

# Annual Report on Local Democracy Development in Georgia

(2008)

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## Foreword

The report of 2008 represents continuation of the reports of 2006 and 2007. It provides tendencies and analysis carried out in the field of self-governance during 2008.

The report covers:

- Policy analysis, general evaluation of ongoing reforms;
- Description of the legislative basis and law-making activity;
- Analysis of financial and proprietary grounds of the local self-governance;
- Description of the status of providing utility services;
- Studying the extent of civic involvement.

This report only covers the description of amendments made in 2008. The attention is focused on the facts of earlier period (2007) inasmuch as it is necessary for describing the situation.

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The report is accompanied with the cases developed within the frameworks of the project (authors: Amiran Gigineishvili, Otar Kikvadze, Irakli Papava, Akaki Rukhadze, Levan Chkhaidze, Mikheil Dzaganian), which reflect the activity carried out by municipalities.

## I. Policy Analysis

### 1. Introduction

There were no significant changes during the process of reforming the local self-governance process in 2008. The trend developed in previous years was still continuing, namely higher concentration of power and resources in the hands of central government and restriction of the rights of self-governances, which always used to be miserable.

This circumstance is conditioned with the whole series of already existing and newly emerged factors as well.

Out of old reasons, the following ones still affect the process of reforms:

- So called 'syndrome of post-revolution government'- when the central government, with the cause or reason for necessity of speedy reforms, tries to centralize the government as much as possible in order not to allow strengthening of opposition 'revanchist' forces and not to protract the process of reforms;
- Distrust in the local elite and the desire to disturb creation of groups having different interests, and/or to disturb strengthening of the existing ones in order to prevent any threat that may be faced by the ruling party or the uncontrolled influence of the ruling elite in the regions;
- Desire of the center to gather financial or human resources, which exist in the country, in its hands and not to allow their inefficient utilization while implementing 'less important' activities;
- The tendency, characteristic to the post-totalitarian countries - to pay less attention to the development of local democracy, as far as there are other important challenges faced by the country (e.g. hard social background, disrupted territorial integrity, permanent foreign threat).

At the same time, new factors have emerged during 2008:

- Political crisis developed in the country since the second half of 2007, which gave a new goal to the government - not to tolerate 'collapse' of the vertical of the country's government and to develop political processes that are free from the ruling team in certain fields or regions, which the government has identified with the Russian influence, or - with the dominance full or half-criminal elites, mafia-controlled and patrimonial clans.
- Russian-Georgian armed conflict in August, 2008, which has clearly showed the underperformance and weakness of local structures of the central government in the regions (especially in the area of hostilities and ethnic enclaves). On this background any demand for democratization is identified with the activity that is in conflict with the state interests.

- The world economic crisis that has started since second half of 2008, which has severely affected the Georgian economy and, probably, will become more severe for it during 2-3 years at least. Catastrophic reduction of excess free capital, completion of large privatization process and subsequent exhaustion of financial resources (like it was in case of the amounts acquired as the result of expropriation of old clannish system), provided doubts in regards to the issues of not only commencement of new programs (among them, even if it were hypothetical, to strengthen the local democracy in case of the will of the central government), but also continuation or completion of old programs (new job opportunities, educational reform, etc.).

At the same time, inefficiency of the current system of local self-governance becomes more and more evident and there are more and more requests for making the change from the side of not only the civil society representatives and international organizations, but also the people or interest groups (among them from the side of the local self-government officers) who used to support the governmental policy implemented in the field of decentralization. At the same time, there are also requests raised in regards to not only the changes in general, but also for starting the real decentralization and completing the reform.

Despite such preconditions, the old course of reforms is still continuing with inertia. Besides, whereas the unlawful pressure of the center created the dominated tendency in previous years, then the legislative restrictions of rights to places were imposed during the last 2 years, and not only the *de facto*, but also *de jure* legitimization of existing situation started as well, which often looks very ridiculous.

Certain positive aspects, such as the decreased tendency of frequent change of legislation, refining the legal technique and partial improvement of the situation in certain fields of public services (garbage disposal), does not really change the overall negative picture.

## **2. Legislation**

No new legislative acts were adopted in the field of self-governance during 2008, which is an indicator of comparable stability of the existing system.

