

Report on Local Development in Georgia - 2007 (Annual Report)

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Policy Analysis

1. Introduction

For more than a year, local self-government authorities, elected at 2006 municipal elections, have been functioning. Although there's more time needed for a new system to come into full effect, certain trends are nevertheless visible and specific conclusions can be already made.

The process of reforming local self-governments has been going on throughout 2007. This relates equally to adoption of the new law, as well as establishment of corresponding institutions and process of implementing principles of the reform.

Taking into account the situation prevalent in self-government for the last decade, one can assume that radical changes and, moreover, tangible results are least likely to be expected.

In these circumstances, it is of utter importance to determine whether the political elite holds political will necessary for decentralization of the country and whether the reform process enjoys public support.

It's evident that process of local governance reform cannot be viewed separately from the current background in the country. In this regard, year of 2007 was ripe with various events – past factors on national or international level that hinder development are still applicable. At the same time, new problems that were less visible in previous years are re-emerging, namely:

- Territorial integrity of the country is yet to be solved. Against the background of increasingly aggressive actions from the Russian side, relations with separatist regions are getting more complicated. Moreover, Georgian authorities show signs of increasing populist attitudes in order to reap certain political benefits;
- Despite optimist statements to the contrary, made by the authorities, problems of economic nature are multiplying (national currency rates strengthening against the US dollar, increasing banking rates of interest, high rate of actual unemployment, migration of workforce abroad, etc.);
- In politics, recent years saw increasing setbacks from past years' achievements in the field of rights and freedoms (mass media, freedom of speech, human rights, political pluralism), as

clearly stated by several international organizations (Freedom House and others). State instruments of administration are being increasingly used to serve political ends of the authorities;

- Economic and political instability leads to worsening social climate – a large part of the population is not content with the existing situation, which, in conjunction with weakness of political opposition, raises possibilities for chaotic and destructive acts of protest;
- Mass protest rallies in October-November 2007 and use of excessive force by the authorities (dispersion of demonstrators, closure of mass media outlets) led to political crisis in the country, which could neither be solved by presidential (January 2008) nor parliamentary (May 2008) elections. Major part of the population lacks trust in results of the vote and charges authorities with electoral fraud.

Due to these events, one has to lower expectations for serious progress in decentralization. Moreover, certain setbacks from the prior course are notable, as manifested in two, rather apparent trends:

1. Once again, decentralization is a “non-priority” for the authorities. Against the background of accelerated privatization, buildup of armed forces, education reform and social care policies being highlighted recently, local self-governance concerns are viewed as a “stepchild”. This is not even denied by highest-ranking public officials.
2. In place of decentralization, centralization processes are increasing. Already restricted self-government rights are being limited even further. Where such pressure was largely informal during 2005-2006, restrictive provisions are given full legal effect in 2007 through adoption of new laws and legislative amendments.

2. Legislation

By 2007, the country already had legislative framework governing local self-government systems (Constitution of Georgia, Organic Law on Local Self-Government, ratification of European Charter on Local Self-Government and others).

In 2007, the Law on State Supervision of Activities of Local Self-Government (8 June 2007, came into force on 1 August of the same year) and the Law on Distribution of Revenues Between Budgets were adopted.

Besides new laws being adopted, a number of amendments were made to legislation in force, namely:

1. 7 amendments were introduced to the Organic Law on Local Self-Government, reducing the list of competences of local self-government (e.g. sector of utility services), and restricting the rights of local self-government in certain cases (control over free economic zones, etc.);
2. 4 amendments were made to the Law on Capital of Georgia – Tbilisi, specifying the list of authorities for various branches of self-government;
3. 2 amendments to the Law on Property of Local Self-Government Entities reduced a number of authorities and competences of local self-government in the area of property management;

4. 3 amendments to the Law on Privatization of and Concession of Ownership Rights to Property of State and Local Self-Government Entities vested the President of Georgia with the authority to final decision in direct sale of local property;
5. 2 amendments were introduced to the Law on Budget of Local Self-Government Entities, which expanded authority of President's regional envoys in formation and implementation of the local budget;
6. By entering 2 amendments to the Tax Code of Georgia, central authorities corrected the rates of local taxes;
7. 2 amendments to the Law on Local Tax Duties introduced 2 new types of duties that are not subject to correction from the local authorities;
8. An amendment to the Law on Direct State Governance expanded the list of cases where direct state governance is introduced onto the territory of local self-government.

