

# European Charter of Local Self-Government and its Implementation in Azerbaijan: Assessing Legal Compliance and Institutional Adaptation

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**Abstract.** The European Charter of Local Self-Government (ECLSG) is a cornerstone for local governance, emphasising principles such as autonomy, financial independence, and democratic processes. This article assessed the implementation of the ECLSG in Azerbaijan, focusing on legal compliance and institutional adaptation. This study aimed to assess Azerbaijan's level of compliance with the principles established in the ECLSG and to evaluate the extent to which its institutions have been modified to align with the charter's benchmarks. A qualitative research methodology relying on document analysis, legal reviews, and expert interviews was employed in the study. The analysis included a review of pertinent legal documents, reports, and scholarly articles to evaluate the degree of legal adherence and institutional flexibility in Azerbaijan. The findings indicated Azerbaijan has shown advancements in implementing the ECLSG, especially in decentralisation and forming local self-governing entities. However, there are still obstacles to guaranteeing complete legal adherence, including issues related to the autonomy of local governments, boundary protection, and financial resources. The European Charter of Local Self-Government is vital in promoting local democracy and self-government in Europe. It emphasises the autonomy of local authorities and democratic processes at the local level. In Azerbaijan, implementing the ECLSG has led to significant institutional changes, including establishing municipal councils and executive bodies. However, challenges remain, such as limited autonomy, inadequate funding, and shortcomings in the electoral process. Addressing these challenges is crucial for Azerbaijan to comply with the charter and improve local governance fully. The findings suggest that while Azerbaijan has taken steps to align its legal framework with the ECLSG, further reforms are needed to enhance local self-government. Addressing challenges such as central government interference, boundary adjustments, and budget limitations will be essential in achieving complete adherence to the charter and strengthening local governance in Azerbaijan.

**Keywords:** European Charter of Local Self-Government; local autonomy; Azerbaijan; institutional adaptation; local governance.

## INTRODUCTION

The European Charter of Local Self-Government is the crucial instrument in shaping the governance landscape in Europe, emphasising the importance of decentralised decision-making and local autonomy. As countries strive to align with

the principles outlined in this charter, assessing compliance with legislation and institutional adaptation in individual countries becomes imperative. This article focused on Azerbaijan, exploring its adherence to the European Charter of Local Self-Government and delving into the complex

dynamics of legal frameworks and institutional structures. In a broader context, this research centres on implementing the European Charter of Local Self-Government in Azerbaijan. This charter's key components are governance decentralisation, local autonomy, and the expansion of local authority powers. Analysing Azerbaijan's commitment to these principles plays a crucial role in the country's advancement towards democracy, effectiveness in governance, and safeguarding local interests. The interaction between the overarching issue and crucial scientific or practical tasks underscored the need to analyse Azerbaijan's local self-government approach critically. This study delved deeper than just analysing legislative frameworks, exploring the practical implications and hurdles in translating these principles into real-world outcomes. Using recent research and publications is essential for understanding the current discussion on local self-government in Azerbaijan [14]. Previous research provided a foundation for understanding issues, successes, and areas that require further investigation. By exploring these scholarly contributions, this article aimed to identify the gaps in existing knowledge, nuances in the implementation process, and differing perspectives that complicate the issue [13]. Despite the progress in understanding the implementation of the European Charter of Local Self-Government [7], some questions remain unanswered, particularly regarding Azerbaijan's unique socio-political context [5]. The unresolved issues may include the effectiveness of legislative provisions, challenges faced by local authorities, and the adaptability of institutions to decentralisation principles.

The main goal of this research was a comprehensive assessment of legal compliance and institutional adaptation in Azerbaijan regarding the European Charter of Local Self-Government. This study aimed to shed light on implementation nuances, identify potential areas for improvement, and contribute to the broader discourse on local governance within European frameworks.

## RESULTS AND DISCUSSION

The European Charter of Local Self-Government (ECLSG) is a treaty adopted by the Council of Europe in 1985 and entered into force in 1988 [1]. It aims to protect the rights of local authorities and promote local self-government as a fundamental aspect of democracy. The charter sets out several principles and guidelines for the organi-

sation and functioning of local government. One of the basic principles of the charter is the concept of local self-government, which emphasises the right of local authorities to manage their affairs and exercise their powers. This encompasses the freedom to create their systems and governance procedures and the autonomy to oversee their financial matters and assets [17]. The charter also emphasises the principle of subsidiarity, which states that decisions should be taken at the most local level possible, closest to the citizens affected by those decisions [2]. This principle is intended to ensure that decisions are made as close to the people as possible and that local authorities have the autonomy to respond to the needs and priorities of their communities.

Another critical aspect of the charter is the principle of local democracy, which emphasises the importance of democratic processes and procedures at the regional level [3]. This includes the right of the citizens to participate in local decision-making processes and the importance of transparency and accountability in local government [10]. The charter also sets out several specific rights and responsibilities for local authorities [18], including the right to be consulted on matters that affect them, the right to participate in the formulation of policies that affect them, as well as the right to have access to sufficient resources that allow them to fulfil their duties [19] efficiently.

