

The Term “Local Authority” in the European Charter of Local-Self Government: Different Meanings Lead to Different Implementation

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ABSTRACT: The article takes a critical look at the meaning of the term “local authority” which is one of the main terms of the European Charter of Local-Self Government and considers the question: “can the meaning of the term “local authority” change the essence of local democracy in Europe?”.

KEYWORDS: *Law; Public law; Local Autonomy; Local Authority; Local Self-Government; Local Government; European Charter of Local Self-Government*

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1. INTRODUCTION

This article is prompted by three considerations:

1) A number of European Countries which are member states of the Council of Europe have signed the European Charter of Local Self-Government¹ and have given different meanings to the term “local authority”.

2) The Charter gave all member states of the Council of Europe which have signed this document the possibility to autonomously interpret and implement meanings, principles and terms.

3) The Charter in the author’s opinion has inconsistencies in the text with the terms.²

Thus, this article is about correcting the meaning of the Charter’s term “local authority”. The paper includes some questions about the problems of the different terms’ translation and of understanding the principles and implementation of the Charter in domestic legislation of the member states of the Council of Europe.

2. THE CHARTER’S TERM

Local democracy is the main part of any democratic regime in the World.³ The main document of the local democracy in Europe is the European Charter of Local Self-Government (hereinafter “the Charter”), which includes basic principles of local self-government.

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¹ Council of Europe, European Charter of Local Self-Government, Oct. 15, 1985, E.T.S. No. 122. Was entered into force on September 01, 1988.

² M. Pittsyk et al., *Pryntsypy Evropeys' koyi khartii mistsevoho samovryaduvannya* [Principles of the European Charter of Local Self-Government] 136 (2000).

³ Sergiy Panasyuk, *Aktualni problemy rozuminnya, vyznannya ta realizatsii pryntsypu mistsevoho samovryaduvannya v zakonodavstvi Ukrainy* [Actual problems of understanding, recognition and implementation of the principle of local self-government in the legislation of Ukraine], *Visnyk tsentralnoi vyborchoi komisii* [Bull. of the Cent. Election Comm’n of Ukr.], Dec. 2 2013, at 70, 73.

The Charter⁴ was opened for signature on 15 October 1985, but scholars from different European Countries are still discussing about its essence.⁵

One of such discussions concerns the meaning of the Charter's term "local authority".

It is one of the main terms of the Charter and its correct understanding is very important for the correct implementation of the Charter.

Member states of the Council of Europe have interpreted the term "local authority" differently. Some of its meanings include: "local communities", "local councils", "local government bodies", "local group of people" and others.⁶

To understand the reasons and arguments of why so many versions of the term "local authority" exist, we need to understand a few key details.

Firstly, we should analyze the text of the Charter. Then, we should proceed to a reconstruction of the historical documents, the drafting procedure, and the adoption of the Charter. Finally, we should examine the Member States' information about the adoption of the Charter and their domestic legislation.

⁴ The European Charter of Local Self-Government was drawn up within the Council of Europe by a committee of governmental experts under the authority of the Steering Committee for Regional and Municipal Matters on the basis of a draft proposed by the Standing Conference of Local and Regional Authorities of Europe. 47 countries (member states of the Council of Europe) have signed the Charter.

⁵ See Pittsyk et al, *supra* note 2.

Nataliya Kaminskaya, *Mistseve samovyryaduvanniya: teoretyko-istorychnyy i porivniialno-pravovyy analiz* [Local Self-Government: Theoretical-Historical and Comparative-Legal Analysis: Teaching Manual]229 (2010).

Vyacheslav Maklakov, *Evropeyskaya Khartiya Mestnoho Samoupravleniya* [The European Charter of Local Self-Government], in *Reformy mestnoho upravleniya v stranakh Zapadnoi Evropy* [Local Government Reforms in Western European Countries] 111-124 (1993).

A. Zamotaev, *Mestnoe samoupravleniye kak element hosudarstvennoho ustroystva* [Local self-government as an element of the state system], *Rossiyskayayustitsiya* [Russian Just.], no. 6, 1996, at 17.