Apart from setting restrictions on local self-government's rights and taking actions aimed at further centralization of the local government system, new legislative amendments repeatedly demonstrated deficiencies of the law-making process in Georgia:

- Instability of law – frequent amendments, often done in total absence of local information and incompetence or political engagement of local officials, undermine stability in applying the law;
- Incompatibility of laws and frequent errors in law-making process – for example, text of a single provision of the Organic Law has been amended twice on the same day by two different legislative amendments (11 July 2007);
- Inadequate legislative practices – inadequacy of supporting legal documents, weakness of legislative expertise and asynchronous legislative process, inadequate codification system, separate hearings on and adoption of different (sometimes contradictory) legislative amendments to the same legal act, extension of normative acts governing state institutions to local governments, setting unrealistically early dates for the enactment of laws, lack of internationally established practice of attaching supporting legal documents;
- Political and clientele aspects in legislative process, where decisions are taken, on one hand, in the interest of the ruling party (disregarding actual needs) and, on the other – in favor of specific MPs;
- Finally, disregard to international obligations undertaken by Georgia (e.g. European Charter Local Self-Government and others) in process of legislative amendments.

3. Local self-government competences

The process of setting up a new system of local self-governments in Georgia is carried on the background of restrictions imposed on local authorities' rights and competences.

Apart from widely known problem of expanded municipalities and resulting distance from the population, the reform process exposed a new problem – submission of local sources of revenue to

central authorities' control and shrinking amount of funds at local authorities' hands (where one of the reasons for expanded municipalities has been to increase these funds).

One of the novelties brought by the reform is a relatively clear definition of President's regional envoy – the governor. The law granted governor with an authority to represent state interests locally and to supervise local self-government's activities (e.g. budgetary processes).

Despite this, the margins of authority between the governor (regional level) and the local self-government are still undefined. Nowadays governors do not only execute actual supervisory functions, but, as a matter of fact, are governing everyday activity of self-government and do formally or informally interfere with the process of local authorities' decision-making.

Empowering the regional level creates certain discontent among representatives of local self-government, since this effectively places a “mediator” between them and the central authorities. Naturally, there's no immediate criticism expressed against the governors, but there's a certain degree of skepticism against such forms of governor's authority (see Annex II).

While it's true that recent years saw some specific actions towards division of authority between central authorities and local self-government, this remains mostly a legislative exercise rather than everyday practice.

The list of competencies accorded, formally or informally, to local self-government can be divided into 3 categories, namely:

1. Competences that are neither by their nature nor by law attributable to local self-government, but are nevertheless entrusted in practice to local self-government agencies in accordance with the state policy. Recent years' example is involvement of local authorities into enlistment process for general military duty by way of establishment of local structural units. While this authority has been later removed from the law, the Law on State Budget 2008 still considers this as delegated competence. A whole array of informal and half-formal relations is evident – responsibility for provision of boot camps, funding construction of police stations under authority of Ministry of Internal Affairs from local budget in some regions, etc.;
2. Competencies that by their essence and law are within local government's authority, but are in fact fully or partially usurped by central authorities for short or long-term political ends: outdoor lighting, repairing roads of local importance, restoring communications, etc. Municipalities do not actually object to this - with infrastructure being in total disarray, a lot of effort is needed in this regard and no single municipality is able to achieve this independently. On the other hand, by undertaking these projects, central authorities tend to overshadow the functions of local self-government and undermine the image of the latter as a “performer”;
3. Competences that are by essence within the regulatory gamut of local government but have been commercialized as a part of privatization process (water, gas and electricity supply). Local authorities are naturally unable to intervene into actions by private actors, who did conclude an agreement with the state. They cannot influence tariff regulation, while public perception holds municipalities themselves liable for high tariffs or inadequate services. One such example is Gardabani municipality, where water irrigation network has been privatized; a new owner has registered a part of the network to sub-contractors which, acting as a “pyramid”, set their own tariffs at each level. As a result, costs of irrigation for 1 acre of land surged from 8 to 100 GEL.

This has been a cause for unrest in the municipality, culminating in public effort to raid municipality offices.

Summing up, one has to conclude that excessive centralization of competences and lack of defined policies in this area have already exposed their inefficiency.

4. Self-government structure

In the aftermath of the reform, activities of local self-governance institutions are apparently incoherence. Isolated cases of undoubted success are followed by failures, which are caused, on the one hand, by self-governments' lack of authority to perform duties vested upon them by law, and incompetence and lack of experience in doing so – on the other.

Sakrebulo. In Georgia, representative branch of local self-government (executive committees in Soviet times and sakrebulo following independence) has traditionally been much weaker in comparison to the executive branch of government. Those limited authorities that were formally or actually accorded to self-governments were in fact performed by executive authorities. This tradition is being kept up to this day, even after establishment of the new system, due to a number of reasons, namely:

