

Council of Europe
Conseil de l'Europe



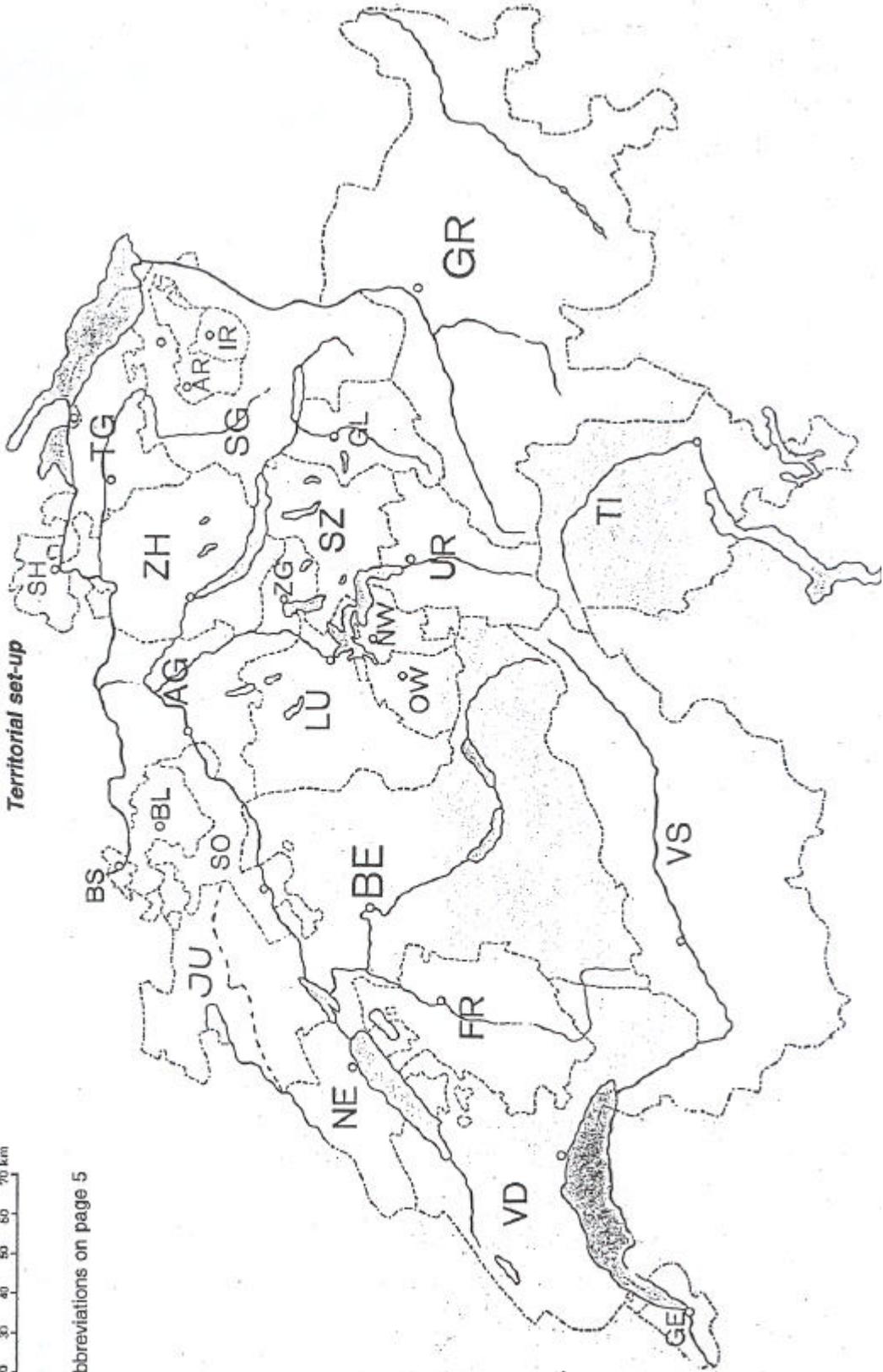
**Structure and operation
of local and regional
democracy**

Switzerland

SWITZERLAND
Territorial set-up



Key to abbreviations on page 5



Structure and operation of local and regional democracy

Switzerland

Situation in 1997

Council of Europe Publishing

French edition:

Structure et fonctionnement de la démocratie locale et régionale: Suisse

ISBN 92-871-3663-7

Studies appearing in the series "*Structure and operation of local and regional democracy*":

1st edition

1992: *Austria, Belgium, Bulgaria, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Switzerland*

1993: *Czech Republic, Estonia, Hungary, Lithuania, Malta, Turkey, United Kingdom.*

2nd edition

The second edition of the files was started in 1996. It will include an individual study for each of the member states of the Council of Europe.

Already published: *Bulgaria, Denmark, Finland, Lithuania, Luxembourg, Malta, Norway, Portugal, Slovenia, Spain, Sweden, Switzerland.*

For further information, please contact:

**Territorial Authorities, Transfrontier Co-operation and Regional Planning Division
Directorate of Environment and Local Authorities
Council of Europe
F-67075 Strasbourg Cedex**

Tel.: +33 (0)3 88 41 22 36

Fax: +33 (0)3 88 41 27 84

Reproduction is authorised provided the source is mentioned

Council of Europe Publishing
F-67075 Strasbourg Cedex

ISBN 92-871-3664-5

© Council of Europe, June 1998

Printed at the Council of Europe

INTRODUCTORY NOTE

Switzerland, or the Swiss Confederation, is a federal state made up of twenty-six cantons or demi-cantons which are sovereign to the extent that their sovereignty is not restricted by the federal Constitution. As such, they exercise all rights which are not entrusted to the federal government. The cantons, having equal status in law, thus exercise powers of a general nature, while the federal government assumes only those functions assigned by the federal Constitution and by federal legislation. There is no reference to local authorities in the Constitution.

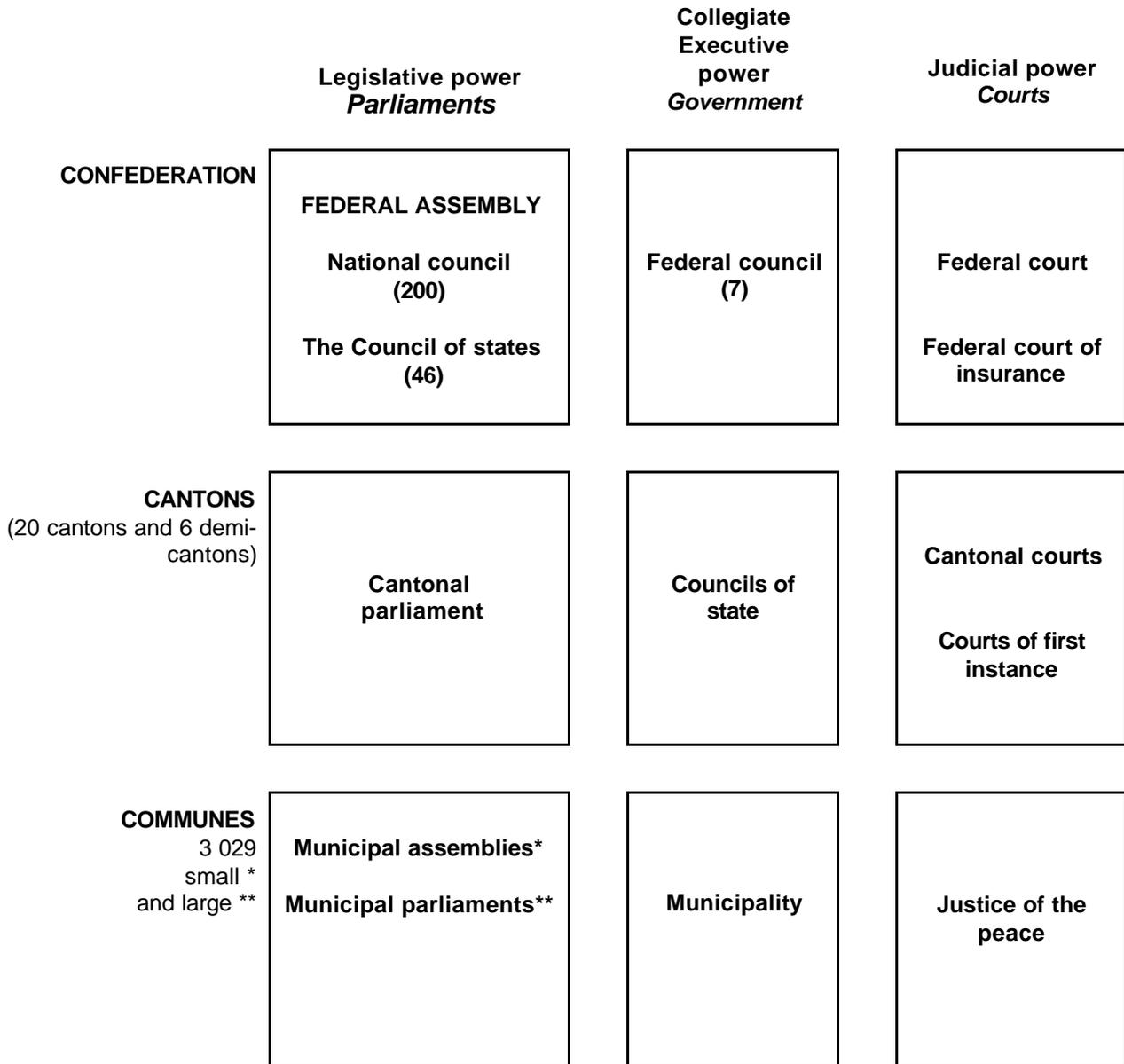
Each canton, ranking as a state, is governed by its own constitution and laws specifying *inter alia* the role of the municipalities, whose allocation of activities varies between cantons. As a result, in Switzerland local democracy operates according to twenty-six different structures, each with its own features. Switzerland therefore has no unitary system of local government.

