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Local Self-Government in the Republic of Cyprus



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Introduction

The purpose of this introduction is present the basic features of the Cypriot experience with Local Administration before engaging in the detailed analysis of the basic characteristics of the Cypriot system.

The evolution of Local Administration has deep roots in the progression of Cypriot history. The current form and nature of Local Administration in Cyprus is inherently linked with the transition of Cyprus to a unitary State in 1960. Moreover, Local Administration and the Cyprus Issue are inextricably linked, since the creation of separate municipalities based on Community lines was one of the main factors that resulted to the collapse of the system in 1963-64. Moreover and from a historical perspective, Local Administration even before the establishment of the Republic of Cyprus, was inevitably linked with the rights granted to the inhabitants of the island on the basis of varying modes of enhanced self-governance and decentralisation. Needless to say, such empowerment was varied in different periods depending on the relation between the Cypriots and the central administration of the occupying power; this has been the mode for centuries.

There is, therefore, a long history behind the evolution of Local Administration and from the outset it must be clarified that the existence of reliable sources is scarce, especially in relation to the period until the end of the Ottoman rule in 1878. The introduction by the British of a system of Local Self-Government has been the pivotal moment and that set of arrangements has remained at the epicentre of operation of Local Administration until relatively recently. The British system gradually established the Village Authorities and the Improvement Boards that were operating until 1999, when they were replaced by a system of Communities. This marked the first comprehensive attempt for the reform of the local administration in the Republic of Cyprus. That initiative was driven by the intention to take those measures necessary in order to comply with the international obligations arising from a relevant Convention of the Council of Europe on local administration,¹ as well as by the need to take those steps necessary for facilitating the effective and efficient operation of Cyprus as a future Member State of the European Union.

¹ *Council of Europe (1985) European Charter of Local Self-Government, Strasbourg, ETS No. 122.*

In order to gain full understanding of the progression of the system of Local Administration in Cyprus, reference must also be made to the political sensitivities that related to the Cypriot problem. The thorny issue that was first presented during the last years of the British colonial rule was the establishment of separate Municipalities on the basis of existence of two Communities (Greek-Cypriots and Turkish-Cypriots). The key point is that there was no geographical and/or administrative division since the population was living in harmony in mixed areas, thus the idea about separate municipalities was driven by a purely political rationale that related with the then on-going discussion about the future of Cyprus after decolonisation. The Turkish-Cypriot side insisted on the creation of separate municipalities and the Greek-Cypriot side opposed the idea for being dangerously divisive. The issue remained unresolved and was transferred in the provisions of the Constitution of 1960 (article 173), thus creating a constant source of disagreement and tension until 1964. The provision on separate Municipalities for Greek-Cypriots and Turkish-Cypriots in the strict, rigid and partly imposed Constitution of the Republic was never implemented. This was the case despite the existence of a sunset clause requirement in article 173 that provided first for the establishment of separate municipalities in the five main cities and then for a reconsideration of the continuation of the scheme after four years. The failure to implement the provision can be attributed to the opposing approach of the two sides. The Greek-Cypriot side regarded the provision as enhancing division and separation on the basis of ethnic criteria, while the provision was practically impossible to enforce given the mixed composition of the population in municipal areas and at the same time would result in the creation of enormous and disproportionate financial cost. The Turkish-Cypriot side insisted on the immediate and full enforcement of the provision since it was an integral part of the agreement as manifested in the Constitution.

The deadlocked situation that the Municipalities issue contributed heavily to the Constitutional crisis of 1963 and the withdrawal of Turkish-Cypriots officials from the administration, government and the Parliament of the Republic, and to the resulting relocation thereof into enclaves as a form of a de facto local administration. This abnormal situation made impossible the functioning of all the constitutionally instituted organs of the State, with the clear and imminent danger of a collapsed State. The doctrine of necessity was thus adopted by the Supreme Court of the Republic in the famous ***Attorney General v. Mustafa Ibrahim*** decision² of

² *Attorney-General of the Republic v. Mustafa Ibrahim and Others* (1964) CLR 195. For analysis see C. Kombos, *The Doctrine of Necessity in Constitutional Law* (Athens: Sakkoulas, 2015); C. Kombos, "Le Droit de la Nécessité à

1964 that was founded on the maxim "*Salus populi, suprema lex*". This in effect enabled the organs of the State to continue to function despite the absence of the Turkish-Cypriot officials on the basis of composition and functions that were to be analogous to the original ones, temporary in nature and necessary in order to safeguard the actual existence of the State.

Local Administration in the Republic of Cyprus is still based on the principle of the doctrine of necessity. In 1964 the House of Representatives voted, without the participation of Turkish-Cypriots representatives, a law establishing unified Municipalities in the five biggest towns of the island. In 1974 the Turkish illegal military invasion and on-going illegal occupation of the 37% of the north part of the Republic, affected the way local administration in Cyprus works.

In 1985 a Municipalities' Law was enacted that included provisions for occupied Municipalities, that were relocated to the part of the Republic controlled by the Government. The same applies for the established Communities under the Communities Law of 1999 that replaced Village Authorities and Improvement Boards as forms of local administration.

Several attempts took place the past years for a reform of local administration in Cyprus. In 2014, the House of Representatives rejected a draft law submitted by the Minister of Interior through the Ministerial Council, aiming to reform the local administration in Cyprus. The need for comprehensive reform is now pressing for reasons of efficiency and effectiveness but also because the Republic has undertaken such an obligation under the Economic Adjustment Program³ (between the Republic on the one hand and European Commission, European Central Bank and International Monetary Fund on the other). To this end, the Ministerial Council submitted in July 2015 three new draft laws on the reform of local administration, following consultation with the stakeholders, with the aim of ensuring a positive vote by the House of Representatives. The Union of Municipalities and the Union of Communities have submitted their objections in various provisions of the draft laws, and it remains to be seen, whether the House of Representative will vote upon the proposed reform on local administration before the

Chypre", in K. Agapiou and J. Rossetto (eds.), *La singularité de Chypre dans l'Union européenne* (Paris: Mare and Martin, 2011), pp. 371-405; P. Polyviou, *Ibrahim: The Doctrine of Necessity and the Republic of Cyprus* (Nicosia, 2015).

³ Memorandum of Understanding on Specific Economic Policy Conditionality, version of 12 April 2013, available at <http://www.mof.gov.cy/mof/mof.nsf/final%20MOUf.pdf>

next Municipal elections that are set to take place in 2016. At the time of reporting, the legislative process remains in full flow and the outcome is expected in the coming months.

I. Local Administration in Cyprus: A Historical Overview

Given the preceding snapshot of the Cypriot system and due to the influential role of the historical parameter, it is necessary for the formation of a better and fuller understanding to offer a descriptive account of the historical evolution of Local Administration in Cyprus. The uniqueness of the Cypriot paradigm rests on the unusually influential role of history in relation to the shaping of even the contemporary system of Local Administration. The analysis focuses on the last 150 years, partly because of the fact that reliable sources start to emerge in that specific period.

(i) The Ottoman Empire Era

Cyprus was occupied by the Ottoman Empire in 1571 and remained a part of the Ottoman Empire until 1878, when the British Empire incorporated Cyprus concluding a contract agreement with the Ottomans. Until 1864 the existence of sources is rare but from those available references emerges that the Ottomans recognized in some Greek areas certain rights regarding local administration under the obligation that the “citizens” of these areas pay promptly and in full their taxes⁴.

During the ruling of the Ottoman Empire, each village had a *Mukhtar* (Mukhtar in Turkish means a leader of a village or region⁵) and his *Azades* (Aza in Turkish means counselor⁶). In 1856 a reform of the administration structure was undertaken as part of which the villagers were granted the right to elect their Community Councils⁷. Each community had its own Mukhtar, who was responsible for collecting taxes from his co-villagers, for reporting information to the Ottoman Empire regarding any criminal offences, as well as for executing any court order. These Communal Councils had also the right to deal with some local affairs of

⁴ <http://www.philia.org.cy>, last accessed 1st July 2015.

⁵ <http://www.thefreedictionary.com/Muhtar>, last accessed 1st July 2015.

⁶ <http://wikipriaka.com/gr/dict>, last accessed 1st July 2015.

⁷ Supra Note 4.

their villages in terms of dispute resolution and administrative measures. In any case, the system was primitive yet introduced an element of decentralisation and the premise of conditional local semi-autonomy in certain fields of everyday activity.

(ii) The British Empire Era

The British re-organized the system of administration of Cyprus with the aim of ensuring effectiveness of governance and efficiency. The “*Decree of Administration*” was issued and it provided for the basic structure of the British control of the island. The main organs of administration in Cyprus were set to be the High Commissioner, the Legislative Council and the Executive Council.

The Community Councils continued to be elected during the British colonial rule, thus an element of continuity was introduced that strengthened the presence and the role of the locally elected bodies as the primary means for democratic representation. However, in 1891 the system changed and shifted towards an appointment system that replaced the electoral system. According to the Law of 1891, the Ministerial Council that exercised executive power for all matters, was nominating four candidates for the position of Mukhtar and the High Commissioner was choosing and appointing. The Mukhtar was either Christian or Muslim, according to the majority of the population of the village⁸. The system of appointment was abolished in 1906 and the Mukhtar and four Azades started again to be directly elected, every two years, from the male population of each village. The election was held separately for the Christian and the Muslim Communities⁹.