- Lack of proper qualifications or weakness – problems with human resources and lack of qualified personnel are apparent, further exacerbated by continuing outflow to the capital or abroad;
- Lack of actual functions – during 1998-2002, sakrebulo acting on regional level represented a much wider array of interests (political specter, limited but actually enforceable rights and own financial resources); not so much for sakrebulo of today. By levels of activity, today's sakrebulo are somewhat similar to former sakrebulo of the first level (city, county, community, village) that had neither meaningful functions nor instruments for putting these into effect;
- Lack of personal motivation – except for public officials, other members of sakrebulo are not paid, which, taking into account current social and economic conditions of the country, has a negative effect on their willingness to participate in everyday processes;
- Informal and sometimes formal pressure both from the executive branch (mayor's office, gamgeoba) and various agencies representing central authorities has a negative impact on independence of sakrebulo and its efficiency;
- One-party system – in some municipalities, only the ruling party is represented, while summarily the ruling party holds 85% of proportionally elected mandates and 92% - of majoritarian ones¹. This contributes to additional possibility of in-party pressure;
- Ineffective management – bureau of the sakrebulo, which is undoubtedly one of the achievements of the new legislation, is a rather formal body due to general weakness of sakrebulo;

1 Statistically, current system of self-government has historically the highest single-party representation in comparison to all prior local elections (1919, 1991, 1998, 2002), discounting People's Deputy Councils during Soviet times.

- Other institutions of the sakrebulo (commissions, ad hoc working groups) are virtually dysfunctional save for some exceptions, even though some rather effective regulations are available for them. Same is true for sakrebulo fractions. Save for rare exceptions (Dusheti, Kharagauli), no opposition fractions are represented in municipalities, while only a handful of municipalities have formed, alongside the ruling party fractions, majoritarian representatives' fractions that actually were balloting on behalf of the ruling party in elections.

Gamgeoba/mayor's office. Executive branches of local self-government are characterized by dominant position of the head of the agency (gamgebeli/mayor), strengthened by tradition, law and everyday practice. Gamgeoba is not a collegiate body, but rather a forum of managers of various agencies or departments, with gamgebeli/mayor taking a leading role.

Some experts and self-government officials are of the opinion that indirect system of gamgebeli's elections contribute to possibility of pressure on the part of central authorities and their agencies, especially where a single party takes dominant position, and turns gamgebeli into local official of central authorities.

Other self-government institutions

Staff offices. One of the positive achievements of the new system is legislative regulation of a uniform staff office for local self-government bodies, effectively removing the staff from gamgeoba's authority and placing it under sakrebulo's authority.

Despite this, a number of local gamgeobas set up their own staff offices in 2007, with law providing no guidance on this issue. At first, these offices were smaller than sakrebulo's staff offices, but eventually they've expanded and are nowadays far more powerful than sakrebulo's staff offices in some municipalities.

Having two staff offices at the same time demonstrates a rift in the uniform system of self-government and poses further threat to strength of sakrebulo's role.

Territorial agencies. In order to compensate for distancing self-government from population as a result of expanded municipalities, the law provided for establishment of gamgeoba's territorial agencies, headed by gamgebeli's envoy. Envoys have been appointed to all former sakrebulo's of the first level (about 1000 units). This institution is called for ensuring communication between the municipality (gamgeoba/sakrebulo) and the population residing in remote areas.

In fact, envoys do not have either authority nor funds for performing their duty. As a result, their links with municipality centers are often very weak. At best, envoys inform local population of the decisions taken by gamgeoba, rather than representing local interests in self-government, and are moreover unable to offer services to the population.

Several municipalities expressed their will to pay at least travel expenses for envoys. However, there's a new problem in this regard. Once envoys are in charge of certain funds, this would not be compatible with the principles of the European Charter, according to which in all cases where independent budget is available, budgetary process is to be supervised by representative body. Logically, this suggests creation of sakrebulo's in these territorial entities.

5. Finance

Revenues. As already noted, one of pinnacles of the administrative-territorial reform was creation of financially sound local self-governments. Authors of the reform believed that elevating self-government to a regional level would enable municipalities to raise considerable funds for implementation of local programs.

As a result of the recent tax reforms (2004-2006), variety among the types of tax has been significantly reduced. At the same time, a number of tax benefits were adopted. Extensive benefits for property taxes had biggest impact on local self-governments, which nevertheless did not lead to heavy losses at that stage, since local budgets were benefiting mostly from shared (profit, income) taxes.

Later, profit taxes were “taken” by central authorities and income taxes became the main source of revenue for local self-governments (for example, this section represents 70% of all revenues for the budget of Kutaisi).

2007 continued the tradition of “relocating” taxes completely to the center. The Law on State Budget of the same year determined that revenues received from income taxes were to be spent on performing authorities delegated to local self-governments by the state. As a result, local governments were left with a single property tax.

As for the duties, firstly, their impact is negligible for majority of municipalities (e.g. duties from the gambling business) and, secondly, there are no mechanisms in place for administering these.

Another problem contributing to slim revenues for the local budgets is lack of control over actions of large (either commercial or state) enterprises on their territory. Some of these businesses (ports, railway hubs, etc.) do not only fail to pay taxes to the local budget, but also refuse to disclose any information about their activities to the local authorities (one such example is Zhinvali hydroelectric power station – Dusheti municipality is not even aware whether it’s still in state ownership or already privatized and, if the latter is true, who is the new owner).

Transfers. In such circumstances, the only real source of revenue for local budgets are equalization transfers received from the central authorities.