Oleg Tarasov, Yuriy Dmitriev, *Evropeyskaya khartiya mestnoho samoupravleniya i rossiyskoe zakonodatel'stvo* [European Charter of Local Self-Government and Russian Legislation], *Pravo y zhyzn* [Right and life], no. 12, 1997, at 162-172.

⁶ Comm. of Ministers, *Explanatory Report to the European Charter of Local Self-Government*, E.T.S. No. 122 (1985).

Eur. Conf of Local Authorities., *Resolution 64 (1968) on a Declaration of Principles of local autonomy*, 7th Sess., (1968).

Conf. of Local and Regional Authorities of Europe, *Resolution 126 (1981) on the principles of local self government*, 16th Sess., (1981).

3. THE CHARTER'S PROVISIONS

The main part of any legal document is the preamble. In the preamble, we can find the main principles of the document and the essence of the terms, as laid down by its authors.

In paragraph 4 of the Charter's Preamble is noted: "Considering that the local authorities are one of the main foundations of any democratic regime".

As we know, the terms "democracy" and "democratic regime", first of all mean rule of the people.⁷ In this case, it would mean – rule of the people who live in a local area.

Paragraph 5 confirms the Author's point of view and states that: "Considering that the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe".

So, citizens have basic and inalienable right to participate in the local self-government.

Paragraph 7 of the Preamble of the Charter denotes that: "the existence of local authorities with real responsibilities can provide an administration which is both effective and close to the citizen".

It is known the term "citizen" has at least two meanings: "a person who is a member of a particular country and who has rights because of being born there or because of being given rights" and "a person who lives in a particular town or city".⁸

Also, we should notice that the term "citizens" should be analyzed in two aspects: "as a group of people who have electoral rights" and "as a group of people without such rights".

Next question is: if the term "local authority" is not citizens, does it mean that local authority is a local body or local council?

⁷ DEMOCRACY AND THE RULE OF LAW (José María Maravall & Adam Przeworski eds., 2003).

⁸ THE CAMBRIDGE DICTIONARY: <https://dictionary.cambridge.org/dictionary/english/citizen>.

The Preamble of the Charter (in its paragraph 9) says that: “this entails the existence of local authorities endowed with democratically constituted decision-making bodies and possessing a wide degree of autonomy with regard to their responsibilities, the ways and means by which those responsibilities are exercised and the resources required for their fulfillment”.

If the local authority can have decision-making bodies which are the councils, the term “local authority” can’t mean the council.

Maybe, in the Charter (in paragraph 7 of the Preamble) it is written about citizens like people who don’t have electoral rights in that local area and just live there.

The author thinks that the term “local authority” can mean a group of people who live in local area and have electoral rights. It is very important because not every person who lives in a local area can elect or be elected. Why are electoral rights so important? Electoral rights give people real possibilities to influence local policies and local affairs.

However, as we know from paragraph 5 of the Charter’s Preamble, citizens have rights.

Next provisions might be helpful in finding the solution.

Article 3 (1) of the Charter declares that: “the local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population”.

The local authority realizes its right and its ability in the interests of the local population.

First, as we know from paragraph 5 of the Charter’s Preamble, citizens have the right to participate in the conduct of public affairs. So, local self-government should be the citizens’ right.

We can also say that the local authority is not the local population.

So, what does the term “local population” mean?

The local population is the number of people who live in a local territory (area).

The author thinks that the term “local population” means the group of people who live in local area and don’t have electoral rights.

Article 3(2) denotes that: “the right of local authorities shall be exercised by councils or assemblies”.

As we can see, the basic right of local authorities on local self-government can be realized by elected bodies. This provision, as we thought, proves that the local authority can’t be neither councils nor assemblies.

Article 4 (3) of the Charter denotes that: “Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen”.

If the local authority is neither local bodies nor citizens, what is a local authority?

Article 4 (4) of the Charter considers another authority the central authority, which can’t be group of the people.

Article 5 of the Charter denotes that: “Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute”.

Local authorities have boundaries and should consult with local communities. This provision is not about local authorities like the group of people (local communities).

Article 10 of the Charter identifies the possibility for local authorities to co-operate and establish associations.

As we can see, the Charter’s provisions can’t give a clear answer about the meaning of the term “local authority”.