(a) Village Authorities

This system remained in force until 1923 when the appointment system was brought to life once more. The appointment system was abolished once and for all in 1931 with the *Village Authorities Law* of 1931, which resulted in the classification of some of the most densely

⁸ Argyris Papanastasiou, “Local Administration-Legislation/Competences” (in Greek), 2005.

⁹ Ibid.

populated villages as 'rural municipalities' while certain other entities were classified as now having the status of 'Village Health Authorities or Improvement Boards'¹⁰.

It must be noted that the *Village Authorities Law* that was introduced in 1931 was the legal basis for the local authorities legislation until 1999, thus having a long-standing impact on the formation of the system of Local Administration. As will be explained infra, the *Communities Law 86(I)/1999* replaced that system, but numerous other changes took place throughout the 68-year period, on an ad hoc basis. The introduction of elections of Village Authorities in 1979 being the main example of those sporadic modifications to the original colonial design.

(b) Improvement Boards

Improvement Boards were established in 1950 under the *Villages (Administration and Improvement) Law 11/1950*¹¹. Improvement Boards were a form of local administration, higher in status than the Village Authority, but of less importance than the Municipal Council. Improvement Boards were abolished along with the Village Authorities, when the *Communities Law 86(I)/1999* was passed by the House of Representatives in 1999. The status of Improvement Boards was reserved for areas classified as summer resorts that were heavily dependent on tourism or for areas where carobs, the main commodity of the time, were loaded. When a village was declared to be an Improvement Board, the Village Authority of the village was downgraded and the Health Village Commission ceased to exist.

(iii) The Issue of the separate Municipalities and the Establishment of the Republic of Cyprus

The Constitution of 1960 is founded on the principle of bi-communalism; its full application though lasted only during 1960-63. In December 1963, as explained above, the Turkish-Cypriots decided to withdraw from their official posts at all levels of government, thus leading the organs of the State to paralysis.

(a) The Issue of the separate Municipalities and the Cyprus Constitution

¹⁰ James Ker-Lindsay, Hubert Faustmann, *The Government and Politics of Cyprus*, Library of Vongress Cataloging-in-Publication Data, 1972, p.194.

¹¹ The Cyprus Gazette No.4257 of 10th September 1959.

The roots of the Cyprus Issue can be found in the period leading to the adoption of the Constitution of 1960. The issue of separate municipalities was at the core of the problem and any analysis of the subsequent evolution of Local Administration cannot be disassociated from this crucial factor.

The Issue of separate Municipalities first arose in its full form in 1957-58, two years before the independence of Cyprus, and became an integral part of the negotiations that took place prior to the establishment of the Republic of Cyprus. Since 1943, municipal elections were re-introduced by the British, after a twelve-year suspension due to the disturbances and unrest that occurred in 1931¹². In 1955 Greek Cypriots started a liberation movement against the British colonial rule, with the aim of exercising the right to self-determination and thus leading to the subsequent unification with Greece. In 1957, elected Turkish-Cypriots municipal councillors resigned from the councils of the main five towns of Ammochostos, Keryneia, Limassol, Nicosia and Paphos in an attempt to pressure the British colonial power for the establishment of geographically separated Municipalities. This was part of the Turkish plan to prevent the unification of the island with Greece¹³. The rejection by the British of the Turkish-Cypriots resolutions demanding separate municipalities, led to riots and to a coordinated attempt to establish *de facto* separatism in areas predominantly populated by Turkish-Cypriot in the above-mentioned towns¹⁴.

This practice led to a *de facto* partial internal division of the five towns with the Turkish-Cypriots demanding the legal recognition of their unilaterally declared municipalities. This practice was recognized by a British rule in 1959 through *The Turkish Municipal Committees (Temporary Provisions Law) 33/1959* and the *Municipal Corporations Law 11/1950* and the *Municipal Corporations (Temporary Provisions) Law 15/1959*; those three acts are to be read in conjunction and not separately in order to conclude the acknowledgement of the Turkish-Cypriot demands. The last article of *The Turkish Municipal Committees (Temporary Provisions Law) 33/1959* provided that the law will cease to exist with the establishment of separate municipalities for Turkish-Cypriots in the five towns, under the proposed Constitution of Cyprus¹⁵, whenever that would arise as part of a comprehensive settlement. This article

¹² Diana Markides, *The Issue of Separate Municipalities and the Birth of the New Republic: Cyprus 1957-1963*, University of Minnesota Press, 2000.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ *The Turkish Municipal Committees (Temporary Provisions Law) 33/1959*, Art. 5.

reflected how the local administration regarding municipalities would be agreed during the Zurich-London Agreements for the independence of Cyprus. In other words, its introduction was timely in order to form a precedent upon which the negotiations for a settlement would rely as a starting basis. Nonetheless, *The Turkish Municipal Committees (Temporary Provisions Law) 33/1959* did not define the geographical borders within which the separate Municipal Councils would have territorial jurisdiction¹⁶. And this was one of the greatest problems that made the Municipalities Issue even more difficult during the coming years.

The established basis for the negotiations was challenged by Greece that objected to this proposed separation of municipalities on the basis of the argument that the proposed separation would eventually encourage partition; Turkey on the other hand insisted on this proposal¹⁷. Except from partition, the separation of Municipalities had also practical problems, since citizens of both Communities were living together within the borders of the same Municipality. Moreover, the separation would also lead to an unnecessary duplication of costs for services and personnel. Nonetheless, the two sides (Greece and Turkey) that negotiated for the resolution of the Cypriot problem, in effect in the absence of Cypriots, agreed to transfer into the future the resolution of the matter and opted for the endorsement of the original proposal. In that way, the unresolved issue of Local Administration was transferred in the Constitution of 1960.

(iv) Local Administration under the Constitution of the Republic of Cyprus

Cyprus gained its independence in 1960 after the conclusion of the Zurich-London agreements between Greece, Turkey and the United Kingdom and their acceptance by the Greek-Cypriot leader Archbishop Makarios the III and the Turkish-Cypriot leader Dr. Fazil Kucuk. Cyprus formally became an independent State on August 16th 1960.

Given the problems with separate municipalities prior to the independence of Cyprus, explained supra, Local administration is specifically regulated in the Cyprus Constitutions in a manner that represents a continuation of the narrative that already existed. The Constitution is bi-communal in nature, as it is clearly stated in the first article of the Constitution. According to Article 1 of the Constitution:

¹⁶ George S.Swan, *Constitutional Majority Rule and the Cyprus Constitution: The 1983 Cyprus Crisis in Critical Perspective*, Boston College Third World Law Journal, 1984.

¹⁷ *Supra* Note 12.

“The State of Cyprus is an independent and sovereign Republic with a presidential regime, the President being Greek and the Vice-President being Turk elected by the Greek and the Turkish Communities of Cyprus respectively as hereinafter in this Constitution provided (...)”.

This bi-communal nature of the Constitution has, as a corollary, “affected” the settlement for the local administration. The Constitution provided for the establishment of separate Municipalities by the Turkish–Cypriot and Greek-Cypriot communities in the five biggest cities of the Republic, namely Nicosia, Limassol, Famagusta, Larnaca and Paphos. That approach was clearly attempting to continue the pre-existing approach that was introduced by Law 33/1959 during the last months before independence.

Accordingly, Article 173 paragraph 1 of the Constitution provides:

“Separate municipalities shall be created in the five largest towns of the Republic, that is to say, Nicosia, Limassol, Famagusta, Larnaca and Paphos by the Turkish inhabitants thereof: Provided that the President and the Vice-President of the Republic shall within four years of the date of the coming into operation of this Constitution examine the question whether or not this separation of municipalities in the aforesaid towns shall continue (...).”

Moreover, Article 178 of the Constitution provides:

“With regard to other localities, a special provision shall be made for the constitution of the organs of the municipalities in accordance, as far as possible, with the rule of proportional representation of the two Communities”.

Finally, in accordance with article 182 of the Constitution, read in conjunction with Annex III, both article 173 and 178 are fundamental provisions that cannot be amended (eternal clauses).

Therefore, the adopted formula was intended to have a permanent effect despite the fact that article 173 includes a specific sunset clause that refers to a four-year ‘testing’ period after which the President and the Vice-President were to decide about the continuation of the system of separate municipalities. It is obvious that the above-mentioned provisions were first

introducing the testing –period and then enabling the consideration about its continuation. The outcome was that the two Communities were to transfer to their approach to the Constitution the disagreements that were aired during the negotiation period that preceded the independence of the Republic. Furthermore, it is notable that the otherwise extremely detailed and rigid Constitution did not set any relevant criteria that were to apply for the practical step of identifying the boundaries and the way of functioning of the separate municipalities. Therefore, there were no pre-established guidelines as to how to proceed with the obligation to create the separate municipalities, thus creating significant room for discretion as to the factors that were to be of priority and also as to the manner that the decision-makers were to take into consideration the factual realities, such as the unity of the population of the island, numerical statistics regarding the population of each city, lack of preexisting separate boundaries etc.

Finally, reference must also be made to article 78 (2) of the Constitution that provided that for the adoption of any law relating to municipalities and also for any taxation law, separate simple majorities had to exist in the House of Representatives. This provision intended to ensure the protection of the Turkish-Cypriot Community from the arbitrary and discriminatory imposition of burdens and also from the alteration of the content of article 173. Nonetheless, that specific intention was not expressly stated in article 78 (2) and as it later emerged, the Turkish-Cypriot Community used the separate majority rule in relation to taxation as leverage for pressuring for the establishment of the separate municipalities.

