

LOCAL GOVERNMENT SYSTEM IN NAMIBIA



1. DECENTRALISATION IN NAMIBIA

The reform of local government was initiated in Namibia after it gained independence from the apartheid rule of South Africa in 1990. The new Constitution of the Republic of Namibia of 1990 established a three-tier system of governance in Namibia comprising of the central government, regional councils and local authorities.¹ In the case of Namibia, the development of local governance i.e. decentralisation cannot be understood without recognising the influence of the country's history of colonialism and apartheid.²

The official Decentralisation Policy of Namibia was launched in 1998.³ It was preceded in 1992 by the passing of the Regional Councils Act 1992 (Act 22 of 1992) and the Local Authority Councils Act (Act 23 of 1992), which provided the legislative framework for the institutionalising of the decentralised government. The official Decentralisation Policy of Namibia identifies functions to be decentralised and lays down the implementation guidelines, resource strategies and the choice of the form of decentralisation.⁴

The implementation of the decentralisation policy has been slow. It was envisaged that by 2002 the bulk of the activities would have been decentralised to regional and local authorities. Unfortunately, this has not been the case. Progress has been slow and halting since the decentralisation policy was launched and as yet, most of the preparatory work is far from complete.⁵

The stated aim of the decentralisation in Namibia is to ensure economic, cultural and socio-economic development, to provide people at grassroots level with the opportunity to participate in decision-making and to extend democracy as a right based on National ideals and values.⁶

The implementation of the decentralisation policy in Namibia aims to decentralise functions from the line ministries to the regional councils and local authorities first by delegation, and ultimately by devolution of the political and administrative responsibility of the service provision to the regional councils and local authorities.⁷

¹ Kuusi 2009, 6.

² Hopwood, 2005; also Kuusi 2009, 7-8.

³ CLGF: Local Government System in Namibia (sine anno).

⁴ Ibid.

⁵ Boex et al. 2005, i; CLGF: Local Government System in Namibia (sine anno).

⁶ Godana and Naimhwaka 2002, 3.

⁷ In general terms delegation refers to the transfer of responsibility for decision making and administration of public functions from central government to semi-autonomous organisations, which are accountable on these functions to the central government. Devolution is a more comprehensive type of decentralisation, and generally refers to the transfer of authority for decision making, finance and management from central government to local authorities with corporate status and considerable degree of autonomy from the central government. There are some features that are commonly present in devolution. For example, the local authorities have authority to raise their own revenues and to acquire resources to

The Decentralisation Enabling Act No. 33 of 2000 is the most important legislation providing for the decentralisation policy. The Decentralisation Enabling Act has overriding effect vis-à-vis sector legislation.⁸

The Namibia Vision 2030 published in 2004 and the National Development Plans II and III provide the overall planning framework for the decentralisation process. The line ministries failure to prepare the processes needed for decentralisation on time, mainly because of unwillingness within the ministries, is noted in the Namibia Vision 2030. The government has also acknowledged that the magnitude and complexity of the decentralisation process has been grossly underestimated since the introduction of the decentralisation policy.⁹

2. LOCAL GOVERNMENT: POSITION AND STRUCTURE

2.1 Legal Basis of Local Government

The legal basis for the local government system in Namibia is laid in the country's Constitution of 1990. Guided by the Articles of Chapter 12 of the Constitution, the parliament of Namibia enacted two important legislations: the Regional Councils Act No. 22 of 1992 and the Local Authorities Act of 1992, which provide for the establishment, powers, duties, functions and other related matters of the regional councils and local authority councils. Both of these Acts have been amended several times. The latest amendment to the Local Authorities Act is the Local Authorities Amendment of 2003.¹⁰

The local authorities of municipal councils, town councils and village councils were established by the Local Authorities of 1992. They are responsible for governing the affairs of the local authorities. There are currently in total 48 local authorities in Namibia¹¹. The Minister responsible for regional and local government is currently situated at the Ministry of Regional and Local Government, Housing and Rural Development (MRLGHRD)¹².

The main legislative texts dealing with local government are:

- Local Authorities Act 1992
- Regional Councils Act 1992

Other important pieces of legislation, designed in part to speed up the decentralisation process, include:

- Decentralisation Enabling Act 2000
- Trust Fund for Regional Development and Equity Provisions Act 2000

perform public functions, and have clearly recognised geographical boundaries over which they exercise authority. Kuusi 2009, 7-8; Also Ministry of Regional and Local Government and Housing 1997.