Adoption of the formula for equalizing transfers and distribution of funds on set coefficients is undoubtedly an achievement, more so that in 2007 these coefficients, used for calculation, also included the capital – Tbilisi, thus effectively raising amount of funds paid to certain municipalities.

Theoretically, determining transfer formulas should enhance transparency of payments to municipalities and reduce improper influence from central authorities by negating political (ruling party) and mercantile (majoritarian MPs) motives in distribution of funds; this threat, however, remains in cases of allocation of special transfers.

Unfortunately, at the initial stage (2006), only minimal rates of coefficient were used for equalization transfers, undermining efficient distribution of funds. Later, in 2007, additional coefficients were entered into the formula, which was expected to remedy the situation; however, no tangible results were derived from these amendments.

The matter is that in 2007, formulas weren't used for calculation of equalization payments. This was repeatedly omitted in planning of the budget of 2008 as well. Despite the existence of the formula, the

government did not approve corresponding coefficients.

As for the targeted transfers, this is often used as a instrument for funding interests of the state or central authorities, in disregard of actual needs of local self-government (e.g. allocation of funds for outdoor painting or development of infrastructure, where immediate need for the municipality is restoration of irrigation networks).

Apparently, local self-government's share of revenues is being reduced in favor of central authorities, either in percentage or overall numbers – where income taxes and equalization transfers in 2007 stood at 537,5 million GEL, only 321 million GEL would be paid to municipalities in equalization transfers in 2008.

Expenditures. Due to absence of clear division of competences (both formal and informal), undue expenditure of local budgets is rather evident. In addition, local interests are usually not taken into account at the planning stage. This is possible only where a powerful lobby was available (as a rule, influential majoritarian MP) or conjunctive decisions of central authorities (as a rule, populist trends) were at stake, exemplified by pompous construction projects at the territories adjacent to conflict zones, and so forth.

Another negative aspect of local budget is its unpredictability in the long term. At the current stage, excessive costs are covered by revenues generated from privatization. It's not clear how this would be done after privatization is complete.

6. Property

Development of the legal framework for transfer of property to local self-government, which was completed by adoption of the Law on Property of Local Self-Government Entity (25 March 2005), is one of the major achievements of decentralization process.

According to the law, the register of property assets to be transferred to local self-governments had to be completed by June 2005. Due to a number of reasons, the process encountered delays and is still not completed today. Usual reasons for the delay include lack of databases and inadequacy of existing ones, weak management and political motives – the authorities are awaiting results of municipal elections to be confident that property goes into “right hands”.

Legislative amendments of 2007 demonstrated that the above-mentioned reasons are supplemented by the political decision on restricting discretion of self-governments to the sale of property and to subject this process to control by the central authority, namely, the President of Georgia:

- According to amendments to the Organic Law on Local Self-Government and the Law on Property of Local Self-Governing Entity, normative price of land subject to privatization is set in accordance with the rules approved by the President of Georgia, thus effectively limiting the right of self-government to exclusively dispose of its own property, as guaranteed by the Organic Law; authority to take decisions in privatization process has been removed from sakrebulo and given to gameoba/mayor's office.
- Amendments to the Law on Privatization of and Concession of Ownership Rights to Property of State Authorities and Local Self-Governing Entities restricted the right of self-government to determine the forms of disposal of property on its own accord – the list of these forms has been

reduced (in particular, privatization by bidding has been removed); the President of Georgia acquired the authority to decide on direct sale of property owned by local self-governance entity and to determine conditions of sale.

- By amendments to the Organic Law on Local Self-Government, local self-governments were granted ownership of agricultural and non-agricultural lands (forests of local importance), as well as water resources; however, the right to privatize these rests not with the local authorities, but rather with the Ministry of Economic Development of Georgia.

In addition to legislative amendments, transfer of property ownership to local self-governments is further complicated by other problems, namely:

- Local self-governments are not particularly willing to place certain types of property on their balance. Usually, these objects carry past debts that are to be paid by local budgets;
- Same is true for objects that are rather costly to maintain (for example, new sports complexes constructed by central authorities in the regions, which require high running costs, leading some municipalities to refuse ownership of these);
- Municipalities suspect that the state will first privatize valuable assets, while the “remains” that could not be privatized will be “granted” to local authorities;
- Value of property to be transferred to local self-government requires extensive revision, since many enterprises or institutions are not functional anymore and, moreover, their premises are either in total waste or are in such dire need of repair that their restoration would be more costly than construction of new property.

Despite better conditions in comparison to other areas of decentralization, there are numerous problems of subjective and objective nature in transfer of property to local ownership. Despite declarations from the state, the process is delayed and local self-governments are not particularly active either. Isolated success stories (e.g. transfer of Kutaisi trolley park to local authorities) cannot influence the overall picture.