At the same time the amendments keep to be made in the current normative basis. During the reporting years the dynamics of amendments made to the effective laws during the reporting year looks like this:

- 2 amendments were made to the organic law on Local Self-Government (7 amendments were made in 2007);
- 4 amendments were made to the law on the Capital of Georgia – Tbilisi (4 amendments were made in 2007);

- 2 amendments were made to the Law of Georgia On Privatization and Transfer with the Right of Use of State Property and Local Self-Government Unit Property (3 amendments were made in 2007);
- 1 amendment was made to the law on the Budget of Local Self-Governing Unit (2 amendments were made in 2007);
- 3 amendments were made to the Tax Code of Georgia (2 amendments were made in 2007);
- 1 amendment was made to the law on State Supervision over the Activities of Local Self-Government Bodies (there was no amendment in 2007);

In general, the amendments are made less frequently. In 2007, 22 amendments were made to the effective legislation, but in 2008 there were only 13 amendments.

Decrease of frequency of amendments, on one hand, should necessarily be evaluated positively. However, on the other hand this means that the government has almost finally established the structure which was meant in the beginning of the process of reforms.

Currently effective legislative basis of self-government can be characterized as clearly centralized, which reveals the tendency towards full centralization, in all the directions of decentralization process.

Brief overview of amendments made to the certain legislative acts can be provided as example of the abovementioned.<sup>1</sup>

### *Organic law on Local Self-Government*

The following should be noted out of the negative aspects:

- the term “receipts” was introduced in the legislation, in the description of the budget structure instead of the term “revenues” that used to directly describe certain types of revenues (among them own revenues). The term “receipts” represents an internal classifier of the budget only in accordance with the organic law, and the concept of “own revenues” was disappeared in the law;
- in fact, the scope of activities of special transfer became unlimited, and since now the self-governments have been granted the “right” to direct these funds for funding the activities of central government, if the latter “asks” the self-governments for such assistance;
- analogically, and probably with the same purpose, the scope of application of the reserve fund has also been broadened;

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<sup>1</sup> Impact of legislative amendments on the daily practice is discussed in a more particular way below, in respective subchapters and subsequent articles.

- control on financial activities of self-governances has increased more – since now this control can be exercised not only by the Sakrebulo’s financial commission, but also by “other statutory bodies” (such as the Chamber of Control), despite such provision is in conflict with the organic law as far as it identifies the local self-governments with state bodies.
- The rule has changed for supervision on implementation of the authority delegated to the municipality by the central government – the law and the agreement are no longer determining this, besides, it is becoming necessary to coordinate with the governor in the region in the process of conducting supervision by state bodies.

Determination and perfection of procedures necessary for getting a grant and loan by the municipality represents a positive aspect of changes.

The most ridiculous event is the amendment made to the organic law on March 27, 2009, according to which another “right” has been added to the voluntary authorities of the self-governing unit – to solve the issue of providing material-technical assistance to the state supervision bodies “voluntarily”. It is noteworthy that the law, which was passed in March, 2009, was considered effective since 2006, with which it has been assigned a reflexive force and it has justified the material-technical “assistances”, which has been forbidden by the Georgian legislation, though such assistances were provided to the central government by the municipalities in 2006-2008.

### *Law on the Capital of Georgia – Tbilisi*

Most part of the amendments made to the law repeats the amendments made to the law on Local Self-Government as it is hierarchically prevailing law, though there are also some differences.

The major negative aspect is related to the procedure of resolving disputes and for granting the authority to the Tbilisi self-governing units to create legal entities of public law, which is against the common legislative space of Georgia and that violates the rights guaranteed by the central institutes (president, government, court).

The positive side is to refine the procedures that are needed for determining the status of the monuments of cultural heritage in the capital city and for organizing, managing and regulating the local transportation.

7 amendments made to other laws (4 normative acts) do not really change the contents of the previous version and aims at making them more perfect from technical viewpoint and more consistent with the organic law.

While characterization of legislative activities in 2008 we should mention two legislative initiatives:

- *on making amendments and addenda to the organic law on Local Self-Governance, which enabled the local self-governments to provide material and technical assistance to the state bodies and which was passed in March 2009, and*
- *On making amendments and addenda to the law of Georgia on State Supervision over the Activities of Local Self-Government Bodies, which offered more specified supervision procedures. This initiative, which required justification of requirements from the central government, has not been passed by the Parliament yet.<sup>2</sup>*

As it was mentioned, the legal technique (for passing and performing the expertise of law) became more refined during 2008, the laws have become more harmonized (among them from the viewpoint of terminology as well), and clarification parts have been strengthened too.

At the same time, there are examples when the Parliament is considering contradictory drafts simultaneously (in one and the same package of legislative amendments); the normative acts are still adopted in tight timeframes and their enactment terms are not optimally determined; concreteness of certain articles is decreased, and one and the same issues are frequently doubled; typical provisions and other recommendation acts still are not used.