⁸ Ekanjo, Jerry, Minister, Regional and Local Government, Housing and Rural Development 2008.

⁹ Ministry of Regional and Local Government, Housing and Rural Development 2008b, 9-10, 12.

¹⁰ Kuusi 2009, 9.

¹¹ ALAN <http://www.alan.org.na/>; CLGF, 140.

¹² Formerly situated at the Ministry of Regional and Local Government and Housing. In 2005 the Ministry was allocated the responsibility for rural development, thus forming the Ministry of Regional and Local Government, Housing and Rural Development.

- The Regional Councils Amendment Act 2000
- The Local Authorities Amendment Act 2000¹³

2.2 Organisational Structure of Local Government

The Republic of Namibia is a unitary state. Administratively, it is divided into three tiers, with separate spheres of responsibility – central, regional and local. The central government consists of the President and the two Houses of Parliament: the National Assembly and the National Council.

The regional sphere is made up of Regional Councils. Each of the regional councils runs one region, which are thirteen in total: Caprivi, Erongo, Hardap, Karas, Khomas, Kunene, Ohangwena, Okavango, Omaheke, Omusati, Oshana, Oshikoto and Otjozondjupa.¹⁴ Regional Councils have powers under the Regional Councils Act of 1992, which established a regional council in each region. They can, among other things, advise the President and central government on matters relating to the region. The political head of a region is the governor, who is elected from among the councillors.¹⁵

The regions are divided into constituencies for electoral purposes. Each constituency elects one member to the regional council using a first-past-the-post electoral system¹⁶. The term of office of the regional council members is six years¹⁷. The regional councils elect from amongst their members two persons as members of the National Council¹⁸.

The local authorities are established in urban areas, and the regions cover the rural areas. The regional councils are presently responsible for specified service delivery in rural areas, while the local authorities are responsible for service delivery in urban areas.¹⁹ Currently the only service provision responsibility of the regional councils specified in the Regional Councils Act is the provision of basic services in areas where settlements are proclaimed, but no local authorities are established. This responsibility applied to only four regions in 2006.²⁰

There are four types of local government:

- 1) Municipal Councils (of two types)
- 2) Town Councils
- 3) Village Councils

There is no upper or lower tier in Namibian local government. The 13 Regional Councils run the regions. Municipal, Town and Village Councils are not sub-ordinate to them.²¹

The municipal councils are the most autonomous local authorities of the local authority categories. Under the Local Authorities Act of 1992, the Minister responsible for regional and local government may further classify the municipalities into two types: Part I municipalities and Part II

¹³ Above information adopted from: CLGF: The Local Government System in Namibia (sine anno).

¹⁴ CLGF: Local Government System in Namibia (sine anno); Constitution of the Republic of Namibia, 1990, Article 102 (1).

¹⁵ CLGF: Local Government System in Namibia (sine anno); Regional Councils Act No. 22 of 1992, Section 28.

¹⁶ Constitution of the Republic of Namibia, 1990, Article 106 (1–3).

¹⁷ Regional Authorities Act No. 22 of 1992, Section 7 (1).

¹⁸ Regional Authorities Act No. 22 of 1992, Section 26.

¹⁹ Fjeldstad et al. 2005, 6.

²⁰ Boex et al. 2006, 6.

²¹ Ibid.

municipalities.²² Currently there are three Part I municipalities (Windhoek, Walvis Bay and Swakopmund), 15 Part II municipalities, and in total 30 towns and villages in Namibia.²³

Part I municipalities generally have a solid financial basis and considerable autonomy with regard to the determination of property tax and obtaining loans under the provisions of the Local Authorities Act. Part II municipalities have a more fragile financial basis and are subject to control exercised by the Ministry of Regional and Local Government, Housing and Rural Development. Most of the town councils cannot balance their budgets without substantial transfers from the central government or donors, and their financial autonomy, in general, is limited.²⁴

Figure of the Local Government System in Namibia

Adapted from Peltola 2008

<p>CENTRAL GOVERNMENT President Government: president, prime minister, other ministers Parliament: - National Assembly - National Council</p>			
<p>REGIONAL GOVERNMENT 13 x Regions - Region council - Governor</p>			
<p>PART 1 MUNICIPALITY - Municipal council</p>	<p>PART 2 MUNICIPALITY - Municipal council</p>	<p>TOWN - Town council</p>	<p>VILLAGE - Village council</p>

2.3 Local Government Elections

The members of the municipal, town and village councils are elected on party lists at a general election. The term of office of the local authority councillors is five years.²⁵ The Local Authorities Act provides that a municipal council shall consist of not less than seven and not more than 15 members. Similarly a town council shall consist of such number of members as may be determined by the Minister in the notice establishing the town, but not less than seven and not more than 12 members.²⁶ The Minister has the power to increase or decrease the number of members of a municipal council or town council²⁷.