The ECLSG is crucial for promoting and protecting local democracy and self-government in Europe [16]. It sets out the fundamental principles and guidelines to govern and operate local government and serves as a basis for promoting good governance and democratic practices at the regional level.

The European Charter of Local Self-Government, ratified by Azerbaijan in 2002, serves as a local governance and decentralisation framework. Its implementation in Azerbaijan involved significant institutional adaptation to align with the charter's principles and requirements [13]. One key aspect of institutional adaptation was the development of legal frameworks and structures to support local self-government. Azerbaijan's Constitution and laws have been revised to align with the charter's values, including empowering local governments, ensuring financial autonomy, and guaranteeing citizens' right to be involved in governmental decisions.

Establishing municipal councils and executive bodies at the local level is another crucial adaptation [6]. These bodies are responsible for local governance, including decision-making, service provision, and development planning. The number of council members and their election procedures are designed to reflect the local needs and to ensure democratic representation. Financial decentralisation has been a focus of institutional adaptation. Azerbaijan has ensured local governments have adequate financial resources to perform their functions [14]. This includes providing municipalities with a share of national revenues and the ability to raise local taxes and fees. Institutional adaptation has also involved capacity building for local government officials. Training programs and technical assistance have been provided to help local governments effectively manage their responsibilities and engage with citizens [12]. Despite the visible progress, challenges remain in implementing the ECLSG in Azerbaijan. These include promoting the complete autonomy of local governments, improving financial transparency, and bolstering local democracy.

Local self-government in Azerbaijan was established by adopting the new Constitution in November 1995 (Azerbaijan's Constitution). The country is divided into two tiers of territorial-administrative units, but self-government functions are primarily at the lower level. Legislation governing local self-government was enacted in 1999, coinciding with the first local elections [4]. Subsequent amendments were made to the bill, with the latest in 2020.

Local self-government in Azerbaijan is limited to municipalities. In Azerbaijani law, the term "municipality" encompasses the territorial unit and the local council, known as the local executive committee. However, the Congress of Local and Regional Authorities has noted that municipalities are not considered a part of the overall public administration but a particular form of citizen social activity, albeit involved in some state affairs.

The local executive is considered a part of the state administration, while the elected council of the municipality has limited competencies. The size of the commission varies based on the number of inhabitants, ranging from five members (in municipalities with up to 500 inhabitants) to 19 (in cities with up to 300,000 inhabitants). Candidates for council membership must be Azerbaijani

national over 21 years old, excluding civil servants, members of parliament, judges, and priests [5].

For local elections to be considered legitimate, a turnout of at least 25% is required. The term of office for self-government bodies is five years, with council sessions held monthly, requiring the presence of at least half of its members to be valid. Unlike Georgia and Armenia, the executive body (the head of the municipality) is not directly elected but chosen by the majority of council members. The council has the authority to remove the head of the city.

This setup establishes a "strong council - weak mayor" model, but both self-government institutions have minimal political influence. This is because even at the municipal level, the majority of executive power is in the hands of Presidential representatives. According to the Constitution, the President of Azerbaijan establishes local executive organs to exercise executive power. The heads of these local executive authorities are appointed and removed by the President, who also determines their competencies. In practice, this results in the marginalisation of self-government units in local policy [5].

Researchers realised the importance of implementing a structured methodology, leveraging learnings from international best practices, and promoting the exchange of knowledge [8]. Identifying and assessing municipalities' potential resources and effective leverage of local human capital are paramount. Researchers differentiate local self-government from central government:

1. Subordination. Local self-government, while an equivalent public power level, is subordinate and lacks the legislative capacity for self-reform.
2. "Framework" Independence. The state sets boundaries for local self-government activities. While municipalities act independently within legislated local issues, they coexist with state administration.
3. Economic Focus. Primarily an economic authority, local self-government aims to enhance local living conditions through managing municipal property and addressing local needs, albeit with a political emphasis.
4. Responsibility. Local self-government bodies and officials are responsible for the state, municipality's residents, individuals, and legal entities.

5. People's Representation. The representation's fullness is evident in local self-government, where representative bodies express the municipality's will, act on its behalf, and benefit.

6. Independent Local Budget. Municipalities independently manage local budgets but receive financial support, such as subventions, from the state budget for specific expenditures.

There are two different ways to understand local self-government:

1. The first approach views it as a blend of state and public principles, where the state derives power from the people. This approach emphasises the participation of local self-government bodies and officials in state policy implementation, alongside the fullness of people's representation.

2. The second approach sees local self-government as a cornerstone of civil society and democracy, aligning its tasks with those of civil society to realise individual and group interests, thereby enhancing civil society and local self-government stability [8].

It is crucial to consider a fundamental principle outlined in the European Charter on Local Self-Government, emphasising that local governments, within the boundaries set by law, possess full autonomy to initiate actions on any matter not excluded from their jurisdiction and not within the jurisdiction of another authority. This principle establishes exclusive competence, granting local governments a distinct sphere of independent authority [9]. Therefore, two fundamental principles of local self-government bodies and self-government are election and a defined set of rights. Local self-government bodies must have clear rights and opportunities within their designated authority.