The author thinks that if we want to understand the essence of the meanings or terms of any legal document we should analyze the historical processes and documents about the adopting procedure of the text.

4. THE HISTORICAL PROCESSES AND THE DOCUMENTS

There are many historical documents which can help us understand the essence of the Charter and the meaning of its terms.

Before we start to analyze historical documents, we should remember that most of the documents of the Council of Europe were done in English and French (both texts are equally authentic), and that in the Charter the term “local authorities” has French synonym “*collectivités locales*”.

First of all, we should analyze two historical documents which in the author’s opinion can help us understand the essence of the term “local authority”.

These documents were mentioned in the Explanatory Report⁹ to the Charter: Resolution 64 (1968)¹⁰ of the European Conference of Local Authorities and Resolution 126 (1981)¹¹ of the Conference of Local and Regional Authorities of Europe.

In Resolution 64 (1968) the Declaration of Principles on Local Autonomy was adopted which was the historical prototype of the Charter.¹² The principles of this Declaration proclaimed the rights of local communities:

The Conference,

Convinced that one of the essential guarantees of the rights and freedoms of man lies in a guarantee of the rights and freedoms of local communities;

⁹ COMM. OF MINISTERS, *Explanatory Report to the European Charter of Local Self-Government*, E.T.S. No. 122 (1985).

¹⁰ EUR. CONF OF LOCAL AUTHORITIES., *Resolution 64 (1968) on a Declaration of Principles of local autonomy*, 7th Sess., (1968).

¹¹ CONF. OF LOCAL AND REGIONAL AUTHORITIES OF EUROPE, *Resolution 126 (1981) on the principles of local self government*, 16th Sess., (1981).

¹² These documents have same principles and Ideas.

Whereas the extension of the activities and prerogatives of individual states and the European Communities or international institutions increase the necessity for such a guarantee;

Whereas an organised Europe must comprise a number of common rules legally ensuring local autonomy in the same way as the principal human rights are already guaranteed,

Adopts the following Declaration:.

In Resolution 64 (1968) we can also see that the term “local communities” was used which has French synonym “*collectivités locales*”. However, in the Charter the French term “*collectivités locales*” has synonym “local authority”.

Also, paragraph 1 of the Declaration of Principles on Local Autonomy denotes: “the autonomy of a local community is the right of that community to manage under its own responsibility its own affairs with a freely elected Assembly”.

Considering that the Declaration of Principles on Local Autonomy is a prototype of the Charter and that the provision under paragraph 1 is so similar to the provision under Article 3 of the Charter, we can tell that the term “local community” is historical synonym of the term “local authority”.

However, in 1981, Resolution 126 was accepted which uses the terms “local authorities” (which has the French translation “*collectivités locales*”) and “local community” (which has the French translation “*communauté locale*”): “Whereas, in the conditions of the modern state, the genuine autonomy of local authorities is an indispensable element of democratic government and essential to safeguarding the rights and liberties of the citizen in his local community”.

As we can see, the different English terms (the term “local communities” in Resolution 64 (1968) and the term “local authorities” in Resolution 126 (1981)) have one and only French translation “*collectivités locales*”.

Also, the provisions under Resolution 126 are linked to the Recommendation 615¹³ which offered a new edition (version) of the Declaration of Principles on Local Autonomy and has the same provision as Resolution 64: “The autonomy of the local communities is the right of those communities to manage under their own responsibility their own affairs through freely elected assemblies”.

The Declaration of Principles on Local Autonomy which was in Recommendation 615 uses the term “local community” which is translated into French with “*collectivités locales*”.

Recommendation 615 is linked to another document:

Recalling its Resolution 410 (1969) approving the principles contained in Resolution 64 (1968) adopted by the European Conference of Local Authorities, and instructing the Committee on Regional Planning and Local Authorities to prepare a joint text meeting the considerations both of the Consultative Assembly and of the European Conference of Local Authorities.

Resolution 410¹⁴ states: “Recalling once again that the political structures of European civilisation and its fundamental liberties have their deepest and oldest roots in the autonomy of local communities”.

It uses the term “local communities” (autonomy of local communities) with new French synonym “*autonomies locales*”.

