

European Charter of Local Self Government and Decentralization in Northern Cyprus

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Abstract—The concept of administration has started to have varying definitions in the globalizing world. Efforts are put at both local and international level to ensure more democratic, more participatory and more transparent administrations. Under the light of these developments, the European Charter of Local Self Government carries utmost importance to bring a more modern structure to local governments at international level. Fulfillment of the requirements of the Charter by local governments is a major necessity both for state administration and for local people. First, the local administration system in North Cyprus (NC) will be reviewed in this study. Then, the European Charter of Local Self Government will be examined and compliance of the legal framework and practices in NC with the charter will be discussed. Thus, it will be determined if NC has a modern local government approach. There are limited studies in literature which investigate the level of compliance of the local government system in NC with the European Charter of Local Self Government. In this respect, the understanding of locality in NC is utterly important for its national democracy. This study was planned as a qualitative research. Data were mainly collected by document reviews and interviews. In the study, all written and non-written sources, mainly legal documents associated with the theme of the study, were reviewed in detail. Furthermore, opinions of field experts were taken. The study outcome provided that the local government system in NC is largely compliant with the European Charter of Local Self Government. However, the fact that laws of NC comply with the Charter does not mean requirements of the Charter are complied with in practice. Shortly, there are numerous problems with the practice in the local government system in NC. Solutions to the concerned practical problems are provided in the recommendations section of this study. It believed that this study will shed light on practices in the local government system in NC.

Index Terms— Democracy, European Charter of Local Self Government, Globalization, Locality in NC.

I. INTRODUCTION

The concept of administration has started to have varying definitions in the globalizing world. Efforts are put at both local and international level to ensure more democratic, more participatory and more transparent administrations. Moreover, we see increasing importance of local administrations in the public administration system. At today's conditions, citizens consider local governments fully as service points. This causes increasing expectations of the public from local administrations. Countries are making various regulations in their own legal systems to bring a more democratic structure to local governments.

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The existence of more transparent, more participatory, more efficient and effective local administrations plays an important role in identifying democratization and development levels of countries. In short, the existence of local governments which are defined as the cradle of democracy and efforts for their efficient administration are highly important to turn cities into more livable places. Under the light of these developments, the European Charter of Local Self Government carries utmost importance to bring a more modern structure to local governments at international level. Fulfillment of the requirements of the Charter by local governments is a major necessity both for state administration and for local people. First, the local administration system in North Cyprus (NC) will be reviewed in this study. Then, the European Charter of Local Self Government will be examined and compliance of the legal framework and practices in NC with the charter will be discussed. Thus, it will be determined if NC has a modern local government approach. There are limited studies in literature which investigate the level of compliance of the local government system in NC with the European Charter of Local Self Government. In this respect, the understanding of locality in NC is utterly important for its national democracy. This study was planned as a qualitative research. Data were mainly collected by document reviews and interviews. In the study, all written and non-written sources, mainly legal documents associated with the theme of the study, were reviewed in detail. Furthermore, opinions of field experts were taken. The study outcome provided that the local government system in NC is largely compliant with the European Charter of Local Self Government. However, the fact that laws of NC comply with the Charter does not mean requirements of the Charter are complied with in practice. Shortly, there are numerous problems with the practice in the local government system in NC. Solutions to the concerned practical problems are provided in the recommendations section of this study. It believed that this study will shed light on practices in the local government system in NC.

II. CYPRUS ADMINISTRATION AND DECENTRALIZATION

Considering the history of Cyprus, we see the local government system of Cyprus was shaped according to the political conjuncture of the country. Cyprus Island was under control of different states in different periods of history. The year 1571 is considered to a milestone for the island. We see this island was under control of the Ottoman Empire at that time. The island was under control of the Turks as from this date. With the changes in the balance of power in the international arena, the island was taken under British control. We see the island was remained under the control of the United Kingdom until 1960. In 1960, Turkish Cypriot community and Greek Cypriot community established the Republic of Cyprus under two equal founders status [1]. The