### **3. Competencies**

During 2008, the norms adopted a year ago were enacted and put into practice, which implies more reduction of the number of exclusive competencies of self-governments. According to the legislation, the authorities which have traditionally been included in the field of regulation of local self-government in the world, are no longer found among the exclusive competences<sup>3</sup>.

From this standpoint, Georgia has become more separated from not only the countries of old democracy (Western Europe, the USA, etc.), but also the CIS countries, among them its neighbors in Caucasus. The competences such as – water supply system, central heating, full cycle of waste management (among them waste utilization), specialized (musical, sports, etc.) schools etc, unlike Armenia and Azerbaijan, have left the field of control of the self-governments.

At the same time, in accordance with the legislation and also in the daily practice, there are frequent cases of implementing the competencies of central government by municipalities (we can provide an example of the “right” to finance the center with the funds from the local budget, as mentioned above). However, the central government more and more actively interferes in the exclusive and voluntary

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<sup>2</sup> Here we mean the draft initiated by MP Vano Khukhunaishvili for making amendments and addenda to the law, which has been developed at the center of reforming the effective government system and territorial arrangement.

<sup>3</sup> For example, in accordance with the amendment of November 20, 2007, the local self-governments were deprived of the right to water supply.

authorities of self-governments (building the local roads, painting the façades, restoration of bridges, etc.), especially – during pre-election period. We can assume that the government does not clearly see the separating line between the affairs of local and national levels. The interventionist policy towards local affairs, as exercised by the central government, is more frequently a projection of the vision of a particular official rather than a part of a long-term policy.

Whole series of authorities are not clearly separated between the central authority and local self-government; the mechanisms for executing the exclusive authorities are not regulated by normative acts. However, often the things are no better in the process of exercising the competencies assigned by the law to self-governments. There are frequent cases of unpurposeful expenses from the side of municipalities, and such expenses are incurred almost in all the municipalities simultaneously and in a parallel and unchanged way (financing the police departments, offices of the majoritarian MPs elected in the Parliament of Georgia, also the expenses of healthcare, general education, etc.), which means that these activities are dictated and sanctioned “from above”.

This happens when the exclusive authorities of local self-governments remain non-financed. Reasoning from scarce budgetary revenues, the expenses of local self-governments are restricted too. This is why most part of expenses is used for financing the self-government office and other expenses to support the programs of national level (such as healthcare, education). Thus, the programs focused on real development are not financed by the local self-governments. In majority of local self-governments the infrastructure is unregulated; the scarce amounts are used for public activities, because of which the migration of population is high from villages to the urban settlements, and from urban settlements – to the capital city. Consequently, 1/3 of the country population is concentrated in the capital.

#### **4. Arrangement and Structure**

In 2008, the irrational (ineffective) nature of a new territorial arrangement became evident even for the government. This can be illustrated by activation of a Rural Assistance Program – the central government has to incur expenses for funding the programs, implementation of which should represent the exclusive competency of local self-governments.

A new administrative-territorial arrangement of the country carried out in 2005-2006 aimed at handing over the real resources to local self-governments. Other than the fact that self-governments in reality have not received their own resources and have become more dependent on central government, as the result of enlargement they became more alienated from the population. Introduction of the position of representatives of territorial bodies on the territories of former lower-level Sakrebulo cannot be considered an alternative to the existing system. Even in this case, if they



are granted the relevant authorities and resources, they will not be the ones who would express the will of local communities. Besides, taking the self-governments up to the former district level, when they in fact would not have their own resources, contains the threat of excess politization at these places and the risk of creating problems to the center. And, lastly, in near or remote future, introduction of regional level in the country will create the grounds for new conflicts between the future regions and several large municipalities within these regions, as far as some of the municipalities (Gori, Gardabani, Marneuli...) are superior than some of the weak regions (Mtskheta-Mtianeti, Guria, Racha-Lechkhumi and Kvemo Svaneti) with the amount of their human or other resources.

There are voices appearing in the political elite of Georgia on the necessity to restore the model that existed before 2005. Presumably, this desire is dictated by the elections conjuncture and does not envisage establishment of mechanisms for eliminating the weaknesses in the old model, because it is necessary to analyze all the aspects of reform continuation in details before making final conclusions. This is needed for the government and society to make right conclusions and not to make hasty decisions again for attaining the short-term political goals.

By considering these perspectives, the works should be carried out towards establishment of medium variant that is somewhere in the middle of old and new models, and not towards restoration of previously existing many weak municipalities. This will significantly alleviate the central government's burden of obligations taken in front of the society and at the same time will not create problems even during serious political, economic and other crises.