This is a very interesting fact, because Resolution 410 (1969) is the middle document between Resolution 64 (1968) and Recommendation 615 (1970), but uses a French word to express the term “local communities”.

To understand what happened we searched for later documents¹⁵ and found an interesting Report¹⁶ of the Mr. Ziyad Ebuzziya¹⁷.

¹³ EUR. PARL. ASS., *Declaration of Principles on Local Autonomy*, 19th Sess., Recc. 615 (1970).

¹⁴ EUR. PARL. ASS., *Declaration of Principles on Local Autonomy*, 7th Sess., R Doc. No. 2560 (1969).

¹⁵ Resolution 20, available at

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta52/ERES20.html>

Motion for a resolution, available at

<http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=307&Language=EN>

Introducing Council of European Municipalities and Regions, available at http://www.ccre.org/en/article/3_2

Report of the Committee on Rules of Procedure, Immunities and Institutional Affairs, available at <http://assembly.coe.int/ASP/Doc/XrefViewPDF.asp?FileID=411&Language=EN>

Report of the Committee on Regional Planning and Local Authorities, available at

We found that there was a problem with the terms in Report's provision all the time.

First, we have analyzed the title of the Report: "Inquiry into the national or international bodies connected with local government and examination of the best means whereby these bodies and the local authorities themselves may help in the propagation of the European idea".

After analyzing the French version we saw that the term "local government" is translated in French with "*collectivités locales*" and the term "local authorities" with "*pouvoirs locaux*".

But the languages discrepancies were not just in these examples.

In paragraph 1 of the Explanatory Memorandum of the Report the terms "local authorities" and "municipal units" (in its English version)¹⁸ have the same French synonym "*collectivités locales*": "L'Europe en construction ne peut trouver ses fondements effectifs que dans les éléments sains qu'elle renferme. Aucun effort profond de renouvellement n'aura lieu qui n'utilisera l'une, de ces cellules si vivantes que constitue toujours en Europe la collectivité locale et, la plus vivante des *collectivités locales*, la commune" (in French version).

In paragraph 2 of the Explanatory Memorandum, we can see that the municipal unit and Commune are local authorities, and that the mayors, deputy mayors, municipal and provincial councillors are local representatives, not local authority.

Also, paragraph 3 (of the Explanatory Memorandum) talks about the powerful support of the local authorities and uses the French equivalent "*pouvoirs locaux*".

If we are talking about the meaning of the terms then we should analyze translations and dictionary meanings.

<http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=532&lang=en>.

¹⁶ EUR. PARL. ASS., *Inquiry into the national or international bodies connected with local government and examination of the best means whereby these bodies and the local authorities themselves may help in the propagation of the European idea*, 5th Sess., DOC. No. 173 (1953).

¹⁷ The member of the Committee on Regional Planning and Local Authorities of the Parliamentary Assembly of the Council of Europe.

¹⁸ The new Europe can only be based effectively on the soundest of its existing elements. There can be no far-reaching renovation without recourse to that most vital and consistent element in the body social: the local authority, and that most vital of local authorities: the municipal unit or Commune.

5. THE DICTIONARY AND TRANSLATING

The Cambridge Dictionary¹⁹ says:

1) Self-government – the control of a country or an area by the people living there, or the control of an organization by a group of people independent of central or local government.

2) Local government – the control and organization of towns and small areas, and the services they provide, by people who are elected by those living in the area.

3) Local authority – the group of people who govern an area, especially a city.

We can draw the conclusion that the term “local authority” probably means the group of people. Is it a group of people who live in a local area? Should they be citizens? Can this group of people take part in local elections?

Also, if we try to translate the term “local authority” into French it will be “*autorité locale*”.

If we try to translate the term “local community” into French it will be “*communauté locale*”.

But if we try to translate French term “*collectivité locale*” into English it will be both “local community” and “local authority”.

According to the Oxford Dictionary,²⁰ local authority means an administrative body in local government.

There is no correct answer. The reason for that lies in the different meanings of the terms and the different ways member States of the Council of Europe have implemented the Charter.

¹⁹ THE CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/>.

²⁰ THE OXFORD DICTIONARY, https://en.oxforddictionaries.com/definition/local_authority.