The municipality, or political commune, may be defined as a territorial public authority holding devolved functions which it performs at local level under the supervision of the cantonal government. In addition to political communes with general functions, communes founded for special purposes exist in some cantons. Examples are the "citizen" communes administering often considerable real estate or assets and conferring municipal political rights, the educational communes responsible for public education, and the ecclesiastical communes or parishes.

According to the statutes, each sovereign canton guarantees the existence and autonomy of the municipalities and other communes. The concept of municipal autonomy, defined in the law of each canton, has frequently been clarified by the federal court in order to safeguard the rights of the municipality. This being so, two systems have been singled out for presentation: that of the canton of Geneva, which is highly centralised, and that of the canton of Neuchâtel whose municipalities enjoy greater autonomy.

ORGANISATION CHART

The organs of Swiss public authorities



For information, the table below indicates the numbers of municipalities per canton (as at 1 January 1994) were:

Cantons	Number of municipalities
Zurich (ZH)	171
Bern (BE)	401
Lucerne (LU)	107
Uri (UR)	20
Schwyz (SZ)	30
Obwalden (OW)	7
Nidwalden (NW)	11
Glarus (GL)	29
Zug (ZG)	11
Fribourg (FR)	254
Solothurn (SO)	128
Basle City (BS)	3
Basle County (BL)	86
Schaffhausen (SH)	34
Appenzell ER (AR)	20
Appenzell IR (AI)	6
St. Gall (SG)	90
Grisons (GR)	213
Aargau (AG)	232
Thurgau (TG)	178
Ticino (TI)	247
Vaud (VD)	385
Valais (VS)	163
Neuchâtel (NE)	62
Geneva (GE)	45
Jura (JU)	82
TOTAL	3 015

In a federal state of this kind where every public entity has elected political authorities, viz, a deliberative assembly and an executive, public functions are in some cases vested in all entities, a share of the responsibility being held by each of the three tiers of government (federal, cantonal and municipal). It is therefore apparent from the distribution of certain activities among these three types of authorities that certain responsibilities are shared, albeit under different arrangements in virtually every case.

The information in section 6 including the “table of competencies” is intended to provide a broad outline in this regard, but it is not possible to form an opinion on the allocation of responsibilities for a given function unless the constitutional texts (at both federal and cantonal level) are closely examined, then the legislation and regulations pursuant thereto.

Part One

Canton of Geneva

Situation in 1997

CONTENTS

	Page
1. LEGAL BASIS	11
1.1. Constitutional provisions	11
1.2. Legislative texts	11
2. STRUCTURE OF LOCAL AUTHORITIES	11
2.1. Statistical data	11
2.2. Regulations governing changes in structure	12
2.3. General services of central government at local level	12
3. ORGANISATION OF THE GENEVA LOCAL AUTHORITIES	12
3.1. Deliberative body	12
3.2. Executive body	13
3.3. Political head	13
3.4. Administrative head	13
3.5. Division of power	14
4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING	14
4.1. Municipal referendums	14
4.2. Other forms of direct participation: initiative and petition	14
5. STATUS OF LOCAL ELECTED REPRESENTATIVES.....	15
5.1. Eligibility and office.....	15
5.2. Duties and responsibilities of local elected representatives	16
5.3. Elected representatives' working conditions	16
6. DISTRIBUTION OF POWER BETWEEN THE VARIOUS CATEGORIES OF LOCAL AUTHORITY	17
7. CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL AUTHORITIES.....	22
7.1. Legal framework.....	22
7.2. Legislative provisions on intermunicipal co-operation	22
7.3. Co-operation between local authorities in different countries	22

8.	FINANCE	23
8.1.	Municipal taxes	24
8.2.	Grants.....	25
8.3.	Intermunicipal and state-municipal financial equalisation.....	26
8.4.	Other sources of municipal income.....	26
8.5.	Municipal borrowing.....	26
8.6.	Economic control.....	26
9.	SUPERVISION OF GENEVA LOCAL AUTHORITIES	27
9.1.	Authority responsible for administrative supervision.....	27
9.2.	Verification of legality.....	27
9.3.	Verification of expediency.....	27
9.4.	Remedies for local authorities against improper exercise of administrative supervision	27
9.5.	Auditing of annual accounts	27
9.6.	Other forms of control.....	28
10.	APPEAL BY INDIVIDUALS AGAINST DECISION OF LOCAL AUTHORITIES	28
11.	LOCAL ADMINISTRATIVE PERSONNEL	28
12.	ONGOING OR PLANNED REFORMS	28

1. LEGAL BASIS

1.1. Constitution provisions

Chapter X of the Constitution of the Canton of Geneva (Articles 144 to 157) deals with the organisation of municipalities: limits, voting qualifications, executive power, elected assembly and the corresponding elections. Special statutes apply to the City of Geneva. Article 49 provides for the swearing in of elected representatives before taking office. Section II of Chapter VI "Referendum and initiative" deals with the municipal referendum and Section IV with the municipal initiative.

1.2. Legislative texts

An Act on the administration of municipalities of 13 April 1984 and the implementing regulations of 31 October 1984 settle the organisation of the local authorities in Geneva. Provisions relating to election procedures are contained in the Act of 15 October 1982 on the exercise of political rights, redrafted under the Act of 20 October 1994.

2. STRUCTURE OF LOCAL AUTHORITIES

2.1. Statistical data

The canton of Geneva¹ is subdivided into forty-five municipalities (since 1930).

The area of Geneva canton is 282 sq. km, the lake covering 36 sq. km. Of the remaining 246 sq. km (including 4 sq. km of watercourses), the city of Geneva accounts for 15.86 sq. km, the biggest municipality being Satigny (19 sq. km) and the smallest Chêne-Bourg (1.32 sq. km). The average area is 5.47 sq. km.

The population was 395 609 inhabitants at the end of 1994, of whom 175 630 were living in the city of Geneva (the most heavily populated), and 295 in Gy. The average for the forty-five municipalities was thus 8 791 inhabitants at the end of 1994. The breakdown of the municipalities according to population is as follows:

¹ Terminology: The "state of Geneva" refers to the cantonal authorities and administration; the "canton of Geneva" denotes the state and the local authorities as a whole.

Inhabitants	Municipalities	% of total
Under 1 000	11	25
1 001 to 5 000	19	42
5 001 to 10 000	8	18
10 001 to 50 000	6	13
50 001 to 100 000	0	0
100 001 to 500 000	1	2
Over 500 001	0	0

The city of Geneva has a special status and its executive body consists of five members serving full-time.