The tendency of getting back to the old traditions is observed in the process of functioning of local self-government structures. Despite declaration of the authors of the reforms that the representative bodies - Sakrebulo should be playing the leading role in the place, the role of the executive branch - Gamgeoba/city call is getting stronger again on the background of further restriction of Sakrebulo's rights.

With the amendment made to the organic law on Local Self-Government in 2008, instead of the right to distribute the approved allocations for one budgetary organization within the 10% limit, a 5% limit was set for distribution in a particular article. At the same time, contrary to these provisions, in accordance with the amendment made to the law on Budget of Local Self-Governing Unit, during the next two years (2009-2010) this indicator was set at 15% and 10%, respectively, which increases the freedom of activities of the self-government's executive branch without any control from the Sakrebulo side.

Analogous amendments make the relationship between the Sakrebulo and Gamgeoba and also between the Sakrebulo and regional representative/governor

quite tense, as far as the latter, as a rule, prioritizes the executive branch – Gamgeoba - in their relationships, as a natural continuation of the governmental vertical. <sup>4</sup>

## 5. Finances

### 5.1. Receipts

Increase of revenues of local self-governments in Georgia was the main goal of the latest administrative-territorial arrangement. Authors of the reform agreed to a decrease of the quality of local democracy and closeness to the population, if consolidated self-governments would achieve real financial sustainability and would be able to provide effective public services to the population.

After the weak municipalities of the lower level were abolished and self-government was brought up to the former district level, it became apparent, that the center began to diminish the authorities and resources of the already new, consolidated self-governments.

Unfortunately, this tendency continued also during the year 2008. Despite the fact that budget receipts of local self-governing units constituted 1.4 billion GEL, which is the highest indicator since establishment of self-governance, the quality of financial independence of local self-governments has not increased.

Moreover, the share of own revenues in local budgets diminished noticeably.<sup>5</sup> “Own revenues” in the budgets are not a main classification unit anymore, while equalization transfers are also included within own receipts, defining the amount of which is completely a prerogative of central authorities.

As a result of the abovementioned policy, municipalities are mostly dependent upon transfers from the center, which constitute the largest part (over two thirds) of the revenues of some municipalities. This, in its turn, increases the danger of them being pressurized from the center.<sup>6</sup>

The increase of the share of transfers several times is caused by alteration of the methodology for calculating the equalization transfer. If in 2007 the formula for calculating the equalization transfer was aimed only at equalization of revenues and did not envisage the expenditure part of local budgets and transfer calculations also did not include Tbilisi (where the indicator of receipts per resident constituted 83 GEL, unlike the general national indicator which was 45 GEL), from January 1, 2008, as a result of introduction of the new calculation formula, the existing flaw was corrected and the abovementioned coefficients were taken into account.

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<sup>4</sup> Clear example of the above mentioned is provided as a case study in the II Annex.

<sup>5</sup> As an example, property tax constitutes only 9% of the revenue part of local budgets, of which the largest share is covered by Tbilisi.

<sup>6</sup> For example, the forecast of revenues of the Kharagauli municipality budget for the year 2009 is 2.4 million GEL, 89% of which is subsidies from the center. See Case 3.

At the same time, the Ministry of Finance has still not approved the coefficients of transfer calculation. Coefficients are being manipulated and, as a result, self-governments receive fewer transfers than are really necessary.

The volume of special transfers has also increased (from 48.2 million GEL to 158.8 million GEL), since its definition now includes quite a vague term – “other necessary expenditures”. From December 30, 2008, meanwhile, the target purpose of this transfer has become practically all-inclusive, since it can already be used for “funding other payments”, which are also not specified. The above fact violates principles of the European Charter of Local Self-Government, specifically Paragraph 7 of Article 9 (on inexpediency of funding special programs through subsidies).

In reality, as a result of all of the abovementioned changes, the total volume of local self-government budgets has been formally retained, but practical issuance of the greatest part of these funds depends on the center and is spent on funding of the activities of central authorities.

The tendency of the center “depriving” self-governments of own revenues has especially increased during the last 2 years.

Just in 2008, compared to 2007, own revenues diminished by 422.5 million GEL (66.6%), while capital revenues diminished by 182.3 million GEL (57.1%). At the same time, the share of non-tax revenues increased by 709.9 million GEL (254.8%), (i.e. increase of the volume of transfers constituted 426.8 million GEL – 599.2%).

