DECISION No 9 OF SEPTEMBER 21, 2000 ON CC No 6/2000

Fifty-six Members of the 38th National Assembly approached the Constitutional Court for an interpretation of Art. 2 para 1 and Art. 141 of the Constitution and for a ruling on the anti-constitutionality of Art. 21 para 1 subpara 7 of the Law on Local Self-Government and Local Administration and on its non-compliance with an international instrument to which Bulgaria is a party.

The Constitutional Court decision passed the interpretation requested of the two articles of the Constitution and dismissed the challenge of the constitutionality of Art. 21 para 1 subpara 7 of the Law on Local Self-Government and Local Administration and its compliance with the European Charter of Local Self-Government.

The interpretative part of the decision reads that Art. 2 para 1 of the Constitution defines the Republic of Bulgaria as a unitarian state with local self-government. Noting local self-government along with and in close relation to the form of state government, the Constitution expresses the importance attached to it.

The Constitution defines local self-government as a form of devolution in order to enhance the role of the self-governing communities in the solution of problems of local importance. Therefore Art. 141 para 1 reads mat the municipal budget shall be separate from the State Budget while para 2 reads that a municipality's permanent sources of revenue shall be established by a law and para 3 reads that the State shall ensure the normal work of municipalities through budget appropriations and other means.

The requirement of own sources of revenue derives from the principles of local self-government and the independence of the municipality's budget. Local taxes and fees are an important source of municipality's budget. Their establishment, including the size of local taxes, shall be a prerogative of the National Assembly to be exercised under a law as per Art. 84 para 3 of the Constitution.

The Constitutional Court decided that the challenge of the constitutionality of Art. 21 para 1 subpara 7 of the Law on Local Self-Government and Local Administration is actually non-existing in terms of clearly defined and real legal content and consequently dismissed it.

The Constitutional Court exercises its prerogative under Art. 149 para 1 subpara 4 of the Constitution only in the event of challenging the compliance of a law with an international instrument to which Bulgaria is a party. In the case in question it was Art. 21 para 1 subpara 7 of the Law on Local Self-Government and Local Administration that was challenged as non-compliant with Art. 9 para 3 of the European Charter of Local Self-Government, and therefore that part of the challenge was dismissed.