2.2. Regulations governing changes in structures

A cantonal law is necessary to alter the geographical boundaries of a municipality hence the possibility of holding an optional cantonal referendum should part of the electorate object to this method.

2.3. General services of central government at local level

A ministry¹ of the cantonal state (the department of internal, environmental and regional affairs) supervises all municipal activities. Certain decisions of the municipalities are subject to review by the cantonal government (council of state) consisting of seven members elected by the people.

3. ORGANISATION OF THE GENEVA LOCAL AUTHORITIES

3.1. Deliberative body

The municipal council has nine members in municipalities with up to 600 inhabitants; where there are more, the membership increases by two persons per step of a population scale defined by law, so that municipalities with over 30 000 inhabitants have thirty-seven councillors (eighty in the city of Geneva). The term of office is four years.

¹ This term was chosen in preference to "department" which in Switzerland is a sub-division of a federal or cantonal administration chaired by a member of the elected executive authority.

Councillors are elected by an electorate consisting of all citizens of the municipality entitled to vote, either:

- a. according to the principle of proportional representation, subject to a 7% threshold, in municipalities with over 800 inhabitants, or
- b. according to the majority system in municipalities with up to 800 inhabitants. The municipal councillors are to be elected from among the municipality's voters with the exception of the clergy.¹

3.2. Executive body

The mayor and two deputies in municipalities of less than 3 000 inhabitants, and the three-member administrative council in municipalities of over 3 000 inhabitants (five full-time members for the city of Geneva).

The members of the municipal executive body, aged 25 or over and nominated from among the municipality's non-clerical voters,¹ are elected according to the majority system for a four-year term.

3.3. Political head

The mayor and two deputies or the administrative council as a body have political responsibility. Their principal areas of competence are:

- administration of the municipality (finances, assets);
- submission of projects to the municipal council;
- implementation of the municipal council's decisions.

The municipalities are required to bear the responsibilities assigned by the cantonal and even federal laws (civil rights and school facilities, for example).

3.4. Administrative head

Most large municipalities are served by a general secretary who is appointed by the executive authority, assists it in the performance of its functions, and may also attend the meetings of the municipal council.

¹ The candidate must not be a consecrated member of a church.

3.5. Division of power

The municipal council has decisional and consultative functions, the former being subject to referendum (except for decisions concerning naturalisation and the validity of municipal initiatives). The latter take the form of resolutions, opinions or proposals not subject to referendum.¹ The administrative council or the mayor represents the municipality in transactions with third parties.² The decisions of municipal councils are subject to approval by the state of Geneva.

According to law, some mayoral functions must be delegated to deputy mayors, and their apportionment noted in the record of the municipal council's inaugural session. The administrative council, however, distributes its functions among its members and nominates its chairman (the mayor) and vice-chairman annually. Its decisions are reached by majority vote of the members present.

In municipalities with up to 800 inhabitants, the municipal council is chaired by the mayor. Elsewhere, a chairman is elected each year. Standing or *ad hoc* committees may be appointed, reporting to the municipal council on the object of their proceedings.

4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING

4.1. Municipal referendums

Decisions of the municipal council are submitted to the municipality's electorate for approval whenever a request to that effect is made by a percentage of voters, which varies according to their number, within a period of twenty-one to forty days (also depending on the size of the electorate) after public notification. A referendum cannot be held on the municipal budget as a whole, only on new headings or changes to a given item over the previous financial year. When the number of signatures reaches the required total, the council of state invites the people of the municipality concerned to vote on the decision.

4.2. Other forms of direct participation: initiative and petition

All voters in a municipality enjoy the right of initiative at the municipal level on matters laid down in the law. The initiative is addressed to the municipal council, asking it to discuss a particular subject. The number of signatures required to carry the initiative through is determined according to the rules of referendum.

The municipal electorate also has the right of petition. This is a written submission whereby a person may freely put a complaint, request or wish to the municipal council, which is required to place on the agenda of its next session any petition signed by the petitioner(s) and indicating their place of abode.

1 Article 30 (paragraphs a-y) of the Geneva Local Government Act (loi sur l'administration des communes) sets forth the decisional functions; the seven consultative functions are defined in Article 30A.

2 The relevant functions, outlined in item 3.3. above, are specified in Article 48 (paragraphs a-w) of the Geneva Local Government Act.

5. STATUS OF LOCAL ELECTED REPRESENTATIVES

5.1. Eligibility and office

Swiss citizens of both sexes aged over 18 and not members of the clergy¹ may be elected to a municipal council, provided they have no previous conviction that also specifically disqualifies them from public office or appointment.

The term of office runs for four years. Outgoing municipal councillors are immediately eligible for re-election, and the same applies to members of the executive authority. There is no rule concerning prohibitions after the term.

Local councillors can also be members of the cantonal parliament and/or either Chamber or the National Assembly. However, they may not belong to the cantonal executive or to the federal council (federal government).

Concerning incompatibilities, no candidate for election may serve as a returning officer. There are also incompatibilities on the ground of family relationship; for instance, not more than two persons related in the ascending or descending line, or more than two brothers or sisters, may be elected to the same municipal council.

Lastly, there is an economic incompatibility. No member of a municipal executive may be a direct or indirect supplier, contractor or agent for the municipality or its subordinate institutions, in particular through a firm which they own or in which they exercise a significant influence. In the city of Geneva, the office of administrative councillor is incompatible with any other paid public function and with any form of paid employment or gainful occupation.

A municipal representative who is no longer a voter in the municipality ceases to hold office. The cantonal government automatically retires a municipal councillor if he/she is in a situation of ineligibility or incompatibility and has not stepped down.

Concerning the organisational costs of municipal elections (provision of polling stations, equipment maintenance, space for election campaign posters), they are borne by the municipalities and the state. Municipalities are also required to send all voters the ballot papers with an explanatory note on the elections at least ten days in advance of the polling date. The lists of candidates are published in the official information sheet and posted up at the expense of the state. The state shares directly in the electoral expenses of those political parties whose lists meet the requirements stipulated by law (e.g. a minimum percentage of the votes cast). In the city of Geneva, each list is allocated 6 000 Swiss francs. In the municipalities, the subsidy ranges from 300 to 800 Swiss francs depending on the number of voters. The cost of printing ballot papers and election campaign notices, however, is payable by the political parties.

¹ See footnote on page 13.

5.2. Duties and responsibilities of local elected representatives

Before taking office, municipal representatives swear the following oath: "I swear/solemnly promise to be loyal to the canton of Geneva, to observe the Constitution and the laws, to discharge faithfully the duties attaching to my office, and to observe secrecy whenever instructed by the municipal council" (the last clause applies to municipal councillors only). Newly elected members of municipal executives are often convened on 1 June (anniversary of Geneva's accession to the Confederation) for swearing in before the government. A ceremony for the municipal councillors is then held in each municipality. Members of administrative councils, mayors and deputy mayors committing a breach of official duties are liable to disciplinary measures (without prejudice to possible civil and criminal action). Disciplinary measures take the form of a warning, or dismissal in serious cases.

The obligation to abstain mentioned under 5.1. entails the declaration of personal or financial interest.

5.3. Elected representatives' working conditions

Municipal councillors generally meet in the late afternoons or evenings for both plenary sessions and committee meetings, for which they receive attendance vouchers. The time devoted to their functions varies according to the size of the municipality. Certain facilities are provided, for instance secretarial services to finalise the reports.

Employers may grant councillors timetable adjustments, according to the time spent in political activity.

Members of the executive – apart from those of the city of Geneva serving full-time – are paid an official duties allowance, often in proportion to the size of the municipality. They may be excused or granted concessions by their principal employer for the purposes of their office, possibly representing one fifth or one quarter of a working week (except in July or August).

The Association of Geneva Municipalities, comprising all members of the executive authorities, holds information sessions several times a year. It issues a newsletter and circulars to its members, who may undergo training at their own expense in a specialised public administration college located in nearby Vaud canton at Lausanne.

Each municipal council settles its own allowances. Remuneration for members of executives varies according to the size of the municipality.

Elected representatives' remuneration is normally taxable, but the revenue authorities assume that part of this income covers expenses relating to the discharge of elected office.