7. Supervision

The Law on State Supervision of Activities of Local Self-Government Authorities, adopted in 2007, is a significant effort aimed at regulating relations between central and local authorities in Georgia. The Law mainly defines supervisory bodies (a de facto position of “governor” has been given legal status) and separates two types of supervision: legal supervision (in performance of exclusive or delegated authority) and supervision on due conduct motives (in performance of delegated authority).

At the same time, the Law suffers from a whole range of shortcomings, which, unless remedied, would create additional threats for independent operation of local self-governments:

- A list of supervisory bodies is not defined by law, but rather by the decree of the government, leading to possibly changeable nature of supervisory bodies' list and its dependence on political background;
- Supervisory bodies are vested with the authority to repeal individual legal acts of self-

government authority, which is prohibited by the General Administrative Code of Georgia;

- In cases of damages to self-governance authority resulting from the undue supervision, such damages must be reimbursed, however, the law does not provide for detailed procedures in this regard, and so forth.

Shortcomings prevalent in practice lead to additional difficulties and pose certain risk of double standards. One such example is request of supervisory bodies to repeal a decree of self-government authority on utility service tariffs. Despite that fact that the Organic Law vests self-governance with exclusive right to determine these rules, the court is omitted entirely from resolution of such disputes. At the same time, simultaneous establishment of 2 staff offices in municipalities in direct violation of Organic Law has not drawn any attention from any supervisory body.

This puts forward the following undesirable results:

- Violation of fundamental provisions of the law by officials representing central authority, where the official, acting on his/her own discretion, gives preference to those acts that are beneficial to his/her interests and not to the law that stands hierarchically higher;
- On the background of drastic reduction of mass corruption, clan attitudes are strengthening in public service, resulting in non-classical, relatively obscure forms of corruption (non-disclosure of information about potential tenders and providing information only to cronies, etc.);
- Tradition of excessively strong influence of central authorities over executive branches of local self-government is carried on, where gameobas/mayor's offices are viewed by central authorities (and sometimes by gameobas/mayor's offices themselves) as an extension of central authorities' interests on a local level;
- Calling for responsibility of specific persons, often carried out on a campaign basis, is frequently viewed by the public as an act of political or personal retribution.

In such circumstances, supervision solely by state agencies cannot be effective, unless there is strengthening public scrutiny over actions of self-governments and decisions by supervisory bodies.

Until there's often pressure from central authorities for political or mercantile ends, while local self-governments are not given the right to independent decision-making, it is less likely that local self-governments would eventually take responsibility for their own decisions.

8. Provision of public services

Traditionally, public services in Georgia were not of the highest quality, and chaos that followed independence of the country laid this sector to almost complete waste.

One can assume that the system is given a fresh start today and is facing all concerns that are similar for countries in transition, such as inadequate funding, lack of experience, scarcity of qualified personnel, uncertainty as to the state policy, weak authority of the local self-government, etc.

Commercialization of public services should be the best solution for this situation, provided that services are efficient – however, Georgian context proves otherwise. Strengthening monopolies of

service providers and outflow of qualified personnel keeps the low quality of services amidst ever-increasing costs.

In such circumstances, local self-government shall be advocating everyday interests of local population; however, this proves to be a tough challenge these days, for various reasons:

- Local authorities have no mechanisms for influencing private companies. Local budgets of 2007 received certain funds for provision of some services, however cannot be used due to legal restrictions. Legislative amendments have stripped local authorities of this function entirely.²
- On the other hand, central authorities often take over exclusive functions of the local authority, such as restoration of local roads and local transport services. In reality, due to ineffective management and lack of knowledge of local concerns, costs are significantly higher than they should really be. There are suspicions on the part of general public that high-ranking central officials are behind these excessive expenses.

Situation with provision of certain services, once studied closely, enables us to extrapolate a number of problems to the general situation with public services:

- *Waste management.* Municipal services are responsible for cleaning and household waste removal. Cleaning duties are imposed, but there are no mechanisms to improve their collection. Moreover, complete information about amount of waste in municipalities is not available. There's no concept or strategy for waste management neither on municipal or even at state level.
- *Water and sanitation.* This service is unevenly developed at self-governments due to shortcomings in legislative regulation and institutional framework. Despite rehabilitation works being undertaken at a number of production facilities, no accounting of available resources has been done so far. Equally, there are no long-term plans on how to implement one of the most outstanding tasks for local self-government – provision of drinking water to the population– in terms of developing infrastructure.
- *Municipal transport and local roads.* Nowadays, majority of municipalities face a disarray in road infrastructure and a large part of local roads are not suitable for travel. Quite importantly, municipalities do not have construction plans that should define rehabilitation or construction of new roads. As a result, investments by state in this area are not bringing any tangible effect.

9. Public perception

Quantitative and qualitative surveys of public opinion revealed public perceptions of local self-government system and its operation.