6. THE PROVISIONS OF THE EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES

The author thinks that to understand the term “local authority” we should analyze the provisions of the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities²¹ (hereinafter the Convention), because the Convention promotes European co-operation between local authorities in a number of specifically local fields recognised as such in national law.

Article 2 (2) denotes:

For the purpose of this Convention, the expression “territorial communities or authorities” shall mean communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each State. However, each Contracting Party may, at the time of signing this Convention or by subsequent notification to the Secretary General of the Council of Europe, name the communities, authorities or bodies, subjects and forms to which it intends to confine the scope of the Convention or which it intends to exclude from its scope.

The Explanatory Report to the Convention denotes: “This paragraph specifies the Convention’s scope regarding, first of all, the bodies concerned by transfrontier co-operation at local and regional level”,²² has an important role in understanding the provisions of the Convention. Here, the criterion of the Convention’s applicability is the concept of regional or local function. “Territorial communities or authorities” was chosen as a term for covering the various potential cases without having too close a connection with the existing law of any one member State²³.

The term "territorial" has a geographical connotation, denoting powers covering a smaller area than those of the State. It should not be interpreted as referring only to "territorial communities", a precise concept in the law of

²¹ Council of Europe, European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, May 21, 1980, E.T.S. No. 106.

²² COMM. OF MINISTERS., *Explanatory Report to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities*, E.T.S. No. 106 (1980).

²³ Article 2 of the Convention.

some member States which is too narrow for the Convention's purposes. It is intended to embrace the diversity of systems that characterize the administrative organisations at both the local and regional level in the States concerned.

However, the general definition adopted for the Convention is subject to certain limits:

Paragraph 2 of Article 2 also provides that "a State may define in so far as it is concerned, either positively (by drawing up a list) or negatively (by excluding certain bodies or authorities from co-operation), the substance of the concept of territorial authority or community. It is thus always possible for a State to specify, for example, which of its regions fall within the Convention's scope and which ones are excluded there from".

As we can see, the Convention gives large possibilities for member States of the Council of Europe to give different meanings to the terms "territorial communities" or "territorial authorities".

Also, the terms "territorial communities" or "territorial authorities" and "local authority", in the author's opinion, are the same.

Such opinion is proved by Recommendation 470 (1966)²⁴ which includes Draft Convention on European co-operation between local authorities and has provision: "Considering that co-operation between local authorities of different European countries is desirable and has indeed become a necessity in certain frontier zones".

The above provisions, in the author's opinion, give us some understanding that in different States and different legislations, including differences in language, we could use the terms in different ways and with different understandings.

We will now analyze the legislation of the member States of the Council of Europe and the meanings which these States give to the term "local authority".

²⁴ EUR. PARL. ASS., *Draft Convention on European co-operation between local authorities*, 15th Sess., Doc. No. 2109 (1966).

7. INFORMATION ABOUT RESERVATIONS AND DECLARATIONS AND DOMESTIC LEGISLATION OF MEMBER STATES OF THE COUNCIL OF EUROPE

Article 16 (1) of the Charter declares that: “Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Charter shall apply”.

If we analyze the information about the reservations and declarations²⁵ for the Charter from member States of the Council of Europe and if we analyze the implementation processes and domestic legislation of the different countries, we will discover many interesting details. In the author’s opinion, countries have different understanding of the terms and principles of the Charter²⁶.

We will now analyze the information about the reservations, declarations and domestic legislation of different member States of the Council of Europe.

Ukraine ratified the Charter without any reservation. There is no information about declarations, denunciations, derogations from Ukraine on the official website of the Council of Europe.

The Ukrainian Parliament ratified the Charter in 1997.

However, Ukraine has a problem with the translation of the term “local authority” and its meaning in domestic legislation.

²⁵ Council of Europe, European Charter of Local Self-Government, Oct. 15, 1985, E.T.S. No. 122.