Moreover, remuneration is subject to legislation on contributions towards social protection schemes.

Concerning representation of both sexes the executives of most municipalities at present have one female and two male members. Women account for approximately one quarter of the membership of local assemblies.

6. DISTRIBUTION OF POWER BETWEEN THE VARIOUS CATEGORIES OF LOCAL AUTHORITY

As stated in the introductory note, the Swiss cantons exercise powers of a general nature, while the federal government assumes only those functions assigned by the federal Constitution and by federal legislation. By the same token, the municipalities may only perform functions delegated under the prevailing cantonal statutes. For instance, the Geneva municipalities are responsible for upkeep of local roads, parks, public areas and cemeteries, i.e. local public property. They ensure the provision of sports facilities, creches or nursery schools (subsidies), and make premises available to local associations. They are required to provide school buildings for nursery and primary classes (up to age 12) and to construct and maintain the requisite buildings for their operation. Certain municipalities, in particular the city of Geneva with its opera house and museums, perform a major role in the cultural sphere – libraries, entertainment, music – and as regards local authority housing. Refuse collection, fire prevention and funerals are in their remit. However, matters including public education, law enforcement broadly defined and health rest with the state of Geneva.

There are numerous cantonal laws which define the tasks delegated to the municipalities in areas such as organisation of elections and federal, cantonal and municipal polls, fire prevention and civil defence, school buildings and local river management. School support, whose educational function supplements that of the family and the school, is organised in the framework of a consortium formed by the canton and the municipalities concerned, with the status of a public law corporation. It caters for locally enrolled primary pupils in lunch hours and afternoons, and also in the morning where required.

Another point is that the municipalities can pay a fee to use the services of the state of Geneva for tax collection and refuse disposal in particular.

In a federal state, allocation of responsibilities and financial equalisation are constantly changing both as between the municipalities and the cantons and as between the cantons and the Confederation. At the present time, a plan to end the overlapping of activities and public contributions between the cantons and the federal government is in preparation, and presupposes an amendment of the federal Constitution.

Where Geneva is concerned, certain data entering into the determination of municipalities' financial standing were altered with effect from 1 January 1992. In addition, a committee including representatives of the municipalities and the central government is examining a compendium of proposals in order to work out a redistribution of tasks in thirty different fields, with specific reference to the subsidiarity principle.

The following table presents the distribution of competencies between the Confederation, the canton and the municipalities.

Function	Competent authority			Type of competence				Exercise of the competence				Remarks ***
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	
General administration												
Security, police	•	•	•		•	•		•	•	•	•	
Fire protection		•	•		•	•		•		•		
Civil protection	•	•	•		•	•		•		•	•	
Justice	•	•			•	•		•		•	•	
Civil status register	•	•	•		•	•		•	•	•	•	
Statistical office	•	•			•			•		•	•	
Electoral register		•		•		•		•		•	•	
Education**												
Pre-school education		• (S)	• (I)		•		•	•		•	•	
Primary education		• (S)	• (I)		•	•		•		•	•	
Secondary education		•		•		•		•		•		1
Vocational and technical	•	•			•	•		•		•	•	
Higher education	•	•			•	•		•		•	•	
Adult education	•	•			•		•		•		•	
Other												
Public Health												
Hospitals	•	•		•		•		•		•		2
Health protection	•	•	•		•			•	•	•	•	

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	***
Traffic, transport**												
Roads	•	•	•		•	•		•	•	•	•	
Transport												
Urban road transport		•	•		•	•		•		•		
Urban rail transport		•	•		•	•		•		•		
Ports												
Airports (public body)	•	•			•	•		•	•	•	•	
Economic services												
Gas		•		•		•		•		•		4
District heating		•		•		•		•		•		4
Water supply		•		•		•		•		•		4
Agriculture, forests, fishing	•	•			•	•		•	•	•	•	
Electricity		•		•		•		•		•		
Economic promotion		•	•		•		•	•		•		
Trade & industry												
Tourism	•	•	•		•	•		•	•	•	•	
Other functions												
National defense	•	•			•	•		•	•	•	•	
Foreign relations	•			•		•		•		•		
Development	•	•	•		•		•	•		•		
Punishments		•		•		•		•		•		
Home care		•	•		•	•		•			•	

REMARKS

1. Federal texts set the conditions for the maturity exams (school-leaving examination).
2. The Confederation is responsible for military hospitals.
3. The Geneva municipalities have a right of consultation on questions of spatial planning and traffic, skirting the municipal boundaries, re-zoning, local planning schemes at district level and projected siting plans.
4. Industrial services of Geneva (public body).

7. CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL AUTHORITIES

7.1. Legal framework

In the Swiss cantons, intermunicipal collaboration takes place mainly through two public law instruments, the intermunicipal convention and the intermunicipal consortium, also known as the association of municipalities.

The intermunicipal convention defines the methods of collaboration for a given purpose. In order to take effect, decisions of the joint organs have to be ratified by the authorities of each contracting party. The main fields of application are public education, water and energy supplies, environmental protection and spatial planning. (Hence the convention provides for voluntary single-purpose action.)

The intermunicipal consortium, for its part, is a public corporation, generally with legal personality, which is set up to perform one or more tasks in the public interest, but without any possibility of its being assigned general competence. It is therefore voluntary and either single-purpose or multi-purpose.

7.2. Legislative provisions on intermunicipal co-operation

In Geneva canton, the law provides for the establishment of intermunicipal consortia enabling two or more municipalities to collaborate in performing specific functions within their sphere of competence. The consortium is regulated by statutes which are subject to the approval of the councils (decision-making bodies) of the municipalities concerned. By granting its approval, the cantonal government vests the consortium with the status of a public law corporation having a legal personality.

This legal framework applies to a data processing centre shared by several medium-sized municipalities, and also to intermunicipal sports centres, an intermunicipal roadwork depot, and intermunicipal groupings for processing animal and vegetable waste, civil defence and school support.

7.3. Co-operation between local authorities in different countries

In addition to the twinning arrangements freely decided by the Geneva municipalities, they are associated with the state of Geneva in its co-operation with the neighbouring French départements of Ain and Haute-Savoie.

8. FINANCE

The following tables provide information about the financial structure of municipalities in Geneva.

Municipal current receipts in Geneva for 1994

	Millions Sfr.	%
Tax revenue	899	78
*Income and wealth (individuals)	666	58
*Profits and capital (companies)	146	12
*Municipal trade tax	87	8
Property income	166	15
Other income	39	3
Shares of cantonal revenue	9	1
Compensation	24	2
Grants paid	14	1
TOTAL	1 151	100

Source: Statistics on the 1994 accounts of the Geneva municipalities.
Department of the Interior, the Environment and Regional Affairs, Finance Section

Municipal investment derived receipts in Geneva for 1994

	Millions Sfr.	%
Transfers of financial assets	19	34
Third party contributions	19	34
Third party invoicing	4	7
Grants paid	14	25
TOTAL	56	100

Source: Statistics on the 1994 accounts of the Geneva municipalities.
Department of the Interior, the Environment and Regional Affairs, Finance Section

Municipal expenditure in Geneva for 1994

	Current	Capital	Total	%
Public administration	176	31	207	15
Public security	93	3	96	7
Education and training	100	57	157	11
Culture and recreation	292	53	345	24
Social welfare	106	8	114	8
Traffic	102	50	152	11
Environmental protection and planning	90	45	135	9
Finance service	186	20	206	15
TOTAL	1 145	267	1 412	100

Source: Statistics on the 1994 accounts of the Geneva municipalities.
Department of the Interior, the Environment and Regional Affairs, Finance Section

8.1. Municipal taxes

Municipal tax on self-employed individuals and legal entities (trade tax), is an exclusive local tax and is assessed for each taxpayer on the basis of coefficients applicable to annual turnover, annual rentals of all buildings, premises and land occupied for professional purposes and the workforce employed by the enterprise during the tax year. Only certain small municipalities rely on the state for its collection.

The municipalities may levy additional fiscal revenue in the form of surtax calculated in centimes per franc (percentage) and applicable to the cantonal taxes on personal incomes and wealth and on net company profits and capital (no municipality actually avails itself of the power to collect additional revenue on the cantonal dog licensing fee).