²² Local Authorities Act No. 23 of 1992, Section 3.

²³ Association for Local Authorities in Namibia (ALAN).

²⁴ Fjeldstad et al. 2005, 6.

²⁵ Local Authorities Act No. 23 of 1992, Sections 6 (2), 8; CLGF: The Local Government System in Namibia (sine anno).

²⁶ Local Authorities Act No. 23 of 1992, Section 6 (1).

²⁷ Local Authorities Act No. 23 of 1992, Section 4 (1)(d).

The members of councils elect a mayor and a deputy mayor from amongst themselves to be the chairperson and vice-chairperson of the council.²⁸

The Local Authorities Act prescribes that each municipal and town council must elect a management committee from among the councillors of the council. The mayor and deputy-mayor are *ex officio* members of the management committee.²⁹ The powers, duties and functions of the management committee include, among other things, to deliberate on local authority affairs and make recommendations on policy to the full council, prepare for the approval of the local authority council the estimates and supplementary estimates of revenue and expenditure of the local authority council, and to ensure that the decisions of the local authority council are carried out³⁰.

The last local government elections were held in November 2004. The next are predicted to be held in November 2009.³¹

2.4 Staff in Local Government

Local authority staff is recruited by the respective local councils, which retain the powers also to discipline and dismiss staff. No staff is deployed from central government to local government institutions.³²

Only Chief Executive Officers are required by law. These are referred to as Chief Regional Officers in the Regional Councils, town clerks in the Town Councils and village secretaries in the villages. In towns and municipalities, the town clerk acts as the head of the administration and typically has a number of heads of departments reporting to him or her. The number of departmental heads depends on the size of the local authority.³³

2.5 Independent Scrutiny

"There are independent scrutiny bodies with responsibility for the local government, namely the office of the Ombudsman, the Auditor General's Office and the Namibian Financial Institutions Supervisory Authority (NAMFISA). These are legally empowered by the Namibian constitution and specific legislation relating to the creation and/or operation of such bodies."³⁴

3. LOCAL GOVERNMENT: POWERS AND RESPONSIBILITIES

3.1 Public Service Delivery

In Namibia local authorities are responsible for the provision, operation and maintenance of a wide range of municipal infrastructures and services. The decentralisation of key public services, such as education and health, to local authorities as planned in the decentralisation policy of Namibia has progressed slowly.³⁵

²⁸ Local Authorities Act No. 23 of 1992, Sections 11 (1), 12.

²⁹ Local Authorities Act No. 23 of 1992, Section 21.

³⁰ Local Authorities Act No. 23 of 1992, Section 26.

³¹ Electoral Institute of Southern Africa, Namibia Country Profile (sine anno).

³² CLGF: Local Government System in Namibia (sine anno).

³³ Ibid.

³⁴ Ibid.

³⁵ Kuusi 2009, 20.

The powers, duties and functions of the local authority councils are described in the Local Authorities Act of 1992. Local authorities deliver services in urban areas, while the regional councils are responsible for specified service delivery in rural areas³⁶. However, the framework for service delivery in Namibia is being reformed.

The table below summarises the functions and powers of the local authorities as provided by the Local Authorities Act.

Powers of Local Authorities in terms of the Local Authorities Act

All local authorities	Towns and municipalities (plus villages with the Minister's consent)	Only municipalities (plus villages and towns with the Minister's consent)
<ul style="list-style-type: none"> • Water supply • Cemeteries • Sewerage and drainage • Streets and public places • Markets • Refuse disposal • Pounds • Bands and orchestras • Beautification of local areas • Promotion of tourism • Power to accept donations from sources inside Namibia • Power to buy and sell land and buildings • Power to set fees for services provided • Power to operate farms on town lands 	<ul style="list-style-type: none"> • Supply electricity and gas • Dipping tanks • Ambulance services • Fire brigades • Construct and maintain community buildings and structures • Power to buy and sell property other than land and buildings 	<ul style="list-style-type: none"> • Public transport • Quarries • Housing schemes • Museums and libraries • Abattoirs • Aerodromes • Plant nurseries • Parking areas • Railway sidings • Traffic services • Bursaries • Storage of perishable goods (goods which may spoil) • Power to confer honours for services to community • Power to enter into joint business ventures • Power to privatise functions and services

Source: Table adapted by Kuusi 2009 from Ministry of Regional and Local Government, Housing and Rural Development 2008b, 9.