²⁶ Sergiy Panasyuk, Aktual’ni problemy tлумachennya terminu «implementatsiya» v konteksti yakisnoho vprovadzhennya pryntsyviv Evropejs’koyi khartiyi mistsevoho samovryaduvannya v zakonodavstvo Ukrayiny [Actual Problems of Understanding of the term “Implementation” in the context of correct realization of the principles of the European Charter of Local Self-Government in the Ukrainian Legislation], *Naukovyi visnyk Akademii munitsypal’noho upravlinnya* [2 Vol. J. Acad. Mun. Mgmt], 192, 192–198 (2012). Sergiy Panasyuk, Zakhyst terytorial’nykh kordoniv mistsevykh spivtovarystv: realii ta perspektyvy implementatsii pryntsyvu Evropeyskoyi khartii mistsevoho samovryaduvannya v zakonodavstvo Ukrayiny [Protection of territorial boundaries of local communities: realities and prospects of implementation of the principle of the European Charter of local self-government in the legislation of Ukraine], *Derzhava i pravo: Zbirnyk naukovykh prats’. yurydychni i politychni nauky*, [St. and L.: Collection Sci. Works. Legal and Pol. Sci], no. 62, 2013, at 459–466.

In the official Ukrainian translation²⁷ of the Charter the term “local authority” means “organs of local self-government” (local self-government bodies).

However, if we analyze the Act of Local Self-Government in Ukraine²⁸, we will not find what “organs of local self-government” (local self-government bodies) means.

The term “local authority” does not have detailing in the Ukrainian legislation.

On the other hand, in the Act of Local Self-Government in Ukraine²⁹, for example, we can find that local councils are representative organs of local self-government (local self-government bodies). This is confirmed in Article 140 of The Constitution of Ukraine³⁰.

This brings us to a question: does the term ‘local authority’ mean the organ of local self-government (body of local self-government) or local council?

The answer is neither.

According to Article 2 of the Act of Local Self-Government in Ukraine and Article 140 of The Constitution of Ukraine the local self-government is the right of the territorial community (citizens of local area).

If we compare Article 3(1) of the Charter with Article 140 (1) of The Constitution of Ukraine, we can draw the conclusion that local self-government relates to the right and the ability of local authorities (which are called in Ukraine “territorial communities”).

Furthermore, according to Article 140 of The Constitution of Ukraine the territorial community creates the organs of local self-government (local self-government body). Such “organs of local self-government” were translated into “local authority” in the Ukrainian text of the Charter.

²⁷ Yevropeys'ka khartiya mistsevoho samovryaduvannya [European Charter of Local Self-Government].

²⁸ Local Self-Government in Ukraine, 1997, No. 280/97-BP, Acts of Parliament, 1997 (Ukraine).

²⁹ *Id.*

³⁰ CONSTITUTION OF UKRAINE, 1996, No. 254K/96-BP, Acts of Parliament, 1996 (Ukraine).

The problems with translating the term “local authority” were denoted in the Report on Compliance of the Ukrainian Legislation with the Principles of the European Charter for Local Self-Government³¹:

Comparison of the various linguistic versions of the Charter may create some difficulties for the interpretation of the Charter. For example, where the English version refers to “local authorities”, the French version refers to “*collectivités locales*”; in the French legal language, “authority” is usually linked with administration, rather than with local government (with its political meaning). Where the English version refers to “powers and responsibilities”, the French version uses the word “competence”. To describe the matter of the activity of local government, the English law makes use of the words “function”, “powers” and “duties”. Local self-government, as the basic concept of the Charter is translated in the French version as “*autonomie locale*”, whereas French law considers this expression as equivalent to the constitutional concept of “*libre administration des collectivités locales*”, currently used in the decisions of the Constitutional Council. In French legislation, there is no difficulty with the expression “territorial community”; it is reflected in the Charter by the expression “collectivité locale”, as the subject of the self-government rights. This is even more so in Sweden, where the Constitution states that the citizens exercise their sovereignty rights also at the municipal level when they form the local government bodies (chapter 1, article 1). On the contrary, in English law, the councils, not the community, are legal subjects of self-government rights, because they are conferred upon them by parliament. A similar position, although with differences, is followed in Russia and in Ukraine, where not only the councils, but also all local government bodies, including the administration (in the Russian law of 2003) are legal subjects.