(a) The continuation of the Issue of Municipalities at the early years of the Republic of Cyprus

Albeit the establishment of the Republic of Cyprus, the Municipalities' Issue remained highly contentious for the newly established State and provided a field for constitutional antagonism between the two Communities. Negotiations for an agreement regarding the Municipalities' Issue and their function continued to take place, while the *Municipal Corporations Law 11/1950* of the British ruling continued to be extended by the House of Representatives of the Republic, justified under Article 188 paragraph 2 of the Constitution which reads:

“(….)Provided that the laws relating to the municipalities may continue to be in force for a period of six months after the date of the coming into operation of this Constitution and any law imposing

duties or taxes may continue to be in force until the 31st day of December, 1960."

Until December 1962, no consensus was reached regarding the Municipalities' Issue between the Greek-Cypriot President Archbishop Makarios, who believed that the geographic partition of Municipalities was wholly inapplicable¹⁸, and the Turkish-Cypriot Vice President Dr. Kiucuk who insisted on the separation of Municipalities. The *Municipal Corporations Law* of the British colonial era expired on December 31, 1962, after it was prolonged eight times by means of the *Law on the Prolongation of the Municipal Corporations Law*¹⁹ passed by the House of the Representatives under the separate majorities rule. Archbishop Makarios was of the opinion that there is no reason for any further extension of the *Municipal Corporations Law* since it seemed there was no hope for reaching a consensus regarding the Municipalities' issue²⁰. The Turkish-Cypriot representatives at the House of the Representatives requested the further extension of the Municipal Corporations Law 11/1950 and they tabled a private members' bill to that effect. The Turkish-Cypriot representatives voted in favor but the Greek-Cypriots voted against, resulting in the defeat of the proposal²¹.

As a result of the above, the Turkish Communal Chamber passed on December 29th 1962 the *Turkish Municipal Corporations Law*, in an effort to keep the separate Municipalities as were established under Law 33/1959. The Turkish Communal Chamber, as well as the Greek Communal Chamber, was created under Part V of the Constitution (articles 86-111) and had exclusive competences in relation to education, culture and family law matters. The matter of Municipalities was therefore expressly excluded from the sphere of their competence and was part of the powers that the Constitution expressly allocated to the House of Representatives (article 61).

On January 2, 1963, the Council of Ministers of the Republic decided to appoint Improvement Boards by issuing an Order under section 4 of the *Villages (Administration and Improvement) Law* Chapter 243, whereby the provisions of the said Law were made applicable *inter alia* to the towns of Nicosia, Limassol, Famagusta, Larnaca and Paphos, in an effort to abolish separate

¹⁸ Stanley Kyriakides, "Cyprus Constitutionalism and Crisis Government", University of Pennsylvania Press, 1968 p. 98.

¹⁹ *Law on the Prolongation of the Municipal Corporations Law* (2/1961), (3/1961), (4/1961), (5/1961), (6/1962), (7/1962), (8/1962).

²⁰ *Supra* Note 18.

²¹ Dr. Adel Safty, "The Cyprus Question, Diplomacy and International Relations", iUniverse, 2011, p. 82.

municipalities that existed *de facto* since 1958 and to replace them with “unified” improvement boards. The Order was published under Notification No.4 in Supplement No.3 to the Official Gazette of the Republic on January 10th, 1963. The appointment of Improvement Boards without the agreement of the Turkish-Cypriots was considered as an attempt to create Municipal Councils in order to fill the gap left by the expired Law of 1959 of the British colonial era. It must be noted that the executive branch had no competence on the matter, which the Constitution allocated to the legislature. As a corollary, Cyprus had not complied with article 173 that dictated for separate Municipalities, the pre-existing transitional regime that extended the application of the pre-existing British system had lapsed and the Turkish-Communal Chamber as well as the Council of Ministers introduced two conflicting systems without having the constitutional authority for taking such actions.

The legality of the two conflicting systems was, finally, to be determined by the Supreme Constitutional Court of the Republic.

(b) The rulings of the Supreme Constitutional Court regarding the Municipalities Issue

The Supreme Constitutional Court of the Republic, composed by Ersnt Forsthoff as President, Michalakos Triantafillides as the Greek-Cypriot Member of the Court and Mehmet Nekati Munir as the Turkish-Cypriot Member of the Court issued three decision on the matter.

The first case was ***Fuat Celaledin v Council of Ministers***²² that concerned the law enacted by the Turkish Communal Chamber (the Turkish Municipal Corporation Law) that created separate municipalities, with Celaledin initiating an action under article 139 of the Constitution, which is available to organs of the State contesting the exercise of competences by other organs of the State. The Supreme Constitutional Court with a majority (2-1) ruled that the applicant had no standing because he was not part of or a lawfully constituted organ, since the relevant law was unconstitutional because the Turkish Communal Chamber had no competence in relation to the municipalities. The power to act within the scope of the programmatic provision of article 173 of the Constitution belonged exclusively to the House of Representatives. The full

²² ***Fuat Celaledin v Council of Ministers*** 5 RSCC 102.

compliance with article 173 of the Constitution was to take place on the basis of a coordinated legislative agenda and could not be attained through autonomous actions. The underlying outcome of this judgment was that the Supreme Constitutional Court indirectly dismissed as unconstitutional the unilateral action by the Turkish Communal Chamber.

Judge Munir, dissenting, adopted a different and interesting view according to which the foundation was the binding nature of article 173 of the Constitution, which created an unconditional obligation to create the separate municipalities. Therefore, the fact that no legislative measure was adopted to that effect did not nullify the absolute obligation of article 163 of the Constitution. Judge Munir then referred to the pre-existing legislation (the Municipalities Law (Continuation) Law, No. 10 of 1961, Law 10/61) that maintained temporarily in force the somewhat mixed system that the British applied for a short period of time prior to 1960 and which was subsequently renewed by the House of Representatives. Law 10/61 lapsed and this according to Judge Munir could not be construed as rendering that law inapplicable because it was the only legislative measure in place attempting to comply with article 173. Therefore, Law 10/61 could not lapse and required an express legislative measure declaring its application terminated. Of course, such a legislative measure would require under article 78 (2) of the Constitution a separate simple majority of the Representatives elected by the Greek and Turkish Communities respectively.

The next case was *House of Representatives v Turkish Communal Chamber*²³ in which the House of Representatives challenged the same law of the Turkish Communal Chamber that was at issue in *Fuat Celaledin*. The Supreme Constitutional Court (2-1 majority) held that the law was unconstitutional for the same reasons stated in *Fuat Celaledin*. In addition, the Court dismissed the argument that the House of Representatives when deciding to initiate the

²³ *The House of Representatives v The Turkish Communal Chamber* 5 RSCC 123

process under article 139 of the Constitution had to apply the separate majority rule of article 78 (2) of the Constitution because the subject matter of the resource related to municipalities. Finally, the Supreme Constitutional Court rejected the argument that the Turkish Communal Chamber had residual power to act, which was created by the inaction of the House of Representatives.

The final case on the matter of municipalities that reached the Supreme Constitutional Court was *Turkish Communal Chamber v Council of Ministers*.²⁴ The case concerned the issuing by the Council of Ministers of an order under the Villages (Administration and Improvement) Law, Cap. 243 that provided for an extension of the unified system that applied to villages to all cities. The Turkish Communal Chamber challenged that order before the Supreme Constitutional Court relying primarily on the clear provision of article 173 of the Constitution and the Supreme Constitutional Court (2-1 majority) found the order unconstitutional. The Court held that the Council of Ministers did not have competence on the matter which came within the exclusive powers of the legislature, while at the same time the argument about residual powers and/or implied powers was also rejected.

The most important part of the judgment was the rejection by the majority of the argument that stated that the necessity that arose triggered the exercise of those implied powers needed for addressing the emergency in question. The majority's view was that there is nothing in a written Constitution that encompasses the exercise of powers not provided for expressly. In addition, the Court referred to article 183 of the Constitution that relates to the declaration of a state of emergency and concluded that no such declaration was present. Moreover it was held that the provision exhaustively includes all those circumstances that could justify such a

²⁴ *The Turkish Communal Chamber v The Council of Ministers* 5 RSCC 59

declaration and the matter of the municipalities is not included in that list. Because this judgment is rarely discussed, it is useful to quote directly from it.

In specific, the majority held in relation to the constitutionality of the contested measure that:

“the administration of towns can only be regulated, as required by principles and provisions of constitutional law, on the basis of a law, and by the competent organs provided for in the Constitution. If, therefore, sufficient legal support for the Order in question cannot be found, then such Order will have to be declared unconstitutional. Such unconstitutionality, in the opinion of the Court, would constitute, at the same time, a lack of “power or competence” in the sense of paragraph 1 of Article 139, because it is the very object of the whole Constitution to define and to restrict, in this sense, the powers and competences of the organs of the State”.

In relation to the issue of emerging necessity that justified the action of the Council of Ministers, the majority stated:

“the Order of the Council of Ministers purported to have been made on the 2nd January, 1963, has not been based upon Article 183, which provides for certain extraordinary powers and competences of the Council of Ministers in a case of emergency, because the making use of such extraordinary power requires a prior formal “Proclamation of Emergency”. It is common ground that such proclamation has not been made. On the other hand, under a written Constitution, such as that of the Republic of Cyprus, which expressly provides for extraordinary competences to overcome certain defined situations of emergency, there can be no implied power, outside of such express constitutional provisions, of any organ of the Republic to override, in a case of “necessity”, competences of other organs, and to step beyond the limits of its own competences or to act without the basis of a law, even though such a basis would normally be required for its actions. Therefore, in the opinion of the Court, an order such as the

Order in question made by the Council of Ministers cannot be justified by the allegation that there exists a state of “necessity”, as referred to by counsel for Respondent, which could provide a legal basis, outside of Article 183, for the said Order”.