4. DECISION MAKING SYSTEMS OF LOCAL GOVERNMENT: RESIDENTS' PARTICIPATION

The decentralisation does not end at the level of locally elected officials. To make provision for the direct involvement by the community, the government of Namibia has established the Statutory Development Committees, which operate at regional and local levels and are focused on the region, the regional constituencies, the local authority, village and settlement. Although each is composed differently, they are constituted to involve elected members, traditional authorities and representatives from NGOs and CBOs. They also accommodate different interest groups in the constituencies, ranging from the disabled, the youth and women. Interest groups should all together come to make up at least 1/3 of the entire membership.³⁷

The Statutory Development Committees are responsible for identifying problems and needs of their specific constituencies. Their specific functions include the coordination of planning and

³⁶ Fjeldstad et al. 2005, 6; Regional Councils Act No. 22 of 1992, Section 28.

³⁷ Godana and Naimhwaka 2002, 11.

development within the constituencies.³⁸

5. FINANCE

5.1 Revenue

The local authorities' own source revenues in Namibia consist mainly of different kinds of rates, charges and fees, and revenue from letting and selling immovable property such as land. The local authorities have power to determine by notice in the *Gazette* the charges and fees for the services, amenities and facilities provided by them under the Local Authorities Act of 1992³⁹. The local authorities may also determine rates for property. Levying some special rates, such as a penalty rate on rateable property, require the prior approval of the Minister responsible for regional and local government⁴⁰.

Part I municipalities generally have a solid financial basis and considerable autonomy with regard to the determination of property tax and obtaining loans under the provisions of the Local Authorities Act. Part II municipalities have a more fragile financial basis and are subject to control exercised by the Ministry of Regional and Local Government, Housing and Rural Development with respect to setting property rates and obtaining credit facilities. Most of the town councils cannot balance their budgets without substantial financial transfers from the central government or donors. Their financial autonomy is limited as the intergovernmental transfers are allocated on *ad hoc* basis, and the approval of the Minister responsible for regional and local government is required for expenditures paid from the funds of the intergovernmental transfers.⁴¹

At the moment the trend is that the local authorities are pushed towards financial self-sufficiency to obtain a more autonomous status. The Government of Namibia has started to develop a system of recurrent and development grants to local authorities in recent years.⁴²

The estimated total aggregate revenue for local government for the year 2004/ 05 was N\$1.8 billion (US\$315.8 million), of which N\$160 million came from central government. The main sources of locally raised revenue were:

- 1) Rates 30%
- 2) Electricity supply charges 30%
- 3) Water rates 30%
- 4) Other 10%⁴³

5.2 Expenditure

The Local Authorities Act prescribes conditions according to which the Minister may declare a local authority as a municipality, town or village. To obtain municipal status, a council must pay all costs related to the execution of its powers and functions out of its own funds. Town council status is obtained when a council is able to pay some of these costs. Village council status is obtained if

³⁸ Ibid.

³⁹ Local Authorities Act No. 23 of 1992, Sections 30 (1)(u), 80 (1)(b).

⁴⁰ Local Authorities Act No. 23 of 1992, Section 76A.

⁴¹ Kuusi 2009, 21.

⁴² Ibid.