As a result, the structure of local budgets was altered radically – if back in 2007, own tax revenues constituted 50.2% of local budgets; in 2008 they decreased to 15.1%.

We will see an even graver picture, if we remember the dynamics of change of the share of local budgets in the years following the “Rose Revolution”.

*Table No. 1. Share of local budgets regarding the GDP and the consolidated budget (% %)*

<b>Years</b>	<b>In reference to GDP (%)</b>	<b>In reference to the consolidated budget (%)</b>
2004	6,0	22,8
2005	5,3	18,3
2006	4,8	14,3
2007	5,1	14,1
2008	2,4	6,0
2009 <sup>7</sup>	1,6	5,1

*Source: Ministry of Finance of Georgia*

<sup>7</sup> forecast.

## 5.2. *Payments*

In 2008, the total volume of budgetary payments of local self-governing units constituted over 1.35 billion GEL. At the same time, as was noted above, quite significant expenditures were undertaken for funding of non-own competencies of self-government (funding of the expenses of police departments, bureaus of majoritarian MPs, healthcare, general education, etc.).<sup>8</sup>

In 2008, the share of non-own expenditures within total expenditures is not so small. In 2007, the share of non-targeted expenditures constituted 6.4%, in 2008 – 9.1%, while in 2009 it occupies 8.6% within planned payments. Non-funding of exclusive authorities by local self-governments aggravates the already heavy social background, existing in the regions.

The capital, which, compared to other municipalities, has the highest budgetary revenues per resident, has a more or less well maintained infrastructure and most of the state budget is also being spent in the capital. There has arisen the situation, when the budget of the capital exceeds the total of the budgets of all the other remaining self-governments of the country (except for the Autonomous Republics) approximately twice. It can be stated quite confidently, that all of the economic activity and, consequently, finances, are gathered in one city.

On the whole, 56% of the expenditure part of local budgets is spent on supporting the administration and funding such activities (healthcare, education, etc.), which, in compliance with Georgian legislation, are not direct competencies of local self-governments.

Another negative aspect of the expenditure part is the increase of the area of defined target purposes of the reserve fund (which constitutes maximum 2% of fixed allocations – approximately 28 million GEL). It is already currently admissible to direct this amount for funding of “other measures of local significance”, although it is not specified, what is implied in this definition of the law, which increases the threat of non-target use of the indicated funds. However, this seems to be the most “harmless” problem, compared to other problems.

Such mixing and confusion of the state and local authorities and budgets increases transaction expenses, namely the administration expenses, but enables the center to control not just its own, but also those resources, which formally belong to self-governments.

As an illustration, there can be used a mutual comparison of non-target expenditures of municipalities and the “Rural Assistance Program”. As has been noted, based on the “request” of the center, municipalities funded activities of state institutions in

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<sup>8</sup>For example, Signagi municipality allocated 7.5 thousand GEL from its budget for funding the police, Kharagauli municipality – 40 thousand GEL, Dedoplistskaro municipality – 64.5 thousand GEL, Lagodekhi municipality – 220 thousand GEL, Zugdidi municipality – 714.5 thousand GEL. See Case 4.

2008 with approximately 130 million GEL. At the same time, undertaken expenditures are being partly returned (for example, the state Program of “rural assistance” was defined in the amount of 19 million GEL in 2008 and 21 million GEL in 2009), although this is a “gift” from the state and not the activities carried out by self-governments on their own territories.

Finally, administrative expenses should be mentioned in short. Although optimization of local structures has been carried out, but the currently diminished structures are spending for administration such amounts (approximately 175 million GEL in 2008), which exceed several times the total administrative and program expenses of all the pre-reform local structures of all levels.

## **6. Property**

Despite the fact that the process of transferring to self-governments part of the property existing in state ownership began from the year 2005, establishment of economic sustainability of local self-governments is being hampered by delays of the transfer process, non-existence of real independence related to disposition of property and a high quality of interference of central authorities into the issues of distribution of local finances. The property, transferred to self-governments, is sufficient only for exercising their exclusive activities and they do not have the opportunity of receiving additional revenues through disposition of this property.

Transfer of state property to self-governments is carried out based on the law (through direct transfer) or based upon requests made by self-governing units. Proceeding from international norms, self-governments should have the opportunity to dispose of their own property according to their own views, but the situation arisen in Georgia in this respect is paradoxical: municipalities can only transfer their property into use, based on their own decision, as to disposition, since 2007, this is a prerogative of central authorities, specifically the President.