The Geneva municipalities are in principle free to fix annually, when the next year's budget is passed and according to requirements, the conditions of trade tax and the centimes or percentage rate of surtax to be levied on personal and corporate income tax.

The municipalities are not empowered to institute taxes other than those mentioned above. On the other hand, they are free to fix fees for specific services and administrative charges.

In the case of two special cantonal taxes respectively levied on property income and capital gains and on proceeds of disposal, conveyance or winding-up of certain enterprises, the municipality where such property or enterprises are located receives 15% of the revenue. A rate of 15% of the charge levied on fire insurance contracts – legally a tax – is assigned to the city of Geneva and 25% is shared out among the other municipalities in proportion to their population.

In addition, a municipal development fund which is a legal entity under cantonal law renders assistance, on certain conditions, to municipalities which have made necessary investments by contracting debts. One-quarter of the fees in respect of property sales is released to pay part of the interest on the loans negotiated for such investments and the cost of certain services finally borne by all the municipalities (waste incineration, for instance).

A municipality within whose boundaries a non-compulsory public auction of real estate is held receives one quarter of the fees levied. Municipalities also receive a proportion of the taxes derived from liquidation of reserves and provisions.

The only tax revenue shared by the Geneva municipalities is that derived from the cantonal levies.

8.2. Grants

In contrast to the free use which municipalities can make of their shares in certain revenue (except, for instance, the aforementioned municipal development fund), all grants are special-purpose; to help run certain units or subsidise the construction of certain facilities. The same goes for the compensatory payments made to a public authority for a public service benefiting an entire region; for example, the state of Geneva pays the city of Geneva 13 million Swiss francs per year for maintaining its roads.

The grants paid to the Geneva municipalities concern:

- service functions performed on an annual basis: civil defence training and apparatus, city of Geneva fire and rescue department, sports fixtures and equipment and land improvement, plus the annual cantonal contribution of almost 15 million Swiss francs to the school support consortium;
- refund of payments received for operating services on behalf of the part of the Confederation (civil defence) or other municipalities (the state refunds to the city of Geneva the fees paid by the other municipalities for the fire and rescue service);
- investments such as schools, sports facilities and public shelters for civil defence purposes;
- reassignment of federal grants made for investments made by the state of Geneva such as civil defence shelters.

The example of civil defence illustrates this process of multiple transfers in respect of both operating and investment budgets. Payments to municipalities must be made under cover of cantonal grants according to federal legislation, and are therefore cleared through the cantonal budgets before reaching the municipalities. Thus the municipalities can simultaneously receive operating and investment grants from the Confederation and the canton, plus emoluments for a given service. On the other hand, while they receive these five categories of grants for their civil defence activities, they are required to participate in the financing of compulsory private shelters built by individual citizens.

All classes of subsidy or assistance must normally have a basis in law before they are entered in the budget. Consequently, the executive authorities may alter the arrangements in force only by presenting draft legislation to the assemblies (see appended list of amounts collected and percentages).

8.3. Intermunicipal and state-municipal financial equalisation

In Geneva canton a horizontal financial equalisation system operates in respect of personal income tax between the municipalities of residence and the municipalities of employment. The lower the financial standing of the former, the larger the share of cantonal tax which they receive via the percentage of surtax (cf 8.1.) whose final calculation they assign to the cantonal tax administration once it is voted. The municipalities collect their surtax in respect of personal income on 80% of the cantonal tax revenue, while a levy corresponding to the average municipal rate is made on the remaining 20% and the proceeds are apportioned annually among all the municipalities having regard to their financial standing. This is also the yardstick for allocating certain cantonal grants (vertical financial equalisation). For instance, only financially weak municipalities receive grants for the construction of school buildings or sports facilities.

8.4. Other sources of municipal income

In addition to local taxes, shares of cantonal revenue and subsidies, the Geneva municipalities derive income from their movable and immovable property and certain services (takings from admissions to sports facilities, swimming pools, skating rinks, places of entertainment, etc.). They may receive emoluments for specific administrative activities, and of course impose fines!

8.5. Municipal borrowing

Like any other municipal decision, borrowing authority conferred by the vote of a municipal council must be approved by the Geneva cantonal government. The loan must be used to partly finance investments only, as municipalities are required to self-finance their installations to an adequate level.

As to borrowing sources, the municipalities avail themselves of bank loans, particularly from the Geneva cantonal bank in which they are majority shareholders together with the state of Geneva. Large municipalities, especially the city of Geneva, may issue public loans. Others sometimes form partnerships for this purpose with local authorities in other cantons.

Because of the favourable conditions on the Swiss capital market, the Geneva municipalities do not resort to borrowing from abroad.

8.6. Economic control

Economic control is applied chiefly during the review of all municipal council decisions by the relevant ministry or by the government of the State of Geneva. Furthermore, long-range financial programmes may be devised, comprising an overview of revenue expenditure and income, a summary of investments and an estimate of financial needs and capabilities, together with a trend analysis of assets and liabilities.

Each January and February all budgets of Swiss authorities are published with an analysis of figures in comparison to other components of the national economy.

In Geneva canton, the municipal budget must be balanced. An excess of liabilities over assets is permissible up to the aggregate value of the liquidations provided, however, that any such excess is covered by the net cash flow. In that case, the municipality is required to apply a financial plan (subject to ministerial approval) until the balance is restored. Otherwise, if a municipality refuses without good cause to balance its budget, the cantonal authorities provide the necessary cover either by cutting expenditure or by raising the surtax rate.

9. SUPERVISION OF GENEVA'S LOCAL AUTHORITIES

9.1. Authority responsible for administrative supervision

It is the cantonal government (council of state) which exercises control over the municipalities. Any decision by a municipal council has to be submitted for scrutiny by the council of state or the ministry designated by it to supervise the municipalities. In order to take effect, all decisions thus have to be approved by the cantonal state, and must not have raised a request for referendum in accordance with the conditions laid down.

The cantonal government may also provisionally appoint one or more administrators where a municipality's own authorities cannot be lawfully constituted or are temporarily prevented from carrying out their functions.

9.2. Verification of legality

The services of the relevant ministry examine the legality of the decisions taken by municipal councils. Annulment is ordered by the council of state where any current laws or regulations are infringed and the decisions are taken otherwise than in properly convened sessions.

9.3. Verification of expediency

This type of oversight is applied chiefly to financial choices. Discussions are held between the State of Geneva and the municipality in question concerning the expediency of decisions likely to exceed its fiscal capacity, for instance.

9.4. Remedies for local authorities against improper exercise of administrative supervision

The municipalities can appeal to the government (council of state) against decisions by the supervising ministry, and to the legislative assembly (Grand Council) against certain government decisions in financial matters. If a municipality considers that its autonomy has been overridden in a specific case, it may appeal to the federal court at last instance.

9.5. Auditing of annual accounts

The first internal control measure which should be mentioned is the dual signature required for any payment order. In addition, each municipal council may appoint a finance committee with a specific mandate to verify the draft budget and/or the accounts.

Fiduciary control is carried out in three ways:

- for municipalities with up to 3 000 inhabitants, by the offices of the ministry itself or a trustee acting under its authority;
- for other municipalities, authorised trustees carry out the verifications and draw up an audit report for submission to the municipal council;
- the city of Geneva has its own auditing department.

The municipalities forward the reports of the fiduciary control body to the ministry which issues the relevant instructions.

9.6. Other forms of control

A further point to mention is that the rules of procedure of municipal councils are subject to the approval of the Geneva government. There are provisions defining the principles of book-keeping within the framework of the accounting plan adopted by the council of state.

10. APPEAL BY INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES

Any decision by a municipal council in the form of an administrative act, and any decision by the administrative council, the mayor or a deputy, is appealable before the council of state. This body has general jurisdiction with regard to administrative acts unless a provision of cantonal law institutes another appeals body, often the administrative court. The court's business includes appeals lodged by municipal staff where the staff regulations specify no other remedy.

11. LOCAL ADMINISTRATIVE PERSONNEL

In this area the Geneva municipalities have a margin of discretion and so it is difficult to pinpoint any uniform practices.