Judge Triantafyllides dissenting adopted a very different approach that should be construed as the prelude to his subsequent approach in *Ibrahim*. Therefore, Triantafyllides J. stated that there was no pre-existing regime of separate municipalities and also that the House of Representatives failed to take those actions required under article 173 of the Constitution. Therefore, a problematic situation was created whereby the Republic had no legislation in relation to municipalities, thus a specific gap emerged and it had to be filled. The role of the Court was to take such an approach as to facilitate the public interest and the interests of both Communities; hence the Court should approach those essential and necessary measures that needed to be introduced in a flexible way. Judge Triantafyllides opined that since articles 173-177 of the Constitution form a programmatic goal and because the disagreement to act for attaining that goal is now a reality, those provisions:

“Cannot reasonably be treated as amounting to a rigid constitutional order which excludes all other, *pro tempore* at any rate, measures that may properly be taken by the Republic for the administration of the affairs of towns, once municipalities have not been or cannot be created.”

Consequently, the Republic has no valid system for Local Administration and the issue remained pending until the collapse of the State in 1963-64.

(c) The Constitutional Crisis of 1963

The crisis that the Municipalities Issue caused, together with the rulings by the Supreme Constitutional Court, revealed the inherent problems of the Zurich-London Agreements regarding the establishment of the Republic of Cyprus. The obvious inherent problems of the Constitution in order for the Republic to operate smoothly, led the President of the Republic

Archbishop Makarios to submit for consideration to the Turkish-Cypriot Vice President of the Republic certain proposals for constitutional amendments²⁵, in order for the State to function more united and smoothly.

One of these thirteen proposed amendments concerned Municipalities and proposed the establishment of unified Municipalities for the two Communities, rather than separate Municipalities in the five towns. The government of Ankara rejected the proposed amendments. In December 1963 armed conflicts erupted between Greek and Turkish Cypriots. This resulted to the withdrawal of a large number of Turkish-Cypriots into enclaves, as an effort for a de-facto partition of the island, while Ankara threatened to invade²⁶. The vast majority of Turkish-Cypriots holding public offices or working in the civil service withdrew from their posts²⁷.

(d) Cyprus' Constitution and the Doctrine of Necessity

Therefore, the State entered into a constitutional deadlock that threatened for the collapse of the Republic of Cyprus.

The House of Representatives, comprising only of the Greek-Cypriot Representatives, passed the *Administration of Justice (Miscellaneous Provisions) Law 33/1964*. In the preamble of the Law 33/1964, it is mentioned that due to the situation that arose in 1964, the administration of Justice in the way that was stated in the Constitution, by the Supreme Constitutional Court and the High Court was now impossible. Therefore, taking into consideration that the administration of justice should not be continuously distributed, the two Courts as mentioned in the Constitution, were to be merged into one, under the name "Supreme Court"²⁸, until the people of Cyprus expressed their view on the Cyprus problem²⁹. The above-mentioned Law exists until today, with some amendments that were voted by the House of the Representatives in 1975, 1981, 1987, 1988, 1991 and 2015. The logic has been applied in other areas affected by the withdrawal of the Turkish-Cypriots on the basis of the doctrine of necessity.

²⁵ <http://www.mfa.gov.cy> last accessed 5th of July 2015.

²⁶ Ibid.

²⁷ <http://www.parliament.cy>, last accessed 6st July 2015.

²⁸ *Administration of Justice (Miscellaneous Provisions) Law 33/1964*, Article 3.

²⁹ *Administration of Justice (Miscellaneous Provisions) Law 33/1964*, Preamble.

The cornerstone for the application of the doctrine of necessity in the Republic of Cyprus is the landmark case of *The Attorney-General of the Republic v. Mustafa Ibrahim and Others*³⁰, where Law 33/1964 was challenged as unconstitutional. The Court eventually decided that Law 33/1964 was justified under the doctrine of necessity, due to the abnormal situation, based on the principle that « *Salus populi, suprema lex* ».

The doctrine of necessity is still in use in the Republic of Cyprus since a number of laws voted upon the House of Representative are incompatible with the Constitution of the Republic of Cyprus *per se*, but are deemed to be validated under the doctrine of necessity due to the continuation of the abnormal situation described in Ibrahim.

(e) *The Municipalities' Law 64/1964*

At the end of 1964, the House of Representatives passed *the Municipalities' Law 64/1964* that was published in the Official Gazette of the Republic on December 1st, 1964. Law 64/1964 unified the system for the administration of the five Municipalities. According to the Preamble of the Law, the *Municipalities Law* Chapter 240 ceased to exist on December 31st 1962, the established Municipalities ceased to exist and their property returned to the State as *bona vacantia*. Due to the abnormal situation, it became necessary for a legislative provision to be enacted in order for the property and the municipal services to be administrated.

Law 64/1964 mentioned in Article 3, that the Municipalities that were established under the Law of 1958 are considered as Municipalities under the Law. Also, the Ministerial Council, by issuing an Order published in the Official Gazette of the Republic, could declare as Municipalities any existing communities provided that those had at least three thousand inhabitants and could also show relevant economic potential for further growth. Any such executive declaration of a Municipality resulted in attributing to the entity legal personality and geographical borders that would be further defined by the Ministerial Council. The Law was indicating the responsibilities of the Municipalities, the election of Municipal Authorities and the Municipal administration. Law 64/1964 was amended eleven times until 1985, when the *Municipalities' Law 111/1985* that is in use until today replaced it.

³⁰ *Attorney-General of the Republic v. Mustafa Ibrahim and Others*, (1964) CLR, p. 195.

III. Local Self-Government in the Republic of Cyprus Today

Local Administration in the Republic of Cyprus is formed into Municipalities and Communities. *The Municipalities Law 64/1964* that was enacted by the House of Representatives in order to deal with the Municipalities Issue, during the abnormal situation of 1963 and the consequent Constitutional Crisis of 1963, ceased to exist in 1985, when the Municipalities' Law 111/1988 replaced it. The second form of local administration in Cyprus is the Communities under the *Communities Law 86(I)/1999*, that exists up to date, Law 86(I)/1999 that replaced the *Village Authorities Law* (Chapter 244) and the *Villages (Administration and Improvement) Law* (Chapter 243) that was in use until 1999.

Regarding its international obligations under Conventions, the Republic of Cyprus signed the *European Charter of Local Self-Government*³¹ in 1986 and on May 16th 1988, the Republic of Cyprus ratified the Convention under the *European Charter of Local Administration Law 27/1988*³². According to *Article 169 paragraph 3 of the Constitution* of the Republic of Cyprus, these international conventions and agreements have superior force against any conflicting law of the Republic³³.

The need for reforming the Local Administration in Cyprus was on-going for several years, until July 2015, when the Ministerial Council approved a Draft Law on the reform of the Local Administration after consultations of the Ministry of Interior with the stakeholders. The draft law has been submitted to the House of Representatives and it is considered that it will be discussed before the end of 2015.

(i) Administrative Districts

In terms of administration, the Republic of Cyprus is divided into six administrative districts, namely the administrative districts of Ammochostos, Larnaca, Limassol, Nicosia, Paphos and Keryneia. The district of Keryneia and in parts the districts of Nicosia and Ammochostos are occupied by Turkish troops since 1974. In terms of terminological clarity, it must be stated that the division in districts represents an attempt to ensure administrative efficiency via

³¹ European Charter of Local Self-Government, Strasbourg, 15/10/1985.

³² *The European Charter of Local Self-Government, Ratifying Law 27/1987.*

³³ Article 169 (3): "(...)(3) treaties, conventions and agreements concluded in accordance with the foregoing provisions of this Article shall have, as from their publication in the official Gazette of the Republic, superior force to any municipal law on condition that such treaties, conventions and agreements are applied by the other party thereto."

deconcentration and does not represent a conscious attempt to devolve power in the form of decentralisation.

The District Officer is the chief of each District; therefore six District Officers are in office at the moment. The District Officer is a senior public servant that is appointed by the Public Service Commission as the local representative of the State. Hence, the District Officer is not an elected position. The District Officer acts in the District where he/she is appointed, as the chief coordinator of the activities of all Ministries. District Officers are accountable to the Ministry of Interior, which is headed by a Permanent Secretary as chief administrator³⁴.

(ii) Local Administrative Authorities in the Republic of Cyprus

The Republic of Cyprus has two forms of Local Administrative Authorities: Municipalities and Communities. For both types a mixed system applies whereby their existence serves both as a method of decentralisation and to a lesser extent as a mode of local self-governance. The Republic has 525 Local Administrative Authorities in total³⁵, 380 in the free part of the Republic and the rest in the occupied by Turkish troops northern part of the Republic. Specifically, the Republic of Cyprus has 33 Municipalities (24 in the free part of the Republic and 9 in the occupied part) and 491 Communities (356 are located in the free part of the Republic and 135 in the occupied part). (*For a full list of Municipalities please see Annex I*).