first legal regulations and rules on municipal practices in Cyprus were created with the document "the main structure of the Republic of Cyprus" in 1959. This document which was arranged as a draft constitution in Zurich was believed to form the foundation of the Constitution of the Republic of Cyprus later [2]. In this period, locality on the island was based on five major cities. Article 173 of the 1960 Constitution of the Republic of Cyprus sets forth that "separate municipalities are established by Turkish people in the five biggest cities of the Republic namely Nicosia, Limassol, Famagusta, Larnaca and Paphos" (the Constitution of the Republic of Cyprus) [3]. According to this article, Turkish voters elect Turkish Municipal Councils and Greek voters elect Greek Municipal Councils. According to article 178 of the Constitution of the Republic of Cyprus, "a special provision is practiced for selection of municipal bodies in other districts by proportional representation of two Communities as much as possible". Articles 173 to 178 of the Constitution detail regulations of local governments. They generally cover regulations about authorities, roles and responsibilities of municipalities, local governments' authorities to taxation and contributions, urban planning and borders of municipalities. In this period, local governments are described to have existence on the island and to have a superior power to the central local administrations in this system. Political problems between two communities in this process damaged the environment of piece on the island. The authority of Turkish people in Cyprus to establish Turkish municipalities granted by the Constitution (Article 173 of the Constitution of the Republic of Cyprus) was tried to be prevented by Greek people in Cyprus and a great effort was put to establish a "united municipalities" system. At this point, it can be observed that Turkish municipal formation in Cyprus had a great importance in struggle of existence of Turkish community in Cyprus from this period [4]. With the intervention of Turkey in 1974, the environment of war was terminated on the island. As from this date, Turkish people started to live on the northern part and Greek people on the southern part of the island. Turkish Cypriot community declared the Turkish Republic of Northern Cyprus (TRNC) in 1983. Although TRNC is a state that has not received international recognition, the Turkish Republic acknowledges TRNC as a formal state. Political problems on the island are considered as the "Cyprus Dispute" at the international arena. Today, Cyprus dispute maintains its existence at the international arena. As a result of all these developments in the island, there is NC which is not recognized at the international level at one side and there is Greek Cypriot community which claims to be the representative of the Republic of Cyprus which has lost its validity. In short, political problems in Cyprus caused communities to establish different administrations. Especially the United Nations put a great effort to ensure a permanent agreement on the island. Following 1974, Turkish people in Cyprus put up a great struggle for existence. With declaration of NC in 1983, Cyprus Turkish community established a new administration system in the north of the island. The NC Constitution was voted and accepted by the referendum on 5 May 1985. The Constitution of the Turkish Republic of Northern Cyprus was put to effect after being published in the Official Gazette as per article 164 of this Constitution along with the results of the

referendum. According to the NC Constitution (article 1) the Turkish Republic of Northern Cyprus is a secular republic based on principles of democracy, social justice and rule of law. Article 4 of the Constitution sets forth that the Republican Parliament holds the legislative prerogative on behalf of the Turkish Republic of Northern Cyprus. Article 5 defines the executive power and responsibilities. Accordingly, the executive power is used by the President of the Republic and the Council of Ministers in accordance with the Constitution and law (NC Constitution) [5]. Although TRNC has not been able to get recognized by the international community, it is affected by developments and changes in the international arena.

III. LOCAL GOVERNMENT SYSTEM IN TRNC

Foundations of a systematic structure in Turkish municipalities in Cyprus were founded with the law numbered 15/1980 put to effect in 1980. The concerned law was revised in 1982 and 1989. The final version of the law is the law numbered 51/1995 which is in effect today [4]. According to article 113 of the Constitution of the Turkish Republic of Northern Cyprus which was accepted with referendum on 5 May 1985 "the institutions and roles of the state administration are executed in accordance with the principles of central administration and local administration". Moreover, article 119 of the TRNC Constitution defines local governments. Accordingly "Local administrations are public legal entities established to fulfill the common local requirements of the people of a region, municipality, village or borough, foundation principles of which are defined by law and decision bodies of which are established with election". Establishment and roles and authorities of local administrations are regulated by law in compliance with the principle of local administration according to the same article. In this respect, provisions of the Constitution also require elections for local government bodies in every four years. As can be understood from the above articles, locality and the principle of local administration in TRNC are assured with the Constitution [5]. It is the Municipalities Law numbered 51/1995 which regulates local governments in NC. The purpose of the law numbered 51/1995 is described in the law. Accordingly "The purpose of this law is to regulate the legal status of the Municipal administration which holds a public entity responsible for development of the district and for fulfilling the common local requirements of the local people in a modern approach and a democratic manner". The law defines Municipality as the "local government body which has a public entity that fulfills common local requirements of the local people and offers services to the district". The law generally covers "establishment, operation, roles, authorities, rights, privileges and immunities of the municipality administration, organs and organizations of municipalities, financing and penalties of municipalities, issues associated with the Union of Municipalities and principles to be applied in relations between the central administration and other local administrations and municipalities" (Municipalities Law numbered 51/1995 article 4) [6]. Another important law concerned with municipalities in NC is the Municipal Personnel Law numbered 65/2007. According to article 4 of this law the law applies to "people who are employed in permanent and continuous duties required by the public