Municipalities are constantly monitored to ensure effective management and prevent negative situations. The assessment of legal compliance includes two key aspects. First, according to Article 144 (II) of the Constitution, state authorities can delegate powers to municipalities, noting that the relevant state authorities must monitor the implementation of these powers (administrative supervision) [4]. This article also includes provisions for transferring essential resources alongside delegated powers, highlighting the importance of financial oversight to accompany administrative supervision when financial resources are involved. Secondly, according to the European Charter of Local Self-Government [4],

national legislation ratified by Azerbaijan obliges municipalities, municipal bodies, and officials to comply with the country's Constitution and laws. The state has the right to monitor this compliance, which the Ministry of Justice carries out through the Center for Work with Municipalities. Annually, this body submits a report on its activities to the Milli Majlis. Despite their independence in the performance of powers, municipalities remain responsible to the territorial community.

As a result of the 2009 constitutional reforms, Article 146 of the Constitution now requires municipalities to submit reports on their activities to the Milli Mejlis of Azerbaijan as required by law [4]. As a result, a draft of the Law of the Republic of Azerbaijan, "On Municipal Reporting", was developed to simplify reporting processes and enhance transparency and oversight for municipalities. The draft Law defines provisions aimed at increasing the efficiency and responsibility of municipalities. It specifies the procedures for conducting investigations into violations of legislation arising from municipal activities, preparation and submission of municipal reports to the Milli Majlis, and application of responsible provisions in case of violations of legislation [4]. According to the draft law, the municipality's report is submitted to the Milli Majlis, covering the activities of the city and the results of investigations into law violations conducted by the requirements of the law. The main objectives of the municipality report include ensuring transparency in the activities of the local self-government body, increasing public trust in municipalities and controlling municipal budget expenditures related to delegated powers. In addition, the draft law emphasises that in case of violation of the legislation by the city, the relevant Committee of the Milli Majlis must conduct a special investigation [13]. Upon completion of the investigation, the committee may request a report from the municipality. Despite attempts at reforms, specific difficulties can be identified in fulfilling the requirements of the Charter in Azerbaijan.

For example, as in another county, implementing the European Charter on Local Self-Government in Azerbaijan faces several challenges (Table 1).

These challenges require attention and measures from the government and local authorities to ensure the effective functioning of the local self-government system in line with the charter's standards.

Table 1 – Challenges of the implementation of ECLSG [11, 15, 20]

Challenge	Description
Limited Autonomy	The national-level authority in Azerbaijan continues to exert significant influence over local governments and their decisions despite commitments to uphold the standards of local self-government as outlined in the charter.
Financing	Local self-government bodies often face challenges due to insufficient funding, which hinders their ability to effectively carry out their duties and deliver high-quality services to residents.
Electoral Process	The electoral process at the local level may not be sufficiently transparent and democratic, which violates the charter's principles regarding the democratic election of local government representatives.
Bureaucratic Barriers	There are cases where bureaucratic barriers complicate the work of local self-government bodies and limit their decision-making abilities.
Low Community Participation	Community participation in decision-making processes at the local level often falls short, contradicting the principles of self-government and openness.
Uneven Development	There is a risk of uneven development of local self-government in different regions of the country, leading to inequality in access to services and decisions.

Source: [11; 15; 20].

## CONCLUSIONS

The ECLSG is crucial for promoting and protecting local democracy and self-government in Europe. It establishes fundamental principles and guidelines for local government organisation and

functioning, emphasising local authorities' autonomy and the importance of democratic processes at the local level. The charter also sets out specific rights and responsibilities for local authorities, ensuring their participation in decision-making and access to adequate resources. Azerbaijan has made significant institutional adaptations, such as amending the Constitution and laws, to implement the ECLSG to align with the charter's principles. Establishing municipal councils and executive bodies at the local level has further enhanced local governance and decision-making processes. Financial decentralisation efforts have also ensured local governments have the resources to fulfil their functions effectively. Despite these efforts, there are still obstacles to fully implementing the ECLSG in Azerbaijan. These include guaranteeing the complete autonomy of local governments, enhancing financial transparency, and strengthening local democracy. Addressing these challenges will be crucial for Azerbaijan to fully comply with the charter's principles and improve local governance in the country.

Based on the analysis of the implementation of the European Charter of Local Self-Government (ECLSG) in Azerbaijan, several key conclusions can be drawn. Despite efforts to decentralise power, the influence of the national-level authority on local governments in Azerbaijan remains significant. This undermines the principle of local autonomy, as outlined in the ECLSG. Inadequate funding for local self-government bodies hinders their ability to fulfil their responsibilities and provide quality services. Ensuring adequate financial resources for local governments is essential for successfully implementing the ECLSG. The electoral process at the local level in Azerbaijan needs improvement to ensure transparency and democracy. Enhancing the democratic election of local government representatives is essential for upholding the principles of the ECLSG. Strengthening local autonomy, improving financing for local governments, enhancing the electoral process, reducing bureaucratic barriers, increasing community participation, and promoting equitable development is crucial for ensuring full compliance with the ECLSG and improving local governance in Azerbaijan.

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