Only administrative supervision and not hierarchical control is exercised by Local Authorities in Cyprus, since they are not State Organs. The State through the Ministry of Interior and the Ministerial Council in the case of Municipalities, and the relevant District Officer in the case of Communities, ensure the legality of acts and decisions of Local Authorities, in order not to act in excess of power³⁶.

The two forms of Local Administration of Cyprus are represented at two major unions that have an executive character, but also act as consultative structures: the Union of Cyprus Municipalities and the Union of Cyprus Communities.

(a) Municipalities

³⁴ www.moi.gov.cy, last accessed 25th of July 2015.

³⁵ National Center for Public Administration and Local Government (EKDD) of Greece, *Study on the Reform of Local Administration in the Republic of Cyprus*, 2010.

³⁶ *Supra Note 8*.

The “*Municipalities’ Law*” 111/1985³⁷ regulates the establishment and responsibility of municipalities. The Law is consisted by 11 parts and 144 articles. The Mayor is responsible for the administration of the municipality. The Mayor has executive and administrative responsibilities. The Municipality Board is dealing with all responsibilities granted to the municipalities³⁸. The Mayor and the Municipality Board are elected from the inhabitants of the Municipality through a secret ballot, for a term of five years³⁹.

Citizen of a Municipality is considered every citizen of the Republic of Cyprus or any citizen of a Member State of the European Union that has his/her permanent residence inside the municipality boarders’. Some exceptions are provided in Article 9.

Every citizen of the Republic of Cyprus that is over 18 year old, is registered at the electoral catalogue of the Republic and as a citizen of the Municipality⁴⁰ has the right to vote during municipal elections. In order to have the right to be elected either in the position of the Mayor of the Municipality or as a member of the Municipality Board, he/she needs to be over 25 years old.

(b) Competences of Municipalities

Articles 83 to 86 of the *Municipalities’ Law* of 111/1988 provide for the competences of Municipalities. According to the Law, within the competence of a Municipality is the administration of all local affairs of the Municipality and the Mayor and the Municipal Council exercise all the powers given by the Law⁴¹.

The Municipal Council is responsible for the implementation of the *Town and Planning Law* 90/1972, thus acting as the Town Planning Authority. The Council is also responsible for the construction and maintenance of water supply systems, drainage, bridges, cleaning, lighting, garbage harvest, protection of the environment, hygiene and the creation of public hygiene spaces, the creation and maintenance of cemeteries, the monitoring of bakeries, the establishment of philanthropic and other institutions, the establishment and monitoring of slaughter houses, monitors or limits or prohibits the establishment of business that considers to

³⁷ *Municipalities’ Law* 111/1985.

³⁸ *Ibid*, Article 11.

³⁹ *Ibid*, Articles 12, 13.

⁴⁰ *Ibid*, Article 9.

⁴¹ *Supra Note 39*, Article 83.

be hazardous for public health or a public danger as well as monitors or limits or prohibits the functioning of theatres etc. Moreover, the Council is responsible for granting the permissions needed and authorized under the *Municipalities' Law* of 111/1988⁴², within its territorial jurisdiction. The Council can take loans to administrate the municipal property and can establish private law companies, whereas in the case of public utilities the relevant bodies are established under public law and the basis of an empowering parent act that sets such entities outside the private law regulation and within public law⁴³.

The main income of the Municipality comes from various municipal taxations and rights, such as the right to issue business licenses, to impose a fee for immovable property, to impose a fee for an overnight stay in hotels, imposition of taxes regarding the garbage harvest, to impose municipal fines etc. Municipalities can receive State funding, but State funding represents a small amount of their yearly income⁴⁴. It must be noted that the State can act as guarantor for loans undertaken by the Municipalities. The State sponsorship is granted for infrastructure projects of Municipalities, but the amount of sponsorship is defined by the nature of the project and the needs of the Municipality. The Annual budget of Municipalities is submitted for approval to the Ministerial Council through the District Officer⁴⁵ and the Auditor General of the Republic yearly audits the budget of Municipalities⁴⁶.

(c) Occupied Municipalities

Before the elections of 1992, the duties of the Mayors and of the Municipality Councils of occupied Municipalities were undertaken by citizens of the Republic of Cyprus appointed by the Ministerial Council, with the consent of the political parties participating at the House of the Representatives. These nine Municipalities, although they still maintain their legal status, have been temporarily relocated to the free areas of the Republic of Cyprus due to the Turkish ongoing occupation.

Because of the Turkish occupation, occupied Municipalities do not function in the same way as the other Municipalities and they do not deal with the same regulatory issues. The inhabitants

⁴² Ibid, Article 84.

⁴³ Ibid, Article 85.

⁴⁴ <http://ucm.org.cy>, last accessed 1st July 2015.

⁴⁵ *Supra Note 39*, Article 65-67.

⁴⁶ Ibid, Article 80-82.

of the occupied Municipalities are internally displaced persons; therefore they live in other Municipalities or Communities of the Republic. The *Municipalities' Law* under section sixteen, deals with the elections in the Occupied Municipalities. According to Article 138 of the Law, the elections in the Municipalities that are still under the Turkish occupation will be taking place according to *the Law Regarding the Election of the Member of the Parliament of the Representatives 72/1979*, re-adjusted in the occasion of each Municipality, in the way the Minister of Interior considers advisable. Under this Law, the Minister can set the electoral departments of these occupied Municipalities, can determine the electoral body of each Municipality, can generally set the requirements for candidacy, the electoral procedure, and the proclamation of the elected Mayors and Municipality Councils of each occupied Municipality.

The *Municipalities' Law* indicates which internally displaced inhabitants of Occupied Municipalities have the right to vote in the elections of their Municipalities temporarily relocated⁴⁷. The Law provides that as long as the unsettled situation in Cyprus continues, a citizen of the Republic who had his/her permanent residence, right before the Turkish invasion, inside the municipal borders of any Municipality that is wholly or partly occupied, remains in legal terms an inhabitant of the occupied Municipality.

(d) History of Municipal Elections in the Republic of Cyprus

(i) 1st General Municipality Elections

On the 25th of May in 1986, the first general Municipality elections took place since the establishment of the Republic of Cyprus, under the *Municipalities' Law* of 111/1988. The elections took place for eighteen Municipalities in the free part of the Republic of Cyprus. Seven Municipalities already existed from previous legislation, namely the Municipalities of Nicosia, Limassol, Larnaca, Paphos, Polis Chrysochou, Athienou and Pano Lefkara. The eleven new Municipalities were established after a referendum that took place on the 23rd of February 1986, according to the Law 111/1985, namely the Municipalities of Strovolos, Ayios Dometios, Aglatzia, Pano Lakatamia, Kato Lakatamia, Latsia, Egkomi, Mesa Gitonia, Kato Polemida, Ayios Athanasios, Aradipou and Paralimni. Internally displaced persons from the 1974 Turkish invasion and on-going occupation of the northern part of the Republic of Cyprus, voted at the

⁴⁷ Ibid, Article 9 (2).

municipality in the free part of the Republic where they were residing at the time of the elections. Separate voting procedures took place for the election of the Mayor and the Municipality Council. During those elections, the Mayor was elected under the system of proportionality and the municipality board under the semi-proportional system⁴⁸.

(ii) 2nd General Municipality Elections

The 2nd Municipality Elections took place on the 22nd of December 1991 for the eighteen Municipalities in the free part of the Republic of Cyprus. Again, separate voting procedures took place for the election of the Mayor and the Municipality Council. Each Municipality elected a number of members of the Municipality Council, in accordance of proportion to the population of the Municipality.

(iii) General Municipality Elections for the Occupied Municipalities

Elections took place also for the occupied municipalities of Cyprus for the first time in 1992, after the adoption of the *Municipalities' Law* in 1985. For the very first time, elections for Mayors and Municipality Councils took place for the nine occupied Municipalities on the 12th of January 1992. The elections for the occupied municipalities were not held at the same time as the elections for the Municipalities located in the free area of the Republic of Cyprus but only some days after.

During these first elections for occupied Municipalities, it was agreed between the political parties, in order to avoid elections, to proceed with appointing candidates under the principle of consensus. Those did not exceed the number of the seats available for Mayors as well as the seats of the Municipality Councils of the Occupied Municipalities. Only in the Occupied Municipality of Ammochostos, political parties did not agree upon a common candidate. This resulted in having to hold an election for Mayor. Therefore, elections took place for the Occupied Municipality of Ammochostos, with the participation of internally displaced people of the Municipality⁴⁹. The candidates for the Occupied Municipalities of Akanthou, Lefkoniko, Lysi, Kythrea, Morphou, Karavas, Keryneia and Lapithos were announced Mayors without a voting procedure, since their candidacies were unopposed.

(iv) Establishment of New Municipalities-Interim Elections

⁴⁸ *Supra Note 45.*

⁴⁹ *Supra Note 45.*

In June 1993, referendums under the instructions of the Ministerial Council⁵⁰, took place in Communities with population over 5000 inhabitants regarding the establishment of new Municipalities⁵¹. After the referendums, five new Municipalities were established, namely the Municipalities of Germasogeia, Ayia Napa, Deryneia, Pegeia and Geroskipou. Elections for Mayors and Municipality Councils for those five Municipalities took place on April 17th, 1994⁵².

