION OF LOCAL/REGIONAL AUTHORITIES**

There are two main forms of supervision of municipalities. Internal supervision is carried out by the audit committee and the council. External supervision is carried out by the County Governor, the Chancellor of Justice and the National Audit Office. The purpose of supervision is to ensure the lawfulness and appropriateness of municipal activities.

The legality of the operations of local authority units is supervised by county governors, the Chancellor of Justice and the National Audit Office.

The county governor has the right to monitor individual legislative measures of councils and local authorities. At the same time the county governor has no authority to stop or declare void any measures taken by local authorities; he/she can only suggest that the local authority take the necessary measures to comply with the law. If the municipality does nothing to bring the act in line with the law the county governor must appeal to the courts.

The Chancellor of Justice reviews the regulations of local governments for conformity with the Constitution and the laws.

The National Audit Office exercises economic control over local governments insofar as they use immovable and movable property of the state which has been transferred into their possession, allocations for specific purposes, such as earmarked grants, and subsidies granted from the state budget, and funds allocated for the performance of state functions. It also exercises control over the municipal use of allocations from the central budget for specific purposes (earmarked grants). The National Audit Office verifies whether public funds have been used successfully – economically, efficiently and effectively – and lawfully. In order to avoid conflict with the principle of autonomy of local governments, the National Audit Office may not, however, assess the expediency of the activities or use of money by local governments. In other words, the National Audit Office may not conduct the performance audits of local governments. The National Audit Office also has the right to make proposals to the Government, ministers and local authorities to draft legislation or amend or modify legislation in force.

Municipalities have the right to protect their liabilities in court.

## **10. REMEDIES FOR INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES**

Everyone has the right to demand that regulations restricting his/her legal rights be annulled or amended. If the council or municipal government decides not consider amending regulations that restrict citizens' rights, citizens have the right to appeal to the court.

## **11. LOCAL/REGIONAL ADMINISTRATIVE PERSONNEL**

On 31 December 2008, Estonia's local authorities had 5 464 employees on their payroll, which can be broken down by gender as follows:

- 72.7% of all officials were women and 27.3% were men;
- 68.9% of support staff were women and 31,1% were men.

The municipal government's term of office ends when a new government is confirmed in office (the exception being the municipal secretary). The municipal secretary is nominated and dismissed by the mayor.

The duties of the municipal secretary are determined in the Local Government Organisation Act:

- to manage the activities of the rural municipality or city office;
- to make proposals about the structure, functions and staff of the rural municipality or city office;
- to publish the decrees and work of the municipality;
- to represent the rural or city government in the courts without special authorisation;
- to hold the public seal of the rural municipality or city;
- to perform other functions delegated by the local authorities.

Work in municipal units is categorised as public service under the Public Service Act.

The principles underpinning the local authority service are laid down in the Public Service Act. Most of the principles apply both to state and to local authority officials. Some of the provisions of this act take the form of recommendations and the council of the rural municipality or city establishes the procedure to be followed.

The appraisal requirements for local authority officials are in general the same as those for state officials. The Government of the Republic has approved appraisal requirements for the main groups of offices. When employment is first taken up, a probationary period of up to six months follows by agreement. Appraisal of local authority officials is carried out, in accordance with the procedure, by the regional associations of local authorities.

As regards the main groups of the local authority service, rural municipality and city secretaries are required to have certain professional qualifications and are subject to appraisal (they must be qualified as lawyers or have completed a relevant course).

In many cases the required qualification is just a formality: in practice, training requirements have little impact on the employment and career of local staff.

In accordance with the activities listed in Regulation (EC) 1081/2006 of the European Parliament and of the Council, studies and analyses directed at improving strategic planning involving public sector institutions will be carried out, and methodological materials and guidelines will be prepared for improving strategic planning and management capacity in both the public sector in general, and also at the organisational level.

In addition support will be given to projects of ministries, local government associations, local governments, NGOs offering public services and social partners, as long as they are designed to strengthen capacity in strategic management. Projects that target the development of modern administrative processes and public services, and their implementation at the organisational level will also be supported. The target groups are civil servants and employees of public sector organisations, local governments, local government associations, non-profit associations, county development centres etc.

## **12. REFORMS ENVISAGED OR IN PROGRESS**

Although the Local Government Organisation Act has been amended and supplemented, in 1997 work to prepare a new act was begun. A new draft law was felt necessary because of the problems incurred in implementing the current law, for example the need to regulate certain proceedings more precisely, the need to specify the nature and role of the associations of the local authority, the importance of local development plans, and so on. The draft law sets out several fundamental issues to be resolved. One such issue concerns determining and financing the tasks of the local authority.