services that municipalities are responsible for offering and who are paid from the budget of the Municipality (wages)" [7]. Shortly, local governments in Northern Cyprus are regulated according to the concerned two main laws and the Constitution. We see that many services have been localized in NC considering the roles, authorities and responsibilities of municipalities with the assurance of the Constitution and the law [8]. Within the general structure, five district governorates are available in the local administration system in NC. These are capital Nicosia, Famagusta, Kyrenia, Morphou and Trikomo districts. There are 28 municipalities in the system. Coordination of the Municipality, the Ministry and district governorates is provided by the Central Governorate [9]. The villages in the country were included in the borders of municipalities in 2008 to bring more effective service to villages [9]. This caused enhancement of the area of responsibility of municipalities. As a result, the problem of efficiency was encountered at certain municipalities. Today, discussions are continuing with regard to how efficient and effective the local governments in the country operate.

IV. THE EUROPEAN CHARTER OF LOCAL SELF GOVERNMENT

The Glossary of Urban Science Terms (1998) defines the concept of local government as "the democratic and autonomous establishment decision bodies of which are directly elected by the public with an aim to meet common requirements of a local community, other than central administration" [10]. When the historical process is reviewed, local governments have an important role in development of democracy [11]. Right after the second world war, many changes occurred on social, cultural, economical and administrative terms in Europe. The effect of all these changes and development was reflected on the establishment of the Council of European Municipalities when Mayors from different areas of Europe came together in Geneva in 1951. The Council adopted the European Charter of Municipal Liberties and wanted to take autonomy of municipalities under assurance of the Constitution in their own county. The Charter lays the foundation of the European Charter of Local Self Government [12]. The European Council was established in 1949 to create awareness about human rights, parliamentary democracy and the state of law in Europe [13]. Activities of the European Council give utmost attention to local government and autonomy of local governments. In this respect, the Council prepared the European Charter of Local Self Government in 1985 and tried to protect local self government of the states in Europe. The concept of autonomy is defined as "to hold efficiency, transparency, responsibility, participation, objectivity, neutrality, equity and public interest superior to individual benefits" [2]. According to Keleş, there are two main factors effective in development of the democratic awareness in cities. These are people feeling a sense of belonging to the city and actually having a word on the city. The European Charter of Local Self Government (1985) addresses the themes of city, democracy and freedom in combination [14]. The member states of the European Council have the right to withdraw from certain articles of the Charter. In this respect, the charter is comprised of expectations from local governments, responsibilities of

states and practical topics. Considering the Charter in general, it can be seen that administrative and financial autonomy in local governments is highly important within the scope of the Charter. Moreover, the principle of public participation in administration and decentralization in service are listed among the requirements of the Charter. Briefly, the Charter ensures that local governments have their autonomous structure assured by the Constitution and local decision bodies take part in administration with democratic elections. The public should be involved in decision processes of local governments, the state should support local governments but the concerned support should be provided without damaging the principle of decentralization. In short, the Charter tries to prevent the inspection (supervision) relation between the central and local government damaging autonomous structures of local administrations.