Main staff categories are defined in the staff regulations. Civil servants, for instance, are persons appointed by the executive to perform a permanent function on a full-time or part-time basis. Certain municipalities employ people under private law contracts, in particular for a short-term assignment.

The municipal council has decision on the status of local government staff and the salary scale, but formal provisions in this respect are not mandatory. Nevertheless, many of the municipal arrangements are related to the cantonal statutes in adopting certain rules applied by the state of Geneva. Federal staff regulations may also serve as a guide.

The administrative council or the mayor and deputies employ and appoint the staff of the local administration. They also determine remuneration and exercise disciplinary authority.

12. ONGOING OR PLANNED REFORMS

A municipalities/state of Geneva joint committee is considering a reallocation of tasks and resources in thirty different areas.

Part Two

Canton of Neuchâtel

Situation in 1997

CONTENTS

	Page
1. LEGAL BASIS	33
1.1. Constitutional provisions.....	33
1.2. Legislative texts	33
2. STRUCTURE OF LOCAL AUTHORITIES	33
2.1. Sub-divisions	33
2.2. Special structures	34
2.3. Regulations governing changes in structure	34
2.4. General services of central government at local level	34
3. ORGANISATION OF THE NEUCHATEL LOCAL AUTHORITIES	34
3.1. Deliberative body.....	34
3.2. Executive body	35
3.3. Division of powers	35
3.4. Legal provisions concerning internal structure	35
4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING	35
4.1. Municipal referendums.....	35
4.2. Other forms of direct participation.....	35
5. STATUS OF LOCAL ELECTED REPRESENTATIVES.....	36
5.1. Eligibility and office.....	36
5.2. Duties and responsibilities of local elected representatives	36
5.3. Elected representatives' working conditions	36
6. DISTRIBUTION OF POWER BETWEEN THE VARIOUS CATEGORIES OF LOCAL AUTHORITIES.....	37
7. CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL AUTHORITIES.....	42
7.1. Institutionalised co-operation.....	42
7.2. Legislative provisions on intermunicipal co-operation	42
7.3. Co-operation between local/regional authorities in different cantons and countries	43

8.	FINANCE	43
8.1.	Taxes.....	43
8.2.	Grants.....	43
8.3.	Financial equalisation.....	45
8.4.	Other sources of municipal income.....	45
8.5.	Municipal borrowing.....	45
8.6.	Financial control	45
9.	SUPERVISION OF LOCAL ADMINISTRATION	45
10.	APPEAL BY INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES	46
11.	LOCAL ADMINISTRATIVE PERSONNEL	46
12.	ONGOING OR PLANNED REFORMS	46

1. LEGAL BASIS

1.1. Constitutional provisions

The Constitution of the Republic and canton of Neuchâtel of 21 November 1858 makes reference to districts and municipalities (Article 4) and provides for supervision of municipalities by the cantonal government (council of state) (Article 53).

Articles 64 to 69 make up a section exclusively devoted to municipalities including limits of their autonomy, methods of control by the state, organisation of municipalities, etc.

1.2. Legislative texts

- Act on municipalities of 21 December 1964 (Lcom) with amendments of 24 June 1996;
- Decree concerning depreciation of the different assets in the balance sheets of the state and the municipalities of 23 March 1971;
- Regulations on finances and accounting of municipalities of 18 May 1992 (RFC);
- Instructions to municipalities concerning depreciation of 5 December 1994;
- Instructions to municipal auditing bodies of 8 November 1995;
- Act on political rights of 17 October 1984 (LDP);
- Implementing regulations of 15 May 1985 to the Act on political rights.

2. STRUCTURE OF LOCAL AUTHORITIES

2.1. Statistical data

The canton is divided into six districts (no regional authority) and has sixty-two municipalities (as in 1950).

The area of the canton of Neuchâtel is 716 sq. km (excluding the areas of the lakes of Neuchâtel and Biemme). The largest municipality is La Chaux-de-Fonds with 5 586 hectares and the smallest is Auviernier totalling 142 hectares. The average area of the municipalities is 1 155 hectares.

The total population at the end of 1995 was 166 270 inhabitants, 37 669 living in La Chaux-de-Fonds, the most heavily populated municipality, and sixty-six in Engolion. The population of the sixty-two municipalities averages 2 682. The municipalities are broken down as follows according to population:

Municipalities in Neuchâtel according to population

Inhabitants	Municipalities	% of total
1 000	33	53
1 001-5 000	24	39
5 001-10 000	2	3
10 001-50 000	3	5
TOTAL	62	100

2.2. Special structures

According to the federal definition, Neuchâtel canton comprises two built-up areas: Neuchâtel and La Chaux-de-Fonds.

2.3. Regulations governing changes in structures

The law guarantees the existence of the municipalities, their territory and assets. At the request of those concerned or if the need arises, the law provides for the merging of municipalities or orders the splitting of an existing municipality.

2.4. General services of central government at local level

Collaboration of the central cantonal government with local authorities on matters of taxation, tax collection, welfare assistance, public education, etc. General services of central government at local level include law enforcement, the office of prosecutions and bankruptcies and the trade register.

3. ORGANISATION OF THE NEUCHATEL LOCAL AUTHORITIES

3.1. Deliberative body

The general council is the deliberative body. Its members are elected by the people (including foreigners holding a residence permit), with one seat for every fifty inhabitants (minimum nine members in municipalities with under 300 inhabitants, otherwise fifteen; maximum forty-one). The term of their office is four years. They are elected according to the principle of proportional representation. The single-round straight majority system is possible in municipalities of less than 750 inhabitants. In these municipalities, whether proportional representation or the majority vote system is applied depends on a ruling given by the general council. A decision to revert to the majority vote is subject to mandatory referendum. No changes may be made to the electoral system in the three months prior to an election. A reduction in the number of general council members is envisaged.

3.2. Executive body

The municipal council is made up of three, five or seven members elected by the general council, for four years, by secret ballot, by the absolute majority system. Moreover, the municipal council represents the municipality *vis-à-vis* third parties and is responsible for all matters concerning municipal administration which are not attributed by the law to some other authority (general council, school board or other).

It is also the municipal council which appoints and dismisses all employees of the administration and appoints the municipal administrator holding authority to sign on behalf of the corporation, who bears the title of chancellor in municipalities with over 10 000 inhabitants.

3.3. Division of power

The municipal council manages the municipality, directs the administration and presents the regulations, decisions (for example regarding property transactions), budget and accounts to the general council; it supervises the local police.

The general council elects the municipal council, the school board (executive organ responsible for schools) and the other boards; it adopts the regulations, decisions, budget and accounts of the municipality.

3.4. Legal provisions concerning internal structures

The general council elects its bureau annually by secret ballot and by absolute majority. It may also elect the school board, the body responsible for examining the budget and auditing the accounts, and other committees. It passes and amends municipal regulations.

4. DIRECT CITIZEN PARTICIPATION IN DECISION-MAKING

4.1. Municipal referendums

There is a right of referendum which can be exercised by 15% of a municipality's electorate, with respect to all the decisions passed by the general council (except for the budget, accounts and urgent decisions).

4.2. Other forms of direct participation

There is also a right of initiative, which can be exercised by 15% of the municipality's electorate, calling for the adoption by the general council of a decision, a regulation or a project, which may be presented in general terms or in its final form.

5. STATUS OF LOCAL ELECTED REPRESENTATIVES

5.1. Eligibility and office

Any Swiss voter aged 18 years or over and living in the municipality may stand for election to the general council (assembly) and to the municipal council (executive body). Members of the latter are elected by the general council.

The term of office runs for four years. Representatives are immediately eligible for re-election.

Representatives resign their membership of the local authorities when they cease to qualify as candidates, particularly if no longer resident within the municipal boundaries or declared by court ruling unfit to hold public responsibility or office, or where an absolute incompatibility applies.

Local representatives can hold other electoral mandates at intermunicipal, cantonal and federal levels (assemblies).

Members of the council of state (cantonal government), the state chancellor and local government servants and employees apart from the teaching profession may not belong to a municipal council or general council. Municipal council members may sit in an advisory capacity on the general council, but may not belong to it. These principal incompatibilities, which are absolute, are supplemented by rules of a more relative nature. For instance, no member of the municipal council may be present at a debate or take part in a decision in which he/she has a personal interest or which concerns a spouse or relation. Municipalities are empowered to pass regulations extending this relative incompatibility to the general council and other boards.