In 1997 the Government of the Republic set up a specialist committee to prepare the "Concept for development of public administration". This document provides the vision for optimising public administration in Estonia. It contains proposals for reform and development at all administrative levels.

In preparing the draft law to amend the Local Government Organisation Act, implementation of the ideas set out in the "Concept for the development of public administration" was partially taken into account. Significant resolutions were made with regard to audit and internal supervision of local authorities.

From 1997-1998 regular discussions were commenced on implementing the administrative-territorial reform of local authorities. The need to increase the size of local authority territories is a result of the increase in the number of functions assigned to local authorities and the need for local authorities to have a more solid basic income of their own.

In February 1998 the research paper "Administrative-territorial organisation of Estonia" was finalised. As a result of the research work, the current state of all local authorities was mapped out, applying the theory of "attraction centres". The main economic and social factors with an impact on territorial organisation were mapped out. Several amalgamations or division alternatives for all local authorities and a digital map with alternative administrative-territorial divisions were provided.

The work demonstrated that reducing the number of local authorities by a hundred could be quite painless, since this would not damage local attraction points and networks of centres, and would enable substantial enlargement of local authorities to be achieved.

In 1998 legislation was amended to enable local authorities to amalgamate between the regular elections. The financial contributions from central government for local authority amalgamations were set forth in a government decision in March 1999.

Implementation of the administrative-territorial alterations to local authorities has been divided into two stages – a voluntary period and a period of state intervention. As a result of the voluntary period, by the end of 1999, there were eight amalgamated local authorities in Estonia. The duration of the voluntary period has still to be determined.

In 1999, a World Bank co-operation project was initiated to strengthen local authorities' capacity for development. The project embraced the following issues: development of local authority functions, local authority institutional organisation, and the local authority economic basis (tax income, subsidies from the state budget, investments and crediting).

A Phare CBC project – “Reinforcement of institutional and administrative capacity” – was launched in September 1999. The project aims to develop the planning and management skills of local and regional government staff and to establish a permanent training system for local, regional and central authorities.

In 2001 the Programme for Public Administration Reform was introduced – a continuation of the previous efforts with an emphasis on five strategic areas:

- 1) a clear definition of ministerial and agency roles and increased co-ordination among them;
- 2) a citizen-centred public administration,
- 3) reform of the budget process, financial management, and internal audit;
- 4) civil service reform; and
- 5) local government reform.

The final dimension – local government reform – proved to be contentious. Debate centered on whether or not municipal mergers could be imposed by the central government, or whether the initiative had to be local. Disagreement over this issue led to an early change of government in 2002.

Since 2002, public administration modernisation is viewed as an everyday activity of ministries and of the State Chancellery. Although some initiatives have been put forward, comprehensive reform has not been a focus.

One activity with implications for the structure of government is a law adopted in June 2004 which provides a financial incentive for voluntary municipal mergers and defines merger districts. Merger districts consist of 65 areas and of 14 cities, 5 island rural municipalities and 17 local governments which are considered healthy enough.

From January 2004, a new income tax distribution system came into force for local governments, under which the income-tax-free minimum and other income tax deductions were no longer applicable to income tax received by local governments. A total of 11.4% of the taxable income of resident natural persons is accrued by the local government of the place of residence of the taxpayer. In 2008, a total of 11 488 159 524 EEK (734 million euros) in income tax was accrued by local governments. As an example that illustrates the change in the tax system, if the income tax distribution system dating from before 2004 had been implemented in 2008, local governments would have accrued 8 857 441 175 EEK in income tax (566 million euros). From 2004-2009 the state increased the share of income tax accrued by local governments by a total 0.53 percentage points, of which 0.1 percentage point related to the obligation, delegated to local governments, to disburse caregiver support to disabled adults, and 0.03 percentage points related to compensating the change in tax interest rates. The rest of the increase in the share of income tax – 0.4 percentage points – was not linked to establishing new functions or compensation for reduced revenue.

In 2005, 22 cities and rural municipalities merged to form 8 larger rural municipalities leaving 227 local governments in Estonia. In 2007 there was an initiative to move towards second tier local government, where some local government tasks and county tasks would be transferred to regional associations of local governments. This initiative did not have enough support. In 2009 a proposal of local government reform was tabled, which would have left 15+5 local governments in Estonia. It was based on a model of administrative territorial reform which would result in 15 local governments based within the borders of the counties, with the exception that municipalities of more than 25 000 inhabitants should be preserved. This proposal failed as there was no political consensus on the subject within government. There was a merger of 2 rural municipalities in Autumn of 2009 and at the end of 2009, there were 226 local governments in Estonia.