Apart from the abovementioned, there also exist other problems in the sphere of municipal ownership:

- Ambiguous and often mutually contradictory normative frameworks;
- Unplanned and sporadic character of the property transfer process. Non-existence or/and inefficient work of inventory and passportization institutions;
- Lack of coordination between various state agencies (Ministry of Environment Protection and Natural Resources, Ministry of Energy, Ministry of Justice, etc.);
- Attempts by certain municipalities to request the property, which is not subject to being transferred to them (e.g. school buildings, etc.);

- Failure to resolve the issue of transferring into ownership of local self-governments the forest resources of local significance (the former so-called Collective Farm and Soviet Farm forests – the total area of 800 hectares), more so as a significant portion of these forests has been completely destroyed, since 1991, as a result of unplanned and sporadic tree-cutting;
- Issues related to transfer of the water resources of local significance, especially while taking into account that even the competence of supplying water has been misappropriated by central authorities and they are still unsuccessfully trying to privatize the abovementioned structure.

## 7. Supervision

The tendency of centralization and excessive control, which was apparent already at the beginning of the reform process, still continues to grow in 2008.

Amendments to the Organic Law on Local Self-Governance increase the number of controlling bodies, while the latter are assigned to coordinate inspections in regions with the State Trustees/Governors. It is not specified, what is implied under the general term “coordination” (is this consultation, issuance of permits or the authority to conduct special intervention in force-majeure situations).

As a result of amendments introduced to the same Law, the number of state institutions, which carry out financial inspection, has been expanded, although the Law gives neither a list of these organizations, nor a description of the relevant procedure. It also does not indicate those normative Acts, which should define the abovementioned rights and the procedures for exercising them.

If we take into account the existing practice, it is likely that Governors and other state institutions will receive additional mechanisms for exerting political or other types of legal pressure, as well as other indirect influence over municipalities. As a rule, such actions are used for retaining loyalty of the municipalities and as preventive means. At the same time, they are not universal – it is not just that pressure mechanisms are not used against “trustworthy”

self-governments, they are even provided with excessive privileges. A clear example of the abovementioned is the addendum, introduced to the Law on the Capital of Georgia – Tbilisi, related to the rule for contesting decisions taken by public legal entities, founded by the government of Tbilisi, according to which the role of the court in dispute resolution is not mentioned at all – the highest instance in this case is the Mayor. In cases related to public legal entities, created by the state, even the President of Georgia does not possess such a right. It is also unclear, who will be the mediator, for example, in case of disputes arisen between the state and public legal entities, established by the government of Tbilisi – the state of Georgia, the

government, judicial system, the President – on one hand, or the Mayor of Tbilisi – on the other.

In compliance with the legislation, the capital of Georgia really does possess additional authorities and duties, but excessive expansion of such rights (regarding budget compilation and distribution, protection of cultural heritage, establishing new legal entities and other aspects, which, not so infrequently, contradicts the principles of the same Organic Law), turns Tbilisi into a special subject, which differs from the rest of the country and turns the legislative package, related to it, into a quasi-Code, which may cause certain problems within the common legislative space of the country.

Along with a whole number of flaws, it is perturbing, that the state pays less attention to them often ignores the attempts to correct the flaws, at least technically: the draft Law On Introducing Amendments and Addenda to the Law of Georgia On State Supervision Over Activities of Local Self-Government Bodies, according to which time limits of the supervision process were being increased, both for self-governments and their controlling bodies and there was stressed the necessity of justification, in case of demands by the supervisory body to abolish a normative Act or to amend it, was not even discussed by the Parliament of Georgia.

## **8. Provision of public services**

As it has been mentioned, the tendency of misappropriation of exclusive competencies of local self-governments by central authorities continued in 2008. As a result of the amendments, introduced to the Organic Law on Local Self-Governance, local self-governments were deprived of the water supply systems and control over them (the right to establish tariffs). Regulation of the tariffs became a prerogative of the Georgian National Energy and Water Supply Regulatory Commission. At the same time, the issue of ownership of operating systems remained open.

It was planned to include these objects on the privatization list, but due to heavy financial liabilities (debts), depreciated material-technical base and very small scales, it was not managed to attract large investors.

Confusion regarding ownership and funding caused a catastrophic situation in many municipalities of Georgia, in the middle of 2008. Central authorities became forced to “assign the task” of funding these facilities to self-governments again, despite the fact that the latter did not possess relevant authority anymore.

The situation is no better in those spheres, which are currently still within competence of local self-government. The only exception can be considered to be the service of residential waste collection and removal, where certain positive progress is apparent. Some municipalities (e.g. Gurjaani, Gori) are trying to improve this service, although this is happening at the expense of increasing the fees.