There are no provisions on the financing of local election campaigns. However, in addition to expenses relating to convocation of voters and operation of polling stations and counting offices, the municipalities refund the cost of printing ballot papers, i.e. lists of candidates (a maximum of two per registered voter, furthermore subject to an agreement prior to printing and in cases where the list polls at least 5% of votes).

5.2. Duties and responsibilities of local elected representatives

An act of 26 June 1989 on responsibility lays down certain rules. There is no compulsory declaration of personal and financial interest. Injured parties must firstly take action against the authority, which has the right of recourse against the representative who occasioned the damage whether deliberately or by gross negligence.

5.3. Elected representatives' working conditions

General councillors usually meet in the late afternoon or evening for both plenary sessions and committee meetings; they receive attendance vouchers and a refund of their expenses. The time needed to discharge this mandate varies according to the size of the municipality. Municipal councillors, on the other hand, serve part-time (except in the large towns where they hold office full-time) and receive an annual allowance often proportionate to the size of the municipality. Some are granted concessions by their employers, e.g. timetable adjustments.

For instance, civil servants employed by the state of Neuchâtel who hold municipal office are entitled to a fortnight a year for that purpose.

Representatives are not entitled to leave apart from normal holidays.

There is no official training, but certain political parties see to it that their candidates and members receive further instruction. Documentation consists of statutory and regulatory texts.

Any provisions concerning remuneration of local representatives are made by the municipal regulations. The attendance vouchers issued to general councillors depend on the duration and number of sessions, while the allowances granted to municipal councillors are usually fixed.

Elected representatives' remuneration and allowances are taxable except for what goes to defray the costs incurred for a given political activity (transport costs, meals).

Women account for one quarter to one third of municipal councillors.

6. DISTRIBUTION OF POWER BETWEEN THE VARIOUS CATEGORIES OF LOCAL AUTHORITY

The municipalities exercise general powers at local level, notably over local administration, sport, culture, police and management of municipal property (buildings for rental, land, schools, forests).

Moreover, the municipalities are delegated all tasks for which they are also required to assume responsibility under federal and cantonal legislation. Examples in the sphere of general administration are civil defence, civil status registers and fire fighting.

The following table includes the allocation of power between the state of Neuchâtel and the municipalities.

Following an enquiry in the municipalities on intermunicipal co-operation and regional power, a bill to amend the Local Government Act in this respect was submitted in late August 1995 to the legislative body (Grand Council) and passed on 24 June 1996, instituting the regional consortiums (intermunicipal consortiums of a multi-purpose and adaptable nature).

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	***
General administration												
Security, police	•	•	•		•	•		•	•	•	•	1
Fire protection		•	•		•	•		•		•	•	2
Civil protection	•	•	•		•	•		•		•	•	
Justice	•	•			•	•		•		•	•	
Civil status register	•	•	•		•	•		•	•	•	•	
Statistical office	•	•			•	•		•		•	•	
Electoral register		•		•		•		•		•	•	
Education**												
Pre-school education		• (S)	•		•		•	•		•	•	
Primary education		• (S)	•		•	•		•		•	•	
Secondary education	•	•		•		•		•		•		
Vocational and technical	•	•	•		•	•		•		•	•	
Higher education	•	•			•	•		•		•	•	
Adult education	•	•			•		•		•		•	
Other												
Public Health												
Hospitals	•	•	•		•	•		•		•		3
Health protection	•	•	•		•			•	•	•	•	3

Function	Competent authority			Type of competence				Exercise of the competence				Remarks
	State	Intermediate*	Municipality	Exclusive	Shared	Compulsory	Discretionary	Direct	Indirect	In own right	For another authority	**
Social Welfare												
Kindergarten and nursery			•	•			•		•	•		
Family welfare services	•	•	•		•	•		•	•	•	•	
Welfare homes	•	•	•		•	•			•			
Social security	•	•			•	•		•	•	•	•	
Other												
Housing and town planning												
Housing	•	•	•		•		•	•	•	•	•	5
Town planning		•	•		•	•		•	•	•	•	
Regional/spatial planning	•	•	•		•	•		•	•	•	•	6
Environment, public sanitation												
Water & sewage	•	•	•		•	•		•	•	•	•	
Refuse collection & disposal	•	•	•		•	•		•	•	•	•	7
Cemeteries & crematoria			•		•	•		•		•		8
Slaughterhouses (private domain)												
Environmental protection	•	•	•		•	•		•	•	•	•	
Consumer protection	•	•			•	•		•		•	•	
Culture, leisure & sports												
Theatres & concerts		•	•		•		•	•	•	•	•	2
Museums & libraries	•	•	•		•	•		•		•		4
Parks & open spaces			•	•		•		•		•		
Sports & leisure	•	•	•		•		•	•	•	•	•	

REMARKS

1. The municipalities are responsible for municipal police while the canton is responsible for judicial police and traffic police.
2. Subsidies are granted by the canton.
3. The municipalities are responsible for management while the canton exercises the supervision.
4. The municipalities have the main competence.
5. The Confederation grants subsidies to the canton. Moreover subsidies are granted by the municipalities.
6. The municipalities are consulted on all draft cantonal legislation concerning them. This procedure is mandatory where a statute has financial implications for them. Thus, municipalities prepare communal projects in the framework of the canton guidelines and supervision.
7. The municipalities are responsible for refuse collection while the confederation is responsible for incineration and special treatment plants.
8. The canton establishes rules.
9. The canton is responsible for main supply while municipalities are responsible for secondary supply networks.
10. The canton is responsible for fishing and hunting.

7. CO-OPERATION AND OTHER TYPES OF LINKAGE BETWEEN LOCAL AUTHORITIES

7.1. Institutionalised co-operation

In Neuchâtel canton, the Local Government Act makes provision for an intermunicipal consortium where two or more municipalities wish to unite their efforts and make joint arrangements to perform specific functions in their remit. There are currently twenty-eight consortiums involving fifty-two municipalities and dealing principally with education, water (supply and treatment) and sport. There are also numerous instances of administrative and technical co-operation governed by intermunicipal agreements in the fields of data processing, energy supply, waste collection and disposal and fire fighting.

Furthermore, certain municipalities take a share in private law institutions, chiefly foundations in the health field, and companies that provide energy, collective transport and parking facilities.

Each type of co-operation is set up on a voluntary basis for a single purpose. An intermunicipal consortium becomes a legal entity in public law once it has enforceable general regulations (to be approved by the cantonal government). It comprises an intermunicipal council – including a municipal councillor from each member municipality – which elects a committee for a four-year term. The decision to join an intermunicipal consortium rests with the general council of the municipality concerned.

With few exceptions, decisions are taken by simple majority of the intermunicipal council members present. Consequently, the consortium's decisions are enforceable without approval from the member municipalities, except in the case of a decision altering the purpose of the consortium. The fact that intermunicipal matters are also subject to referendum accentuates the autonomy of these consortiums.

Since the 1990s, however, parliamentary proposals in the Grand Council of Neuchâtel have borne on amendment of the Local Government Act, particularly with regard to regional co-operation. Although it is not intended to institute a political power at this level – considering that many forms of intermunicipal co-operation are already developing, often on a district basis (the canton has six districts) – on 24 June 1996 the parliament approved a provision embodying the concept of a regional consortium. This is defined as an intermunicipal association in which certain designated priority activities are collectively performed by all the member municipalities, while other functions, referred to as secondary, are performed by some municipalities only. The outcome is that regional councils electing regional boards are constituted.

This institution amplifies intermunicipal co-operation to bring a number of sectors under the same body, which can be called “multi-purpose”, and moreover at a regional level ensuring close contact with the municipalities concerned. It is expected to enhance co-operation while reducing the burdens for each entity. Thus the regional consortium does not form a new tier of government but rather an improved working arrangement available to the municipalities of a given region.

7.2. Legislative provisions on intermunicipal co-operation

In Neuchâtel canton, the Local Government Act (Chapter VI) and the Act on political rights (Chapter IV, Section 3 – Referendum in intermunicipal matters) contain the relevant provisions.