(v) 3rd General Municipality Elections

The 3rd General Municipality elections were held on the 15th of December 1996. For the very first time, elections for the Occupied Municipalities and the Municipalities in the free part of the Republic of Cyprus took place on the same day. Elections were held for thirty-three Municipalities, nine of them were for Occupied Municipalities. Therefore, the elections for Mayors and Municipality Councils took place at the same time⁵³. The displaced inhabitants of the occupied Municipalities had the right to vote for Mayor and Municipality Council of their occupied Municipality but at the same time had the right to vote for Mayor and Municipality Council at the Municipality they temporarily lived⁵⁴.

(vi) The five new Municipalities that were established in 1993 at the free areas of the Republic of Cyprus also conducted elections. 4th, 5th and 6th General Municipality Elections

The 4th General Elections took place on the 16th of December 2001, The 5th General Elections took place on the 17th of December 2006 and the 6th General Elections took place on the 18th of December 2011. Elections for all thirty-three Municipalities, Occupied Municipalities and Municipalities took place on the same day for all the above-mentioned consecutive periods.

(vii) The upcoming 7th General Municipality Elections

The next Municipality elections are expected to take place in December 2016, unless otherwise is decided by the House of Representatives, since the draft law on the reform of local administration of the Republic of Cyprus is pending in the Parliament.

⁵⁰ *Supra* Note 39, Article 4.

⁵¹ <http://www.pafospress.com>, last accessed 1st July 2015.

⁵² *Ibid.*

⁵³ *Supra* Note 35.

⁵⁴ *Supra* Note 45.

(e) Communities

On the 24th of June 1999, the *Communities' Law 86(I)/1999*⁵⁵ was voted by the House of the Representatives and entered into force on the 9th of July 1999. Therefore, according to Article 117 of the *Communities Law* of 1999, the *Village Authorities Law* and the *Villages Law (Administration and Improvement) Law* were abolished. Under the new system, important changes were introduced to the administration system of Cyprus, like the centralization of the administrative powers of all local affairs to the Community Boards⁵⁶. The Community Boards established under the *Communities Law* of 1999 replaced the Improvement Boards, the Village Authorities, the Health Committees and the Water Committees, which ceased to exist.

According to the *Communities' Law* of 1999, Community means a village or a cluster of villages and is consisted by a parish of a town and the improvement area⁵⁷. The establishment of Community Boards replaced the division into Village Authorities and Improvement Boards. The Law of 1999 brought important changes regarding the administrative system of the local authorities of Communities.

The responsibilities of Communities are similar to those of Municipalities but with less independence. The inhabitants of the Community elect the president of the Community and the Community Board for a term of five years. The government is assisting administratively and technically through the District Administration Offices and it must be noted that in general the Communities are struggling to ensure sufficient funds⁵⁸. Most of the income of the Communities comes from state funding, taxes and any rights that are collected from the inhabitants of a Community.

The replacement of Improvement Boards, Village Authorities, Health Committees and Water Committees with the Communities under the *Communities' Law* of 1999 was part of the long delayed process of reform of local administration in Cyprus. The reform took place in the early 90s partly in an effort for harmonization with the *acquis communautaire* and partly for ensuring the compliance of the republic with its obligations under the *European Charter of Local Self-Government*⁵⁹ that the Republic signed in 1986 and ratified in 1988⁶⁰.

⁵⁵ *Supra Note 45.*

⁵⁶ <http://www.ekk.org.cy>, last accessed 9th July 2015.

⁵⁷ *Supra Note 39, Article 2.*

⁵⁸ <http://web.archive.org>, last accessed 9th July 2015.

⁵⁹ European Charter of Local Self-Government, Strasbourg, 15/10/1985.

(i) The *Communities' Law* 86(I)/1999

The *Communities Law* has 10 parts and regulates the consistence and the responsibilities of the Local Administration of first instance. Within the ambit of the competence of the Communities come issues relating to agriculture, tourism and the industrial sector. The Community Councils represent 40% of the population and 90% of the territory of the island⁶¹.

(ii) Community Council

The Council of each Community consists of the President of the Community, who is the president of the Community Council, and the members of the Council. The election of the President and the Members of the Council are held every five years⁶².

The number of the members of the Council is determined in accordance with the number of the registered inhabitants of each community⁶³. Specifically, for Communities with registered inhabitants up to 300, the members of the Council that are elected are four. For Communities with registered inhabitants from 301 to 700, the Council has six members and for Communities with over 700 registered inhabitants; the members of the Council that are elected are eight.

According to Article 14, paragraph 1 of the *Communities Law*, all inhabitants of a Community have the right to vote, if they are 18 years old and have been registered to the electoral list of their community. According to paragraph 3 of the same article, the exercise of the voting right is obligatory.

The Law of 1999 takes into consideration the case that a Community has both Greek and Turkish inhabitants⁶⁴. In this case, two Community Councils are established, one for the Greek inhabitants and one for the Turkish inhabitants of the Community. The board members are elected separately from the Greek and the Turkish inhabitants of the Community respectively, according to the rest of the provisions of *the Communities Law* of 1999.

⁶⁰ *Supra* Note 8.

⁶¹ *Supra* Note 36.

⁶² *Communities' Law* 86(I)/1999, Article 40.

⁶³ *Ibid*, Article 11.

⁶⁴ *Ibid*, Article 11, paragraph 5.

It is also worth mentioning that according to the Law of 1999, areas of Communities that fall geographically into regions that belong to Municipalities, do not have a Community Board but only a President and Deputy President of the Community⁶⁵.

From 1999 until 2006 elections for Community Boards took place only for the Communities that were under the effective control of the Government of the Republic of Cyprus. Since 2006, elections took place for Communities and Municipalities under the effective control of the Government but also for the Occupied Communities and Municipalities.

(iii) Occupied Communities

Communities that are located at the occupied part of the Republic of Cyprus have a Community Council according to the *Communities Law 86(I)/99*⁶⁶. The Community Council of an Occupied Community is consisted by the President of the Community, the Deputy President of the Community and three members, irrespectively of the number of the registered inhabitants of the occupied Community. Inhabitants of an occupied Community that have been relocated as internally displaced persons in the free part of the Republic, remain inhabitants of the occupied Community irrespectively of whether they are also considered inhabitants of another Community or Municipality⁶⁷.

(iv) Competences of a Community Council

According to Articles 81-89 of the Law of 1999, the administration of local affairs belongs to the Community Council and the Council has the relevant powers in order to administrate the local affairs. The Community Council performs its duties within the geographical borders of its Community and within its financial competences. Generally, the main responsibilities of a Community Council are to supply its inhabitants with water, to construct, maintain and operate sewerage systems, the maintenance of cleaning and lighting of roads and bridges, the naming of streets and squares, the cleaning maintenance of the community, the control of a company that is considered harmful to the public health or consist a public danger, the establishment, maintenance and operation of slaughter houses in accordance with the relevant legislation and any other maintenance of public work necessary or desirable for the development of the community or the protection of public health.

⁶⁵ Ibid, Articles 5, 6 and 11.

⁶⁶ Ibid, Article 11 , paragraph 2.

⁶⁷ Ibid.

The Council is entitled to receive any fees, charges or taxes according to the Law of 1999, in order to meet its obligations⁶⁸. The Community Council is also entitled to ask for loans from Banks under its legal personality, with the approval of the District Officer of its relevant District Administration Office, in order to meet its obligations.

IV. Reform of Local Administration in the Republic of Cyprus

The issue of the reform of the Local Administration in the Republic of Cyprus has been on-going for several years⁶⁹. In 2010 the National Centre for Public Administration and Local Government (EKDD) of Greece⁷⁰ was appointed to prepare a report, under the supervision of the Union of Cyprus Municipalities and the Union of Cyprus Communities, regarding the need for radical reform of Local Administration in Cyprus. The research focused on the problems of the local administration as well as on the positive characteristics that must be incorporated through the new reform; the study was concluded in 2010⁷¹. In 2010 a systemic dialogue with political parties, the Union of Cyprus Municipalities and the Union of Cyprus Communities was established, in order to reach consensus on the new settings for the Local Administration. An integral part of the report was the need to review for the first time the terms of establishment for Clusters of Local Authorities and Provincial Councils⁷². The Ministerial Council approved two draft laws on the reform of Local Administration, but the House of Representatives rejected them in 2014 and the effort to reform the Local Administration began once again in order for a consensus to be reached among all interested parties.

The reform of Local Administration is also projected as a goal in the published strategic plan of the Ministry of Interior 2014-2016, mentioning that this reform is a basic axis in the effort of the Government to improve the quality of life for citizens and to modernize the role of Local Administration⁷³.

The process of public consultation lasted for two years and the participants included all political parties as well as with all other interested parties including local authorities and representatives

⁶⁸ Ibid, Articles 99-117.

⁶⁹ <http://www.riknews.com.cy> , last accessed 17th July 2015.

⁷⁰ *Supra Note 35.*

⁷¹ Ibid.

⁷² *Supra Note 35.*

⁷³ Ibid.

of Municipalities and Communities. According to the Minister of Interior, all parties achieved a consensus and the draft law on the reform of the Local Administration was submitted on the 14th of July 2015 to the Ministerial Council of the Republic of Cyprus. The Ministerial Council approved the draft law and the draft law will be submitted to the House of the Representative of the Republic of Cyprus for discussion and voting at the beginning of the new session of the Parliament in September 2016. The Minister of Interior has expressed in interviews in the local media⁷⁴ his wish that the House of the Representatives will vote for the draft law before the end of the year, setting in this way the need for immediate reforms in local administration. The Minister of Interior mentioned that the draft law has been approved also by the troika⁷⁵ since the reforms on the Local Administration is an obligation of the Republic under the Memorandum of Understanding regarding the Economic Adjustment Program⁷⁶ signed by the Republic of Cyprus and the Troika.