V. DECENTRALIZATION IN NORTHERN CYPRUS WITHIN THE SCOPE OF THE EUROPEAN CHARTER OF LOCAL SELF GOVERNMENT

Considering the provisions in the European Charter of Local Self Government, it can be observed that the provisions of the NC Constitution about local governments or the scope and contents of the Municipalities Law numbered 51/1995 are compliance with the requirements of the Charter. As described above, article 119 of the NC Constitution assures autonomous structures of local governments. Considering the Municipalities law, we see that the law regulates the legal status of the municipal administration. Accordingly, local governments are administered with a democratic administration model (article 3). The Municipal Council functions as the general decision body of the Municipality. The Municipal Council is made up of members elected by the public for 4 years according to the principles of the Election and Referendum Law (article 37). According to this law, Mayor is the executive body and the representative of the municipal entity. Mayor is the president of the Municipal Council. Mayor holds the decisive vote in case of equal votes. Mayor is elected in accordance with the applicable Election and Referendum Law (article 52 and 53). As also described in the European Charter of Local Self Government, decision bodies of local governments are established with election. The Law also requires the Central Administration to take opinion of the Municipal Council in topics related with municipalities. For example, establishing, removing, naming and combining quarters within the borders of a Municipality can only be realized upon taking opinions of the Municipal Council and local institutions (article 12). Again within the same scope, changing the name of a district depends on the decision of the Municipal Council (article 13). Another example is changing the borders of a district. The law allows changing the borders of a district only upon taking opinions of the Municipal Council and other related local administrations (article 14). As required by the European Charter of Local Self Government, the central administration cannot make any executions without consulting to the authorized organs in the municipality in topics related with municipalities in NC. Considering the relationship between central administrations and local administrations in the country, it can be seen that central administrations have certain responsibilities before

municipalities about services under the responsibility of municipalities. They include providing resources, contributing necessary information and services, ensuring cooperation, coordination and solidarity between central government units and municipalities within borders of municipalities, identifying and monitoring service standards and taking necessary measures for their implementation (article 129). The article related with the support for local administrations from central administrations as described by the European Charter of Local Self Government partially takes place in the NC legislation. The financial autonomy issue which is considered one of the most important issues in the European Charter of Local Self Government is defined under the heading of income of municipalities in the NC legislation. Accordingly, they include income provided to municipalities under tax, fees, duties, charges and similar titles with this Law and other laws, shares from state revenues, net income of organizations, enterprises and institutions with working capital of municipalities engaged in public services, income in return of initiatives and efforts in legal areas, conditional or unconditional subsidies of the state and other public organizations, all conditional and unconditional donations, credits and borrowings, income from using movable and immovable assets of municipalities in sales, rents and other activities, commodity tax from immovable assets within the borders of the municipality, monetary and tax penalties. Shortly, the NC Constitution and the Municipalities Law have taken autonomy in NC under legal protection today. However, the fact that the state has not been recognized internationally and has a smaller population than other states gives more importance to the concept of decentralization and brings certain problems. As described above, the NC Constitution assures autonomous structures of local governments in NC. Although it cannot be claimed that the Municipalities Law in NC is fully compliant with the European Charter of Local Self Government, the laws of NC fulfill compliance with the Charter at main points.

VI. CONCLUSIONS AND ASSESSMENTS

In conclusion, it can be seen that the local system in NC complies with the criteria defined by the European Council. Although the country's own socio-economic, cultural and political structure affect its administrative system, modern municipal norms are available in the legislation. Political problems on the island are also effective on local administrations. The problem in the country arises from failure to put the law to practice exactly. The same applies for local governments. Local Governments have serious problems in application of the legislation. Both central administrators and local administrators are responsible for identifying and resolving such practical problems. Politicians need to ensure a planned progress without worrying for elections in implementation of local decisions. Otherwise law will remain as a text and will have challenges in realization. This will cause damage to urban life and the concept of decentralization in the country. As described above, "decentralization" on Cyprus Island has varied according to political changes. Local governments need to undertake serious responsibilities for resolution of political problems on the island. Therefore, more democratic, more transparent and more participatory local governments will contribute to both

the public interest and the national democracy. Furthermore, compliance of the NC administration in the northern part of the island with the European Charter of Local Self Government will contribute to laying the foundations at a local level of a permanent agreement to be reached in the island in the future.

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