The cantonal Constitution (Article 65, paragraph 2) provides for the amalgamation of municipalities but is not applied. Although certain local authorities are theoretically in favour of this procedure for the easier solution of specific functional problems, in practice specific proposals are not made.

7.3. Co-operation between local/regional authorities in different cantons and countries

The consortiums to which the municipalities of other cantons belong are normally subject to the legislation and jurisdiction of the canton where the greater part of their activity takes place.

Neuchâtel canton has no specific legislative provisions in this regard. The municipalities are free to decide on twinnings, for instance. Transfrontier intermunicipal agreements and an action and co-operation programme have been concluded with the neighbouring French local authorities.

8. FINANCE

The following table includes the financial structure of the municipalities of the Neuchâtel canton in 1994.

The financial structure of municipalities in Neuchâtel canton for 1994

	INCOME		EXPENDITURE	
	million SF	%	million SF	%
General administration	20.5	1.7	60.2	5.0
Public security	9.8	0.8	40.9	3.4
Education and training	129.9	10.7	281.9	23.3
Culture and recreation	17.4	1.4	62.0	5.1
Social welfare	17.2	1.4	87.8	7.3
Health	172.9	14.3	208.9	17.3
Traffic	8.0	0.7	63.4	5.3
Environmental protection and improvement	58.7	4.8	81.7	6.8
Public economy	232.9	19.2	212.8	17.6
Finance and taxation	545.0	45.0	108.4	8.9
TOTAL	1 212.3	100.0	1 208.0	100.0

Source: Report of the Finance and Social Affairs Department of the state of Neuchâtel.
1995 financial year, pp. D 143 Table 6 and D 144 Table.

8.1. Taxes

Exclusive local taxes of the Neuchâtel municipalities are direct levies on personal income and wealth as well as on company capital and profits. In certain circumstances, a real estate duty – for practical purposes a tax – can be collected from private landlords according to the rateable value of the property.

Contrary to the Swiss practice of direct municipal taxation assessed on the same base as the direct taxes collected by the cantons (municipal surtaxes on the cantonal taxes, assessed with reference to the applicable scales and the statutory provisions in force), the Neuchâtel municipalities may either levy these surtaxes or regulate their own direct personal taxation. They may subject wealth to a proportional tax or a graduated tax which, however, is not to exceed 3%, while income can be subjected to a graduated tax not exceeding 13%. They may also apply lower rates to districts with less extensive public utilities than others.

In practice, separate collection of this revenue by the State of Neuchâtel and by the canton is possible. If the single invoice system is used, the municipality may choose to have both taxes levied either by itself or by the state.

Conversely, direct municipal taxes on company capital and profits are levied exclusively in the form of surtax on the cantonal taxes. Examples of taxes and charges collected solely by the municipalities are hospital and sewage treatment dues and charges for solid waste collection and disposal, which they are empowered to levy.

The municipalities are free to establish the rate of personal tax (provided that it does not exceed 13% of income and 3% of assets); under the surtax system, they may approve the rate thereof up to a limit of 100 centimes per franc of cantonal tax. The scale of tax on company capital and profits is settled by vote on the basis of the cantonal taxes, with the same ceiling rate.

The Neuchâtel municipalities cannot introduce new taxes or charges unless so empowered by law. They are free to fix charges for services.

In addition, 75% of the financial compensation paid by France in respect of the tax levied on frontier workers resident in France and working in Neuchâtel canton is made over to the municipalities where they are employed.

Under an arrangement providing for a certain degree of financial equalisation, the municipalities also receive 51% of the cantonal share of direct federal tax, of which 1% is paid into a compensation fund to assist municipalities in a difficult financial situation.

From a total of 410.6 million Swiss francs of tax revenue collected by the Neuchâtel municipalities in 1995 (excluding service charges), 350.3 million were derived from individuals and 54.3 million from companies.

8.2. Grants

Subsidies paid by higher authorities make up about 10% of the total resources of the municipalities. These concern:

- operating costs: essentially teachers' salaries and teaching materials; ad hoc aid necessary to balance the operating account;
- investment expenditure: roads, water treatment, schools, land improvement, water supplies, cultural and sports facilities, hospitals, etc.

The system of subsidies is governed by law, which *inter alia* sets the level of grants.

8.3. Financial equalisation

No general system applies, but there is a certain form of equalisation through the granting of subsidies (notably for the payment of teachers), according to the system of distribution of cantonal income and expenditure (hospitals, establishments for the aged or adolescents, etc.). Moreover, the share of direct federal taxation (50%) directly payable to the municipalities is divided among them according to a formula in which the proportional contribution made to, and the benefit derived from, tax revenue are averaged and multiplied by the population figure to give a number of points per inhabitant for each municipality.

There is also a compensation fund for the purpose of assisting municipalities in a difficult financial situation. On the basis of an application, the cantonal government determines the level, form and conditions of the assistance to be granted to the recipient municipality (interest-free loan or subsidy, for instance).

8.4. Other sources of municipal income

Examples are income from assets, compensation from public authorities, emoluments (payment for an administrative service provided by the municipality, such as identity cards), licence fees, charges, school fees, and proceeds of sales. It is difficult to determine what proportion of total receipts these items represent.

8.5. Municipal borrowing

The municipalities need no longer obtain government permission to resort to borrowing. The most common sources of loans are banks, insurance companies, the pension funds and, in the public sector, the AVS (social insurance) compensation fund together with the National Accident Insurance Fund. Because of the favourable conditions on the Swiss capital market, the Neuchâtel municipalities do not seek loans from abroad.

8.6. Financial control

Supervision of management is exercised through acceptance or rejection of the budget, with the possible imposition of additional taxation by binding decision of the cantonal government.

9. SUPERVISION OF LOCAL ADMINISTRATION

The supervising authority is the cantonal government, which also acts through the Minister of Finance¹ (auditing of accounts and budget) and the Municipalities Section.

The government verifies the legality of municipal decisions and regulations. It may refuse its approval (essential for implementation) for any illegal regulation or decision. It may also annul an illegal municipal decision.

¹ This term was chosen in preference to "department" which in Switzerland is a sub-division of a federal or cantonal administration chaired by a member of the elected executive authority.

Control of expediency is very limited (respect for autonomy): only a municipal decision “manifestly contrary to the general interest” may be annulled.

In the event of violation of their autonomy, municipalities may appeal to the (cantonal) administrative court against decisions by cantonal ministries and to the federal court against government decisions.

A fiduciary audit is carried out at least once every administrative period (four years). An annual audit is carried out by the service responsible for the municipalities (compliance with legal stipulations, depreciation, allocation of sums by way of provision, etc.).

10. APPEAL BY INDIVIDUALS AGAINST DECISIONS OF LOCAL AUTHORITIES

Individuals can appeal against municipal decisions, either to the cantonal ministry concerned (where the municipality exercises a delegated function); or directly to the administrative court. There is also a possibility of reporting to the cantonal government (if no appeal procedure has been initiated).

11. LOCAL ADMINISTRATIVE PERSONNEL

As the administrative organisation of the municipality rests with the municipal council, it has a margin of discretion in staffing matters. It is therefore difficult to indicate any uniform rules.

Depending on the size of the municipality, it may have administrative personnel, a technical service (roadworks, for instance), teaching staff and a police force.

Officials, permanent staff and employees are appointed and dismissed by the municipal council, which also draws up the staff regulations under public law or private law.

The appointments of registry officer, police chief, meat inspector and municipal administrator (where one is appointed by the municipal council) are subject to approval by the cantonal government.

The general council has decision on the scale of salaries for officials, permanent staff and employees, while individual remuneration and allocation of functions rest with the executive authority i.e. the municipal council.

Certain municipalities make reference in their own regulations to the cantonal civil service regulations, and especially to the Act of 28 June 1995 which they apply by analogy.

12. ONGOING OR PLANNED REFORMS

Although new provisions have been voted – the Act of 24 June 1996 and, with effect from 1 January 1996, use of the total “points per inhabitant” in most operations for distributing income and social charges among the municipalities – equalisation in the broad sense, for the purpose of rectifying certain imbalances between financially stronger and weaker municipalities, is still in hand in each Swiss canton.