The research conducted in 52 municipalities of Georgia shows, that as a result of undertaken activities, the quality of cleaning of residential areas (as a rule, only towns) has increased by 14.2% (from 37.8% to 52.0%), while the level of satisfaction of the population consequently increased by 6.6% (from 35.0% to 41.0%) and the indicator of fee collection increased by 32.0% (from 25.7% to 58.0%).<sup>9</sup>

At the same time, none of the municipalities (apart from large cities) have any formal documents reflecting a strategy of solid waste collection and removal, not to mention a utilization policy, which does not exist in Georgia at all.

As a result, administration of collection of the fee, not to mention a rapid increase of the service quality, becomes complicated. Despite improvement of the fee collection indicator, the main source of funding of the service still remains to be subsidies from local self-government (50-75% of the funds).

It is likely that the situation will become more complicated in the future, since from 2009, it is planned to cease funding of the street cleaning service from the central budget, which in itself implies that the burden of funding will transfer to the population, through increase of the fee. If we take into account, that income of the absolute majority of the population (especially in regions) is lower than the minimum subsistence level, we should expect serious problems in fee administration.<sup>10</sup>

## **9. Public participation**

The level of participation of the public in activities of local self-government and the process of decision-making is extremely low. The existing legislative environment does not contribute to this process – there exist no specific mechanisms and procedures, which are necessary for real involvement of the public. As an example, priorities of the population are not taken into account during planning of local budget expenditures and the level of public co-participation in the planning is minimal, not to mention other, more specific issues.

The situation was aggravated by consolidation of self-governing units, as a result of administrative reform, implemented in 2006, which excessively increased the distance between self-government bodies and the population. As a result, it became necessary to activate such mechanisms, which would ensure effective communication between the public and local authorities. It was exactly for this purpose, that there was introduced, at the level of formerly existing, abolished self-governments of level I, the institute of Gamgeoba Trustees, although it cannot reach even the level of efficiency of the pre-reform, extremely ineffective structures. Despite consolidation (and consequent arising of conditions for mobilizing comparatively larger funds),

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<sup>9</sup> See report of the Project “Communities Empowered for Local Decision-Making” (Urban Institute).

<sup>10</sup> As an example, in Lanchkhuti municipality, monthly income of families (and not per capita!) for 78.5% of the population is less than 150 GEL. The situation is similar and even more severe in the absolute majority of Georgian municipalities (except for Tbilisi and some cities).



self-governments often cannot even sustain their own informational means at an appropriate level.

Research shows, that only a small portion of the population has ever attended Sakrebulo meetings (in regions – 5.1%, in Tbilisi – 2.2%). More worryingly, 81.5% of the population in regions and 87.4% of Tbilisi residents has never felt the desire to do so.

Indifference of the public is, first of all, predetermined by distrust towards local bodies, since they consider (and quite justly), that in conditions of limited rights and resources, it will be difficult for self-governments to satisfy interests of the population, even if they really want to do this.

Another significant problem is the low level of the public being informed about activities of the municipality and principles of self-government in general. Over 80% of those citizens, who have addressed self-government, do not possess information about the procedures necessary for addressing it.

Apart from minor exceptions, municipalities are also not active in the sphere of public relations – separate activities have been carried out mostly within the frames of programs, funded by foreign donors.<sup>11</sup>

At the same time, if real attempts to establish bilateral communication do take place, interest of the population increases immediately. As an example, we can cite the comparatively high quality of public's interest in the process of discussion of the "rural assistance Program".

Situation is frequently complicated by excessive politicization of the issue. As a rule, public meetings are gatherings of representatives of local authorities (the so-called "active"), to which those, who have differing opinions (representatives of oppositional Parties, active citizens with critical viewpoints), are not invited. Such meetings serve a single cause – to demonstrate activities of local authorities in a positive light, not to the public but, first of all, to the central government and international organizations.

## **10. Conclusions**

System of self-governance, functioning in Georgia, is facing serious problems. As a result of reforms, implemented during recent years, there is already no talk anymore about development or retaining of democracy. The second goal of self-government as well – delivery of public services, is at a low level and its quality, on the whole, is gradually deteriorating even compared to the situation existing during the Soviet period.

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<sup>11</sup> See Cases 5 and 6.

In 2008, tendencies revealed in the previous years, on separate directions regarding decentralization, have deepened. As a result of analysis of separate spheres, the following conclusions can be made:

**Reform process** – issue of decentralization is not a priority for the Georgian political elite. Moreover, authorities are trying to limit self-governments even further and to turn them into mute executors of decisions of central authorities.