⁴³ Above information adopted from: CLGF: Local Government System in Namibia (sine anno).

it can perform specified mandatory functions, but there is no specific requirement for financial self-sufficiency stated in the Act.⁴⁴ Local councils are not permitted to set deficit budgets.⁴⁵

"The estimated aggregated expenditure of local government for the year 2004/ 05 is N\$1.8 billion (US\$315.8 million). The main items of expenditure are:

1) Salaries	30%
2) Water and electricity (Re-chargeable)	40%
3) Other	30% ⁴⁶

In 2001, the government of Namibia enacted and put into operation the Trust Fund for the Regional Development and Equity Provision Act. As a result of the act, a fund was created, the purpose of which was, among other things, to financially assist the development of the regions and local authorities as well as to provide technical assistance, guidance and training in the identification, preparation, appraisal, monitoring, evaluation, financing, implementation or management of development projects.⁴⁷ The fund is managed by a board, which conducts negotiations in respect of, and to control, business ventures on behalf of the regional councils and local authorities.⁴⁸

6. WOMEN IN LOCAL GOVERNMENT

In Namibia local councils are elected through a party list system of proportional representation. Prior to the local government elections in 1992 the government of Namibia enacted legislation requiring political parties and residents' associations to include a certain minimum number of women on their candidate lists. This meant that at least 50 % of the candidates on the party list must be women. This increased the proportion of women councillors to 38 per cent.⁴⁹ However, the women were often placed at the bottom of the lists. At the national and regional level the quota system is not in use.⁵⁰

The quota system has increased the number of female councillors, but also regional governors and mayors. At the moment, women make up eight per cent of regional councils, 40 per cent of Part I municipalities, 32 per cent of Part II municipalities, 45 per cent of town councils and 55 per cent of village councils.⁵¹ In the 2004 Local Authorities elections women won 123 of the 283 seats available countrywide and form a majority on thirteen of the 48 councils.⁵²

Also a Gender Strategy for Local Government from 2007 is in use.⁵³

⁴⁴ Fjeldstad et al. 2005, 11.

⁴⁵ CLGF: Local Government System in Namibia (sine anno).

⁴⁶ Ibid.

⁴⁷ Godana and Naimhwaka 2002, 13.

⁴⁸ Ibid.

⁴⁹ Beall 2005, 4.

⁵⁰ Beall 2005, 4; Tonchi&Shifotoka 2005, 13.

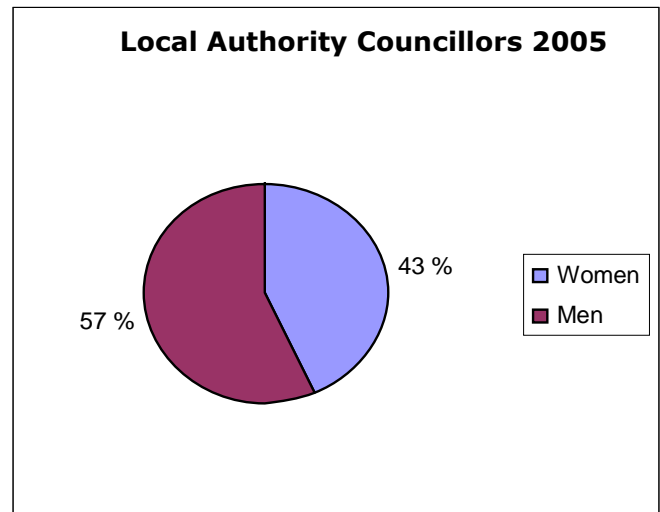
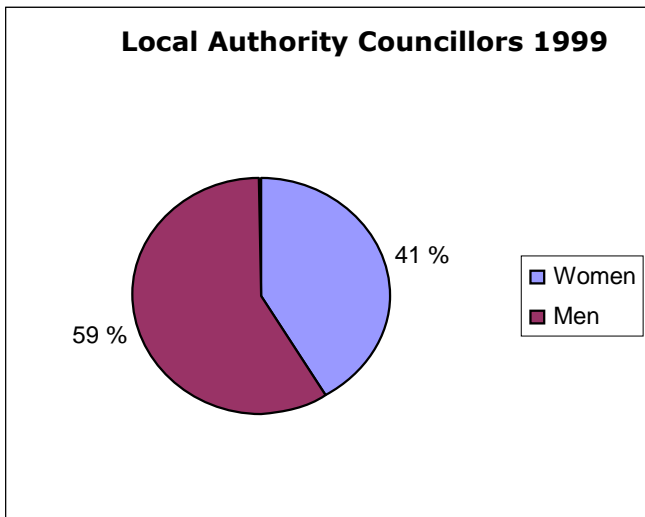
⁵¹ CLGF: Local Government System in Namibia (sine anno).

⁵² Republic of Namibia: Country gender profile, 47; CLGF: The Local Government System in Namibia (sine anno).

⁵³ Gender Strategy for Local Government in Namibia (2007).