During some interviews, local self-government officials noted that the new administrative order distanced the population from self-government, and gameoba envoys, at least at this stage, are unable

² From 2008 on, municipalities were deprived of the right to control service tariffs. Starting in 2009, it is planned to terminate central funding of services such as street cleaning, payment for which should be collected as duties imposed on the population. This naturally leads to increased costs of administering collection of duties, however, actions in this direction are yet to be taken.

to offer a channel of communication between municipal agencies and the population. Recognition of public officials by the population is rather low.

The situation is complicated by the fact that the population, besides having scarce information, is not willing to become aware of self-government problems, since there's a common belief that municipalities have actually very limited authority and are unable to remedy population's problems.

The role of civil society is also negligible. Non-governmental organizations, in their relationship with local authorities, have a number of concerns related to transparency of self-government's operation. Moreover, even in cases of open relationship, municipalities are unable to deliver on their obligations due to inadequate funding and formal or informal barriers set up by central authorities. As a result, many NGOs prefer to direct their activities elsewhere.

Direct survey of public opinion demonstrated the following:

1. *General perceptions.* Society holds limited information regarding competences, structure and activities of self-government. Perceptions of decentralization reforms are not determined by personal views, but rather by attitudes to those social and political powers that undertake those reforms. In this regard, population of the capital of Georgia – Tbilisi – expresses its most criticism.
2. *Self-government competences.* Functions of central and local authorities are often mistakenly for each other. For example, part of the population views infrastructure rehabilitation and higher pensions as self-government's achievements, and criticizes local authorities for problems with education system.
3. *Recognition.* The public is more aware of personalities of governors and mayors (Tbilisi – 92,4%, regions – 61,8%), compared to sakrebulo chairs (Tbilisi – 27,6%, regions 54,6%). In the regions, there are low recognition rates of majoritarian representatives from own community (35,6%) and gamgeoba envoys (24,5%). 45,3% of Tbilisi residents and 33,2% of population in the regions believe that local authorities do not serve the needs of the public, but rather pursue their own and/or central authorities' interests.
4. *Referrals to local authorities.* Data for 2007 and 2008 reveal that numbers of applications to self-governments regarding communal issues (5.9% and 2% correspondingly), social problems (10.2% and 2.6%) and production of documents (8.7% and 2.3%) have been on a steep decline (in total: 24.8% in 2007, 13.5% in 2008).³ According to data from 2007, 60.7% of respondents have affirmed that their request was granted, while in 2008 these rates are lower (communal services – 32.7%, social issues – 24.8%, documents – 17.5%). 53.2% of the population in 2007 and 49.5% - in 2008 have never referred to self-government due to lack of need to do so, while 34.6% (2007) and 31.2% (2008) responded that they didn't hope for any action on their request.
5. *Public participation.* 96.3% of the public did not take part in meetings organized by self-government authorities. Even less impressive is participation in discussions on the local budget (98.5%).

3 The survey question in 2007 was worded in the following manner: “How often did you refer to local self-government authorities before the reform?”

It is rather obvious that, compared to the period preceding the reform, public participation is decreasing, which is a testimony to:

- new order has complicated communication with the self-governments, or
- public distrust towards self-government has increased, or
- past problems have already been solved.

Apparently, major part of the public is not aware of the ongoing changes and has no actual possibility or willingness to become aware of this process, since there's a belief that this would have no effect.

10. Conclusions

Changes that were underway in 2007 had some positive highlights, in particular, continued efforts in certain aspects of further decentralization (legislation and practical implementation of the new system).

Negative aspects include, first of all, a trend for increasing centralization, which aims to cut down on already limited rights of self-government.

Analysis of specific areas and directions leads us to the following findings:

1. Legislative amendments aim to legitimate informal tools of state authority;
2. An already slim list of local self-government's competences is being cut down permanently. These competences are taken over by central authorities or are being commercialized (transferred into hands of private enterprises);
3. Local authorities got further distanced from the population. The executive branch in municipal authorities (gamgeoba/mayor's office) took back the dominant position and further restrictions of sakrebulo's role are being imposed;
4. More sources of revenue are being taken over by central authorities. At the same time, funding allocations from the central budget to local self-governments are declining;
5. The process of transfer of property to local self-government is still delayed and facing further complications, not only in practice, but on a legislative level as well;
6. Central authorities increase pressure upon local self-governments. Prior, informal mechanisms of influence are acquiring legal recognition;
7. The quality of public services is still inadequate. Uncontrolled commercialization leads to permanent inflation of costs. State investments into infrastructure are not having sufficient effect;
8. The public is being increasingly alienated from local authorities. Public participation in local processes is astonishingly low.

The following conclusion can be brought forward:

Similar to previous years, decentralization was not a priority for authorities in 2007. Moreover, trends for excessive centralization became visible.

The existing system eventually shows its lack of effectiveness, leading to concerns voiced in ruling circles as to the need for revision of the system; development of new legislation is already underway. Local self-governments are also advocating for change.

Against this background, one cannot rule out the possibility for a new reform of self-government being on agenda within 1 or 2 years.