The proposed reform of Local Administration maintains in force the Municipalities' Law of 1985 and the Communities Law of 1999, but subject to certain necessary amendments. The proposal also includes a new draft law named *Law that « Foresees the Establishment and Operation of Provincial Clusters, their Competences and any Relevant Issues »* that is introducing an institution of second instance for the local administration (Provincial Cluster). This part of the proposal intends to meet the concerns of the relevant stakeholders.

(i) The rejected draft Law on the reform of the Local Administration

The rejected draft Law on the reform of Local Administration was introducing the terms of establishment of Clusters of Local Authorities and Provincial Councils⁷⁷

(a) Provincial Councils

The establishment of Provincial Councils would have marked the introduction of second instance organizations for Local Authorities. Provincial Councils, under the draft law, were specified in a geographic or an administrative area, under a decree by the Ministerial Council published in the official Gazette of the Republic. The Provincial Council would be a legal entity

⁷⁴ *Supra Note 70.*

⁷⁵ Since March 2013 the Republic of Cyprus is under an Economic Adjustment Program between the Republic on the one hand and European Commission, European Central Bank and International Monetary Fund on the other, known as well as troika.

⁷⁶ National School of Government International, "Reform of Local Administration in Cyprus: Final Report (in Greek)" 8 of April 2014.

⁷⁷ *Supra Note 35.*

of Public Law and would work for the promotion of the development of the region specified. Provisional Council would not have intervened with the competences of other organizations of Local Authorities.

(b) Organisation of Local Authority of First Instance

First instance organizations of Local Authorities, according to the rejected draft law, would be the Municipal Council for a Municipality, the Community's Council for a Community and the Cluster's Council of an area under Cluster. All citizens of the Republic or citizens of an EU Member State would be members of a Municipality or a Community according to the area they have their permanent residence. As long as the Turkish occupation of the northern part of the Republic continued, citizens that had their permanent residence in a municipality or community now under occupation, remained members of the municipality or community under occupation, irrespectively of whether they are members of a municipality or community in the part of the Republic that the government has under its effective control.

The Ministerial Council, after an application of first instance organizations of Local Authorities and after receiving the opinion of the relevant Provincial Council and the proposal of the Minister of Interior, could have issued a decree reviewing the geographical borders of the first instance organizations. The Decree of the Ministerial Council should have been published in the Official Gazette.

(c) Municipality

Municipalities would have had Municipal Councils; each Municipal Council would have a Mayor and a number of members. The number of the members of the council would have varied, depending on the number of the inhabitants of the municipality. For municipalities with less than 15000 inhabitants, six members would have been elected. For municipalities with more than 15 000 but less than 30 000, eight members would have been elected. And for Municipalities with more than 30 001 inhabitants, the Municipal Council would have ten members in the Municipal Council.

(d) Establishment of a New Municipality

According to the rejected Draft Law, for the establishment of an existing Community or Cluster of Communities into a new municipality, the organizations of the relevant local authorities

should have submitted a request to the Provincial Council, provided that the inhabitants of the area should have been at least 10 000 and provided also that a referendum for each organization of Local Authority was to take place. The Provincial Council would have been responsible for submitting the request for the establishment of a new municipality at the Ministerial Council through the Minister of Interior, and the Ministerial Council should have followed all relevant procedures for a referendum to take place for the inhabitants of the Community that wanted to become a municipality. These provisions would not have applied to communities under Turkish occupation. In case of a positive result in the referendum, the Ministerial Council would establish a Municipality after issuing a Decree that would have been published in the Official Gazette of the Republic.

(e) Abolition of a Municipality

A municipality established under the provision of the rejected draft law would have been abolished, if, a year before the end of the service of the relevant municipal council, the Provincial Council had determined that the inhabitants of the municipality were less than 7 000 during the past three years. The abolition of a municipality would have taken place with a Decree of the Municipal Council that was to be published in the Official Gazette.

(f) Community

The Community's Council, composed by the President and the Members of the Councils, would have run a Community. In Communities with less than 2000 inhabitants, four members of the Council would have been elected. In communities with more than 2000 inhabitants, six members of the Council would have been elected. If in the boundaries of a Municipality, there were no communities, after a suggestion made by the Provincial Council to the Minister of Interior, Presidents of Communities could have been appointed. Communities that are under the Turkish Occupation would had been composed by the President, the Deputy President and three members of the Council irrespectively of the number of inhabitants. In the case that the inhabitants of a Community were both Greek (Cypriots) and Turkish (Cypriots), two Community Councils would have been established, one for the Greek inhabitants of the Community and one for the Turkish inhabitants.

(g) Establishment of a Community

A community would have been established if there was a request at the relevant Provincial Council from more than 100 inhabitants of a specific region, if the agreement of the neighbour communities was given and if the intention of the inhabitants of the region was identified by a local referendum. When the above-mentioned criteria were met, the Provincial Council could submit the relevant proposal to the Ministerial Council through the Minister of Interior.

(h) Abolition of a Community

For the abolishment of a community, the Provincial Council after receiving the view of the Community's Council for that specific community could submit an abolishment proposal to the Ministry of Interior. The Minister would then have to submit a reasoned proposal to the Ministerial Council and a copy of this proposal would have also been submitted to Parliament. The Ministerial Council could proceed with the issuing of a decree stating the abolition of the Community and how any pending community issues were to be regulated.

(i) Cluster of Local Authorities

According to the rejected Draft Law on the reform of the Local Authorities, the Provincial Council, after consulting with organizations of Local Administration and after ensuring the approval by the Minister of Interior, could establish Clusters of two or more Organizations of Local Authorities of first instance, which will have common boarders. Each Organization of Local Authorities could participate in only one Cluster. The Cluster would be an entity under Public Law and under the authority of the Council of the Cluster, with the responsibilities of a Community or the responsibilities of a Municipality, if at least one Municipality participated in the Cluster.

According to the rejected Draft Law, from the moment that the Draft Law would enter into force, the *Municipalities' Law* and the *Communities' Law* would have been replaced.

(ii) The new Draft Laws proposing the Reform on Local Administration

As already mentioned, three Draft Laws that upon passing will be read together comprise the new effort for a reform of local administration in Cyprus. The new draft Laws on the reform of Local Administration in Cyprus that has been submitted to Parliament by the Ministerial Council in July 2015, have significant differences comparing to the rejected draft law of the previous years.

In an effort to achieve consensus among interested parties and in order to proceed this time to the needed approval of the draft laws and the much more needed reform of the local administration, this time the draft laws are three and not one. *Municipalities' Law of 1985 and Communities Law of 1999* are not replaced as the rejected draft law was proposing, but includes proposed amendments to these laws in the form of an amending law. Therefore, Municipalities and Communities, upon voting, will continue to work mainly as analysed above with some proposed amendments that will lead to their reform. A new draft law under the name «*Law that foresees the Establishment and Operation of Provincial Clusters, their competences and any relevant issues*⁷⁸» has been submitted to the House of Representatives as part of the reform process.

- (a) New Draft Law that « Foresees the Establishment and Operation of Provincial Clusters, their Competences and any Relevant Issues »

The main characteristic of the new draft law is the proposal for the establishment of Provincial Clusters. According to Article 3 of the Draft Law, the Ministerial Council sets the region in which every Provincial Cluster is to be established. The decision should be published in the official Gazette of the Republic. Each Provincial Council should work through its Council that is established under this Law. Its headquarters will be decided during the first meeting of the Council. The Provincial Cluster will be legal person of public law and its Council will have a President and a Vice President. Every citizen of the Republic or of the European Union has the right to vote at the elections for the Council of the Provincial Cluster, if he/she is above 18 years old and is registered to the electoral catalogue of the Municipality or the Community that forms part of each Provincial Cluster⁷⁹. Any person having the right to vote, who is registered at the relevant electoral catalogue and he/she is 21 years old can be elected to the office of President or Member of the Council. Citizens of other European Union Member States are not allowed to run for the position of the President of the Council and if elected as members of the Council cannot be Vice Presidents.

The elections for President and Members of the Council should take place every five years⁸⁰. Each region elects a President. In regions with up to 50 000 inhabitants registered with the

⁷⁸ *Supra Note 57.*

⁷⁹ *Draft Law that « Foresees the Establishment and Operation of Provincial Clusters, their Competences and any Relevant Issues », Article 78.*

⁸⁰ *Ibid, Article 3.*

electoral registry, up to eight members of the Council are elected. In regions with 50 000 to 100 000, ten Council members are elected, and in regions with more than 100 000 inhabitants, twelve members are elected. The relevant District officer will be an observer at the meetings of the Council, without having the right to vote⁸¹.

The Draft Law also defines the competences of the Provincial Clusters, which are responsible for the environmental planning of their region, the granting of licenses regarding the town planning and the creation and maintenance of water supplies⁸². The Council is also responsible for the distribution of water to its region, absorbing the competence of Municipal and Communities' Council regarding this issue⁸³. The Provincial Council will also be responsible for house wastes, namely for their collection and processing; this is a competence that can be assigned to a Municipal and Communities' Council⁸⁴.