Female councillors in Namibia

According to Simonen 2009



7. ASSOCIATION OF LOCAL GOVERNMENT

There are three separate associations operating in the field of local government:

- 1) Association of Local Authorities of Namibia (ALAN)
- 2) Association of Regional Councils (ARC)
- 3) Namibia Local Administrators' Organization (NALAO)⁵⁴

Of the three associations, ALAN is mainly representative of local authorities at a political level. The objectives of ALAN are to:

- Protect, safeguard and enhance the image, interest and rights of the local authorities
- Act as liaison between the central and local authorities in all matters of common interest to its members
- Strive along constitutional lines for the promotion of all local authorities to the status of independent local authorities with democratically elected councillors.⁵⁵

On its part, ARC is a coordinating body for regional government with a significant role to play in enlightening regional councillors on their roles and responsibilities, and in forging strong working cooperation between regional councils and local authorities to deal with matters such as regional development planning coordination.

NALAO represents officers at an administrative level, advancing a culture of professionalism and ethics in local government. It serves as a platform for exchanging ideas and experiences, and

⁵⁵ ALAN webpage

plays a critical role in creating opportunities for further professional development and training opportunities for its members – chief executive officers, treasurers and other senior officers.

All three associations are voluntary bodies and not recognised by law. They get funded through the membership subscriptions.⁵⁶

8. LOCAL GOVERNMENT AND TRADITIONAL LEADERS

Traditional leaders have no specific role in local governance, apart from advising government and giving support to the policies of the local councils. They are expected to refrain from any activity that may undermine the authority of the local councils. Traditional leaders can be and are involved in various types of development committees.⁵⁷

⁵⁶ CLGF: Local Government System in Namibia (sine anno).

NAMIBIA: COUNTRY FACTS

Independence: 1990

Capital: Windhoek

Administrative divisions: 13 regions; Caprivi, Erongo, Hardap, Karas, Khomas, Kunene, Ohangwena, Okavango, Omaheke, Omusati, Oshana, Oshikoto, Otjozondjupa

Population: 2 108 665 (2009 est)

Infant mortality rate: 45 deaths/1,000 live births (2009 est)

Literacy: 85%

Languages: English (official), Afrikaans common language of most of the population, German, Oshivambo, Herero, Nama

Religions: Christian 80% to 90% (Lutheran 50% at least), indigenous beliefs 10% to 20%

Last local government elections held: in 2004. The councillors are elected for a five-year-term.

GDP: \$11, 23 billion (2008 est.)

GDP real growth rate: 3,3% (2008 est.)

GDP per capita: \$5,400 (2008 est.)

Export commodities: diamonds, copper, gold, zinc, lead, uranium; cattle, processed fish, karakul skins

Population without sustainable access to an improved water source: 13% (2004 est.)

People living under \$ 1 per day: 34,9 % (2005 est.)

Sources:

CIA World Fact Book

UNDP Human Development Report

Adopted from CLGF's The Local Government System in Namibia (sine anno)

(x) = discretionary services by the local authority

SERVICE	CENTRAL GOVERNMENT	LOCAL GOVERNMENT
General admin.		
Police	x	
Fire Protection		
Civil Protection		
Criminal justice	x	
Civil justice	x	
Civil status register		
Statistical Office		
Electoral register	x	(x)
Education		
Pre-school		
Primary school	x	
Secondary school	x	
Vocational and technical		
Higher education	x	
Adult education	x	
Social welfare		
Kindergarten and nursery		
Welfare homes	x	
Family welfare services		x
Social security		
Public health		
Primary care	x	
Hospitals	x	
Health Protection		
Housing and Town Planning		
Housing		x
Town planning	x	x
Regional planning	x	x
Transport		
Roads	x	x
Transport		
Urban roads		x
Urban rail		
Ports		
Airports	x	

Environment and public sanitation		
Water and sanitation		x
Refuse collection and disposal		x
Cemeteries and crematoria		x
Slaughter-houses		x
Environmental protection	x	x
Consumer protection		
Culture, leisure and sports		
Theatre and concerts		
Museums and libraries	x	
Parks and open spaces		x
Sports and leisure		(x)
Religious facilities		(x)
Utilities		
Gas services		
District heating		
Electricity		
Water supply		
Electricity		
Economic		
Agriculture, forests, fisheries	x	
Economic promotion		
Trade and industry	x	
Tourism		(x)

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