**Legislation** – compared to previous years, the number of amendments to active legislation has diminished and improvement of legal technique can also be felt. At the same time, this testifies to the fact, that, according to opinion of authors of the reform, the goal envisaged by it is almost achieved. Amendments to the legislation are again aimed at limiting the authorities of self-government and are based on the idea of “the necessity of strengthening the vertical of power”. Attempts at excessive centralization (of authorities, finances or structural) frequently assume quite curious forms.

**Competencies** – diminishing of the list of exclusive competencies of local self-governments continues. Central authorities are subjecting to their control such spheres (e.g. water supply), which, in every developed country and during any period (even the Soviet period) were prerogatives of local authorities. Also, there are frequent cases of interference, by the state, into exercising of the authorities, which remain in the hands of self-government (improvement, local roads), and of funding of separate programs, on behalf of the state, at the expense of limited funds of self-governments.

**Structure** – on the part of the state, there are attempts being made to increase efficiency of the ineffective system, established as result of the reform, which in itself requires mobilization of additional resources. At the same time, these attempts, as a rule, fail to bring desired results. Also, there is a clearly noticeable excessive increase of the role of the municipal executive branch (city hall/Gamgeoba), at the expense of limiting the rights of representative bodies (Sakrebulo), which represents a negation of not only the fundamental principles of self-governance, but of the declared goals of the reform in progress.

**Finances** – despite the formal large size of local budgets, in course of the reform, their share within the budgetary system of the country has diminished from 22.8% (in 2004) to 6.0% (in 2008) and is still decreasing. The direct share of tax revenues is also decreasing (50.2% in 2007; 15.1% in 2008) and local budgets are becoming dependent on subsidies from the center. In this respect, Georgia is seriously behind the indicators existing in both European democracies and countries of the Caucasus. Situation has worsened in the expenditure part as well – the share of non-target expenses has increased (9.1%). Also, central authorities have misappropriated the right to assign to self-governments the duty to “voluntarily” fund common national

programs, as a result of which 56% of local budgets are being spent on administration maintenance and funding of common national competencies.

**Property** - the process of establishing municipal ownership, which began quite successfully in 2005, has stalled. Lack of a realistic statistical database and attempts by central authorities to themselves privatize any more or less profitable objects, which are subject to being transferred to self-governments, are apparent. Moreover, the right to privatize the objects, already transferred to self-governments, has also been appropriated by central authorities (directly the President).

**Supervision** - despite the diminished rights or resources of self-governments, the state is strengthening the mechanisms of control over municipalities, which are quite often used for political purposes and are also characterized by complete inconsistency.

**Services** - the tendency of concentrating public services in the hands of the state has continued. A significant part of exclusive municipal services are already conducted by the state, which is being used for PR purposes. During administration of the services, which remain within competence of self-governments, much greater attention is devoted to payment/fee collection, than to service quality and, consequently, to increase of satisfaction of the population.

**Involvement of the public** - the quality of citizen participation in local self-government activities has never been high in Georgia, but it has decreased catastrophically after implementation of administrative reform (distancing self-governments from the population, as a result of consolidation). The circumstance that over 80% of the population does not believe, that relations with self-government are going to bring any results, is especially worrying. At the same time, the level of the public being informed about decentralization issues is extremely low.

Implemented changes, apart from all of the abovementioned, contradict the principles and spirit of the European Charter of Self-Government, specifically:

- Exercising of exclusive authorities of local self-government by central authorities contradicts Paragraph 1 of Article 3 and Paragraphs 2 and 3 of Article 4;
- Ignoring of local initiatives while exercising the rights, delegated from the center, contradicts Paragraphs 5 and 6 of Article 4;
- Control by separate Ministries and the regional Trustee of the President during exercising of exclusive competencies of self-government contradicts Paragraph 2 of Article 8;
- A large share of target and delegated transfers, received from the center during exercising of authorities of local self-government, does not comply with Paragraphs 2 and 7 of Article 9;

- Dependency of local budgets upon the state budget and their consequent adoption, without prior agreement with self-governments, after approving of the state budget, do not comply with the norm, described in Paragraph 6 of Article 9.

In such conditions, central authorities are not trying to discuss recommendations or initiatives of local or foreign experts and international organizations and are still continuing the centralization course which they have taken.

At the same time, within the government itself, there are apparent signs of concern over inefficiency of the system, which, on the background of a grave social, economic and political situation, may become a serious problem for authorities.

As a result, in a near future (likely in several months), the issue of changing the existing system is certain to be placed on the agenda.