VIII. Recommendations

Since problems encountered in decentralization process are widely diverse, we attempted to focus on those aspects that stood out particularly throughout 2007.

Origins of these problems were already discussed in corresponding chapters above; therefore, list of required actions is categorized into different areas of activity.

Legislation

- Sectoral legislation should be brought into conformity with the Organic Law, in order to prevent administrative interference of central authorities into actions of local self-government. At the moment, around 40 sectoral laws require harmonization with the Organic Law.
- Both law-drafting and problem-solution in self-government sector require particular attention to views of local and international experts, more so since Georgia has no traditions of self-government.

Competences and institutional structure

- There is a need to make local executive authorities accountable before local representative authorities, which would significantly strengthen position of local self-government in relation to central authorities:
 - It is necessary to restore once-removed authorities back to local self-government's representative bodies (management of local property, establishment and liquidation of non-commercial legal entities), as well as strengthening roles of Sakrebulo structural agencies (bureau, commission);
 - Actual mechanisms of Sakrebulo influence over executive institutions should be defined. Procedure for removal of gamebeli (mayor) from office should be streamlined and, at the same time, Sakrebulo should be given opportunity to exert influence over activities of structural agencies of executive authorities (e.g. matters related to appointment and resignation of heads of structural entities should be agreed with Sakrebulo).
- Gamegoba (mayor) envoys should be given actual authorities. It is desirable that envoys are directly responsible before the gamebeli (mayor) and Sakrebulo as well. Status of the envoy should be equivalent to one of the Head of Service, and envoys should keep their posts at least for a term of Sakrebulo authority (otherwise, for indefinite term).

Financial and property matters

- There should be a clear division within revenues of local authorities, that is, legal distinction between revenues to be used for performance of exclusive competence and funds to be used for performance of delegated authority. Such division lacks clarity at the moment and leads to undue spending in practice;
- Property tax, as the only local tax, gives opportunity to generate only very modest revenues to local budget. Possibilities for removal of some benefits should be considered, in order to direct actual revenues to local budget. Strengthening and expansion of the local tax base is dependent on the multitude of taxable objects;

- Determining amount of equalization transfer on the basis of formula is based upon estimating progress of actual expenses for previous years, which excludes in principle operation of development-oriented local budgets. Local budgets should not be guided towards mere reanimation. Exclusive funding of development programs by targeted transfers from central authorities essentially undermines authority of local self-government;
- Procedure for privatization of local self-government property through auction, which was removed from the law without any reason or explanation provided, should be brought back into relevant legislation.
- Various social programs and benefits in 2007 were funded from local budgets. Such programs and benefits should represent a part of state programs and should be therefore funded from the state budget.
- Local budgets should not provide funding for those objects and services that ought to be funded from the state budget. Local self-government's budget should be used primarily for the provision of local services.
- Leaving a fraction of income tax (at least 5-7percent) for local budget would be a good practice. Once state budget would retain, as a compensation for repealed social tax, income tax in the amount of 20% (or maybe 18%), while remaining 5-7% would be paid to the local budget, this could possibly serve as way out of difficult financial conditions;
- Equalization transfer formula does not reflect differences between small-size municipalities and those where large administrative centers are situated (for example, Telavi, Gori, Zugdidi). The noted formula does not account for interests of self-governing cities. A special coefficient in the formula is applicable only to Tbilisi, where such coefficient should be automatically applied to all self-governing cities; the Ministry of Finance should also consider those cities (administrative centers of municipalities) that are on par with self-governing cities either in territory or population;
- Determining support coefficient for equalization transfer currently requires review by the Government of Georgia, in violation of the principle on independent setup of the fiscal system. Such coefficient should be determined by law adopted by the Parliament and should be set at 100% instead of 60%.

Economic activity

- Self-governing entities should enjoy wider authority and actual independence. This would enable local authorities to manage acquired property more efficiently and in accordance with own interests, and to accordingly use revenues generated from such property within their own competence, thus having positive impact on local economic development and facilitating development of financial self-sufficiency, as well as improvement of environment for investment through creation of solid property basis for self-government.
- Regional economic development programs should be elaborated, thus ensuring strong regional powers of municipalities.

State supervision

- Revision is due for the Law of Georgia on State Supervision on Activities of Local Self-Government Authorities, in order to ensure its conformity with the European Charter. The law should clearly define supervision institutions, limits of their authority and applicable supervision provisions. In particular:

- An executive agency tasked with coordination of self-government matters should be established within central authorities, thus streamlining relationship of self-governments with the Government of Georgia.
- An institution that would ensure collection, analysis and publication of supervision reports of self-government authorities submitted by governors, should be identified within central authorities.
- In place of declaratory provisions, the Organic Law should provide for an obligation of central authorities to consult with self-governments. In this regard, it is important to accede to those provisions of the European Charter on Self-Government that were not acceded by Georgia upon ratification.
- Staff of the governor's office should be trained in supervision matters. At the same time, public officials of central authorities should be provided explanation as to requirements of the Organic Law, since, in many cases, Ministry officials are aware only of sectoral laws and give priority to sectoral legislation in relations with self-governments.