The President of the Council is the executive authority of the Council that represents the Council externally, chairs the meetings of the Council, directs the implementations of the decisions of the Council, observes the services of the Council, collects the incomes of the Council and has any other responsibility or power assigned by the Law⁸⁵. The Ministers of Interior and Finance should approve the budget of each Provincial Cluster. The Auditor General of the Republic is responsible for auditing the accounts of the Provincial Council and is responsible to submit them at the Minister of Interior and the House of Representatives⁸⁶.

It is very important to be mentioned that according to Article 12 of the Draft Law, between the Council of the Provincial Cluster and the Council of Local Authorities (Municipal and Communities' Council) there is no hierarchy and no element of vertical accountability but rather relations of close cooperation. Also, according to Article 15 of the Draft Law, the proposal is founded on the intention to further promote inclusion of the inhabitants in the decision-making and to encourage their active participation in local affairs.

(b) Proposed Amendments on the Municipalities' Law of 1985

⁸¹ Ibid, Article 4.

⁸² Ibid, Article 21.

⁸³ Ibid, Article 28.

⁸⁴ Ibid, Article 46.

⁸⁵ Ibid, Article 23 .

⁸⁶ Ibid, Article 63.

Unlike the previously rejected draft law, this draft proposal on the reform of the local authorities in Cyprus maintains the original *Municipalities Law* of 1985 but subject certain amendments⁸⁷. The proposed amendments contain provisions regarding the encouragement of inhabitants to participate in local affairs, the possibility for the inhabitants to submit questions and proposals to their Municipal Councils as well as the publication of decisions of the Council. These proposals are intended to promote openness, transparency and accountability and are to be welcomed.

In addition, all Municipal Councils will be headed by a Mayor and will consist of councilors (minimum number set to eight and maximum to twelve). In Municipalities with up to 50 000 inhabitants registered, eight councilors will be elected, in Municipalities with 50 0001 up to 100 000 ten and in Municipalities with more than 100 000 registered inhabitants, twelve councilors will be elected. According to a proposed amendment to Article 15 of the existing *Municipalities Law*, a Mayor and the members of the Council can be re-elected only once. This is an important change that aims to ensure that the same holder of office is not becoming a permanent part of the decision-making processes.

The proposed amending Law with the inclusion of a new Article⁸⁸ also provides that Municipalities should provide joint services between them. In this respect, a Committee consisted by the Director General of the Ministry of Interior as President, the District Officer and representatives from the Ministry of Finance, the Union of Municipalities and the Union of Communities as members, is established in order to propose to certain areas, municipalities and communities to provide joint services. Those can be technical services relating to the necessary repairs and/or establishment of infrastructure, health services, traffic control, collection of house wastes and any other joint services that can be offered. In case of joint services, mayors and presidents of communities that participate are establishing the Council of Administration of Join Services and the President of the Council is appointed by an internal procedure of the established Council. This represents a significant modification of the existing system and intends to promote economies of scale, efficiency and cost reduction through coordination.

⁸⁷ *Supra Note 57.*

⁸⁸ *Ibid*, Article 83A.

(c) Proposed Amendments on the Communities' Law of 1999

The same approach has been followed regarding Communities. Instead of abolishing the *Communities' Law* of 1999 as the previous draft law was proposing, the new draft law includes certain amendments to the existing *Communities' Law* of 1999⁸⁹.

The proposed amendments for the Communities' Law include provisions regarding the encouragement of inhabitants to participate in local affairs, the possibility for inhabitants to submit questions and proposals to their Community Councils, as well as the publication of decisions of the Council. The aims of transparency, openness and accountability are thus pursued.

In the proposed amendments there is also a provision regarding the number of elected members of the Community's Council. For communities with registered inhabitants up to 2 000, four members are going to be elected and for Communities with registered inhabitants more than 2 000, six members will be elected.

According to the proposed amending Law, the District Officer has the authority to review the yearly budget that the Council has to submit. Also, the proposal for joint services between Communities and Municipalities also appears in exactly the same wording as in the proposed amendment of the *Municipalities' Law*.

(d) Overall Remarks on the new proposed reform of Local Administration

According to the statements of the Minister of Interior of the Republic of Cyprus Mr. Sokratis Hasikos⁹⁰, the current form of the Draft Laws reforming the Local Administration in Cyprus, if adopted by the House of the Representatives, will establish the necessary structures that will promote efficient cost saving. The purpose is to use the relevant financial gains for further improving the quality of service for the taxpayers thus reinvesting in the system that will have the citizen as its focal point. The citizen is therefore seen as a consumer that is entitled to a quality service that is efficient, timely and effective.

An example of providing new services to the citizen as a result of cost reduction is the provision that enables the issuing of planning and building permits by a specific Provincial Cluster for each

⁸⁹ Ibid.

⁹⁰ *Supra* Note 70.

region. The Government is ready to provide the knowledge and the experience in order for the clusters to deal with these new kinds of services in favour of the inhabitants of a Cluster.

For the first time, possession of immovable property will be taxed only once, avoiding double taxation from the state and the local authorities, as it was happening up to date. In this way, the local authorities will handle taxation of immovable property and this will give the basis for more autonomy of the local administration concerning the amounts that will be received from the fees of immovable properties. The number of municipalities and communities will not be reduced, but the number of members of municipal and community councils will be significantly reduced.

It is worth mentioning that the Union of Municipalities and the Union of Communities have objections on various provisions of the draft law and of the proposed amending Laws. Therefore, it seems that at the time of reporting the process has not yet started but statements have been made about the intention of the political parties to propose a number of amendments to the submitted draft laws before proceeding to submit to a vote the proposal. The reform of local administration in Cyprus seems to be in sight but it remains to be seen how far it is and what its final form will be⁹¹.

V. Epilogue

Local Administration in Cyprus can be described as forming part of the historical evolution of the State. History, and specifically recent history, has definitely shaped local administration in the Republic of Cyprus. From the Ottoman Empire to the British colonial rule and subsequently to the establishment of the Republic of Cyprus, local administration played a major role in the manner that the island was governed. The issue of local administration also acquired a highly political and constitutional role before independence and immediately after 1960. The issue of separate municipalities has defined the nature of the system that Cyprus has and any assessment of that system can not take place in a vacuum that ignores the sensitivity of the matter and its central role in the Constitutional Crisis of 1963. Moreover, the application of the doctrine of necessity, the withdrawal of Turkish-Cypriots and the subsequent invasion created a new setting within which local administration had to function. There is, in other words, a

⁹¹ <http://www.alfanews.com.cy/kypros/>, last accessed 31st July 2015.

political and constitutional specificity and a historical idiosyncrasy in the Cypriot model of local administration.

The Community Councils represent 40% of the population and 90% of the territory of the island while the 33 Municipality Councils represent the rest of the population and the territory. Of particular importance is the fact that occupied Municipalities and Communities still function, yet they have de facto reduced competences, they are relocated temporarily in the part of the Republic controlled by the Government and coexist with other institutional actors having the same responsibilities and powers.

The recent attempts to reform the system of local administration represent positive signs of the acknowledgment that the system is becoming anachronistic and cost ineffective. The failure of the reform initiative in 2014 is now reassessed and after broad consultation a new reform proposal is pending before the House of Representatives. It seems that the interested parties approach the new proposal favourably and there is for the first time reasonable optimism that reform will go through. Nonetheless, it must be noted that the stakeholders are still raising concerns and it is significant to ensure that the proposals are not watered down during the legislative process. There is strong possibility that the system will be reformed in a fundamental and comprehensive manner for the first; time will be the judge.

Annex I

Municipalities of the Republic of Cyprus

District of Nicosia

Municipality of Nicosia

Municipality of Strovolos

Municipality of Aglatzia

Municipality of Ayios Dometios

Municipality of Lakatamia

Municipality of Latsia

Municipality of Engkomi

Municipality of Idalion

Municipality Morphou (Occupied)

Municipality Kythraia (Occupied)

District of Limassol

Municipality of Limassol

Municipality of Ayios Athanasios

Municipality of Kato Polemidia

Municipality of Germasogeia (established in 1993)

Municipality of Mesa Geitonia

District of Ammochostos

Municipality of Ammochostos (occupied)

Municipality of Paralimni

Municipality of Ayia Napa (established in 1993)

Municipality of Deryneia (established in 1993)

Municipality of Lysi (Occupied)

Municipality of Akanthou (Occupied)

Municipality of Lefkonoiko (Occupied)

District of Larnaka

Municipality of Larnaka

Municipality of Aradippou

Municipality of Athiainou

Municipality of Pano Lefkara

District of Paphos

Municipality of Paphos

Municipality of Polis Chrysochou

Municipality of Pegeia (established in 1993)

Municipality of Geroskipou (established in 1993)

District of Keryneia

Municipality of Keryneia (occupied)

Municipality of Karavas

Municipality of Lapithos (Occupied)

Annex II

Legislation Relevant to Local Administration in Cyprus

- *Village Authorities Law of 1931 (Chapter 244)*
- *Villages (Administration and Improvement) Law 11/1950 (Chapter 243)*
- *Municipal Corporations Law 11/1950*
- *Municipal Corporations (Temporary Provisions) Law 15/1959*
- *The Turkish Municipal Committees (Temporary Provisions Law) 33/1959*
- *Prolongation of the Municipal Corporations Law 10/1961*
- *Administration of Justice (Miscellaneous Provisions) Law 33/1964*
- *Municipalities' Law 64/1964*
- *Law Regarding the Election of the Member of the Parliament of the Representatives 72/1979*
- *Municipalities' Law 111/1988*
- *Communities Law 86(I)/1999*
- *European Charter of Local Administration Law 27/1988*

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