³¹ DIRECTORATE GENERAL OF DEMOCRACY AND POLITICAL AFFAIRS, *Report on Compliance of the Ukrainian Legislation with the Principles of the European Charter for Local Self-Government*, DPA/PAD 1/2010 (July 30, 2010) available at http://www.slg-coe.org.ua/wp-content/uploads/2012/11/CoE-Report-on-Compliance-of-the-Ukrainian-Legislation-with-the-Principles-of-the-European-Charter-for-Local-Self-Government_2010.pdf

The other example is Montenegro. Article 1 of the Law on Local Self-Government of the Republic of Montenegro³² states that: “Local self-government includes the right of citizens and local self-government bodies to regulate and administrate, within the limits of the law, certain public and other affairs based on their own responsibility and in the interest of the local population”.

Then, the term “local authority” in Montenegro means both “citizens” and “local self-government bodies”.

If we analyze the information about reservations and declarations for the Charter of the French Republic we will discover some interesting details: “The French Republic considers that the provisions of Article 3, paragraph 2, must be interpreted as giving to the States the possibility to make the executive organ answerable to the deliberative organ of a territorial authority”.

The Constitution of the French Republic distinguishes three subjects “executive organ”, “deliberative organ” and “territorial authority”.

Article 72 (1) of the Constitution of the French Republic says that: “The territorial communities of the Republic shall be the Communes, the Departments, the Regions, the Special-Status communities and the Overseas Territorial communities”.

The French version of the term “territorial communities” is “collectivités territoriales”.

Also, Article 72 (2) of the Constitution of the French Republic affirms: “In the conditions provided for by statute, these communities shall be self-governing through elected councils and shall have power to make regulations for matters coming within their jurisdiction”.

Then, we can draw the conclusion that territorial communities are not elected councils.

³² Law on local self-government, Official Gazette of Montenegro, No. 42/2003, 28/2004, 75/2005, 13/2006 and Official Gazette of Montenegro, No. 88/2009 and 3/2010.

If we translate the terms “collectivités territoriales” and “*collectivités locales*” we will have one translation “local authorities”.

If we analyze the information about reservations and declarations for the Charter of Ireland³³, we can see that Ireland intends to confine the scope of the Charter to the following categories of authorities: county councils, city councils, town councils. So, in Ireland the term “local authority” means councils.

It is proven by Local Government Act (2001)³⁴ which denotes that “local authority” means: a county council, a city council, a town council.

The United Kingdom in its information about reservations and declarations³⁵ for the Charter denotes that it intends to confine the scope of the Charter to the following categories of authority:

For England – county councils, district councils, London borough councils and the Council of the Isles of Scilly.

For Wales – all councils were constituted under Section 2 of the Local Government (Wales) Act in 1994.

For Scotland – all councils were constituted under Section 2 of the Local Government (Scotland) Act in 1994.

The term “local authority” in the United Kingdom means also a council.

In Switzerland, as we can see from its information about reservations and declarations for the Charter, the term “local authority” means local bodies: “the Charter shall apply in Switzerland to the political communes (“Einwohnergemeinde”/comuni politici)”.

³³ Reservations and Declarations for Treaty No.122 – European Charter of Local Self-Government, available at https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/122/declarations?p_auth=VD1z2dZK.

³⁴ Local Government Act of Ireland, No. 37, (2001).

³⁵ Reservations and Declarations for Treaty No.122, *supra* note 34. Reservations and Declarations for Treaty No.122, *supra* note 34.

8. CONCLUSIONS

There are many questions about the meanings of the terms and about the implementation of the Charter.

The reasons are attributed to the countries' different cultures, different histories and different meanings of the local democracies³⁶.

Then, there is no correct answer about the meaning of the term "local authority" and the main question is: should there be one?

One of the aims of the Charter was to draft a single document which included principles of local democracy.

The Charter tried to consolidate all European countries and to create European standards of local self-government. An effort that ended in a success.

However, the Charter is not an order, it just tries to connect different countries and to spread the "European idea" of good local self-government.

There is no ideal version of local democracy or ideal definition of the term "local authority".

Maybe now experts should limit themselves to making corrections about inconsistencies or contradictions with one aim in mind: "to create the best local democracy system and to provide the best quality of life in the local area". It is not about the meaning of some term or its translation, it is about good local government across Europe and all over the world.

³⁶ The member states of the Council of Europe, which have signed the Charter.