Capacity building of local self-governments

- Competition and attestation procedures for public servants should be defined, to the effect that Sakrebulo would be able to establish competition and attestation commissions in order to assess actual performance of every official of executive authorities.

Situation with delivery of utility services

- There is a need to develop concepts of independent management of services for self-governing cities. Elaboration of such concepts for municipalities should take place at the regional level. Concepts should cover the following matters: fund raising, development of fair procedures for determining tax duties and enforcement mechanisms.
- It is desirable that authority to collect utility payments should be handed over to city or municipal services, so that tax duty planning, accounting and enforcement actions should be concentrated at this level.

Waste management

- Central authorities of Georgia should elaborate action plan and strategy for development of landfills in the country, since no single municipality is able to resolve this problem independently.
- Municipalities should develop long-term (at least 10-year) and short-term action plans for waste management (collection, transport, processing), with a view to aspects related to prevention of waste aggravation, purification of leak waters at landfills, as well as medical, specialized, construction and large-sized waste:
 - Prior to construction of new landfills, existing landfills should be properly operated and their personnel should be re-trained;
 - Irregular landfills should be closed down;
 - Plan for transition to container-based waste collection system and closure of garbage bunkers should be developed.
- In order to define applicable standards, Ministry of Environment and Natural Resources should elaborate and the Parliament should adopt the Law on Waste Management in shortest time possible.

Water and sanitation

- Since provision of water and sanitation services is an expensive endeavor for municipalities, separate enterprises at the territory of municipalities should be replaced by a single water and sanitation enterprise (it is possible that several neighboring municipalities establish joint or regional companies)²².
- Water supply services should be actually quantifiable (by installation of water counters at commercial enterprises at first, and later for residents).
- Those services that cannot be performed by corresponding human resources and equipment of the enterprise or require particularly expensive qualifications or equipment, should be outsourced by tendering to other organizations (drinking water quality control – lab services, installation of devices, etc.).
- Water extraction operations require the following actions:
 - Defining ownership and usability rights for territories covered by water reservoirs;
 - Protection of such territories from intrusion, installation of fences and systemic control;
 - Reconstruction of origin and water-collection facilities, repair of connecting roads;
 - Installation of screen filters and settling basins, and measurement of water volumes;
 - Comprehensive water analysis with a view to determine water purification requirements²³.

Municipal transport

- For ensuring better operation of municipal transport, it is necessary to:
 - Develop traffic routes;
 - Define traffic schedules;
 - Ensure proper arrangement of bus stops (maps of municipalities, transport schedules and routes should be exhibited, every stop should have small litter cans and external lights installed);
 - Develop strategy for importing transport into municipal territory;
 - Define tariffs on the basis of actual costs, so that reinvestment and regular import of transport by municipalities becomes possible;
 - Create opportunities for the public to purchase monthly or yearly transport cards, so that persons who use municipal transport on a regular basis enjoy discounted prices (such system is already planned to be deployed in Tbilisi).

Municipal roads

- Since road infrastructure requires extensive investment, it is necessary for central authorities to fund rehabilitation works as a part of transfers to local self-governments and to provide additional funding for road repairs.
- With regard to road infrastructure:
 - Existing roads should be accounted, both in kilometer distance and quality indicators;
 - Road projecting works should be developed in accordance with city development plans;
 - Municipalities should develop short and long-term plans for road rehabilitation;
 - Also, they should establish mobile road service teams.
- Water and sanitation, natural gas supply, communication and electricity enterprises should be notified in any case of road rehabilitation (for example, municipalities that plan transition to

²² It is feasible that water supply services are separated from cross-sectoral unified utility LLC. On the basis of property of these divided LLCs, new water and sanitation companies should be established.

²³ Current condition of central pipelines and supply network requires particularly effective disinfection. Due to pollution in communications, chlorine disintegration ratio should be high. Following installation of effective water purification services and improvement of existing piping (by minimizing losses and external intrusion on piping networks, as well as repair, cleansing and renovation of pipes), chlorine disintegration will be significantly reduced.

container-based waste disposal system should determine places for container installation, which should be taken into account during road construction).

Increasing public participation

- Wider public should be included into development process of conceptual documents, so that connection between technical decisions and required funding becomes more transparent.
- Public participation should be ensured to the maximum degree in planning local self-government budget. This would facilitate increasing transparency of local budget planning process and ensure that local self-government budgets respond to basic needs of residents;
- Persons residing or registered in the territory of self-government entities should have an enforceable right to request local authorities to protect legal interests of self-government entity as a property owner; in case such request is turned down, the dispute should be filed to the court. Statute of limitation for disposition of claims related to self-government property should constitute 3 years;
- All utility enterprises should establish public services tasked with public relations, review of claims and adequate provision of information.