

DEVELOPMENT OF LOCAL DEMOCRACY IN GEORGIA ANNUAL REPORT

(2016-2017)

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Executive Summary

The local self-government reform launched in 2013 was not the first of its kind to be implemented in Georgia since the country regained its independence in 1991. While every reform has been different, they all had one thing in common: they were incomplete and contradicted each other, and individual successes were often followed by stagnation or recession.¹

The 2013 reforms have not changed that overall tendency. There were a number of changes in 2013-2015 regarding the territorial arrangement of self-governments (new territorial units were established); structural changes (offices of mayors and *Gamgebelies* were converted into direct elected positions); fiscal decentralization (local self-governments received a part of some taxes); and increased citizen engagement. However, that progress started to lose ground at the end of 2015: the central government decided to reinforce its control at the local level by centralizing firefighting services in 2015; cancelling the State Program for Village Support in 2016; bolstering the central government's control mechanisms at local places by way of increasing its control over staff recruitment in the election period in 2016; doing away with self-governing towns in 2017; and centralizing resources for the implementation of local-level programs. This reversal becomes clear when the developments in 2014-15 are compared to those in 2015-16:

- Legal and regulatory framework: accession to all of the articles of the European Charter of Local Self-Government is no longer being considered. Concept papers on decentralization and regional development have not been submitted for discussion yet.
- Territorial arrangement: in 2017, the number of self-governing towns decreased again. The government's position on setting up entities with the status of legal bodies at the regional level remains unclear.
- Powers: The parliament has delayed hearing the bills that would allow local self-governments to exercise their new powers.
- Bodies of self-governments: previously mentioned plans for optimizing municipal services are no longer being discussed. Moreover, in the pre-election period the government tends to lift restrictions on hiring additional civil servants.
- Finance: in order to compensate for the part of income tax revenues ceded to local self-governments, the central government reduced the total amount of the equalization transfer to the local self-governments on a prorata basis.

In 2017, the government began saying that all the previous reforms were incorrect or were incomplete and that real decentralization will soon begin. In 2018, parliament and the government issued a joint statement that can be summarized as follows:

- More delegated competences will be transferred to local self-governments (whereas for a self-government to be considered a real self-government under the European Charter of Local Self-Government, it must have exclusive powers).
- Funds allotted to self-governments will equal to at least 7% of GDP (it has not been specified which functions of self-governments these funds will be utilized for);
- Local skills will improve and citizen engagement will increase (how this will happen has not been explained yet).

The government intends to offer a plan of concrete activities by mid-2018. It has already been announced, however, that real changes are contemplated to be implemented in the medium term or even in the long term – starting in 2025.

¹ Local Self-Government in Georgia, 1991-2014, the International Center for Civic Culture, 2015, http://www.ivote.ge/images/doc/local%20democracy%20development%20report_english%20final%202.pdf

1. Introduction

The Georgian Dream's pre-election program for the 2012 Parliamentary election envisaged a series of actions to bring about real decentralization. In particular, these measures were: create communities that are self-sufficient; begin establishing regional self-governments; ensure the direct election of mayors and *Gamgebelis*; pass on powers, funds and property to self-governments; increase self-governments' budget revenues exponentially; give settlements the status of legal entities; approximate public services to citizens as much as possible; set up a well-working system of civil servant training; and introduce financial incentives to develop high mountain zones.

Under Individual Order no. 223 dated 1 March 2013, the Georgian government approved "Key Principles of the Strategy for the Development of Decentralization and Self-governance of the Government of Georgia for 2013-2014" - a document that served as the basis for drafting and enacting an organic law entitled "The Local Self-Government Code" on 5 February 2014. During this process, a number of the government's pre-election promises were removed from the bill. The government maintains, however, that the enactment of the code was the first stage of the reform and more significant changes would be made at a later date.

After this basic legal framework was introduced, the following changes were implemented in 2014-2015:

Territorial rearrangement. Some municipalities were divided, resulting in the increase in the number of self-governing towns (4 April 2014).

- The original plan had been to classify all towns with more than 15 thousand residents as self-governing (13 towns in total). Ultimately, however, it was decided that the status of self-governing towns would only be awarded to towns where state trustees-governors were located (seven towns).
- According to the initial plan, territories of self-governments, where the centers would have had received the status of self-governing towns, would have to be divided into several (two-six) municipalities and each would have had new urban centers, increasing the potential to attract businesses and investment. However, despite protests from civil society and experts, it was eventually decided to establish a "community municipality" in each self-governing territory and leave the administrations in their existing location.²

Government representatives then stated that so-called homogeneous communities would be formed after the 2014 municipal election and before October 2016. This was even included as an obligation in the transitional provisions of the Code of Self-Governance (an organic law).

Changed structure of self-government bodies. Chief executive Officials such as mayors (in the cities) and *Gamgebeli* (ruler - in rural municipalities), became directly elected positions. In 2014, for the first time since 1919, all heads of self-governments were elected through direct election.

Powers. Two approaches to increasing self-governments' powers were discussed at the beginning of the reform: significantly increase the list of powers or focus on the complete implementation of the existing powers by giving self-governments the appropriate resources.

Ultimately, the second option was chosen. It was therefore decided that self-governments would receive additional powers in stages. Several additional powers were inserted in the list

² It is worth pointing out that, at the initial stage of the reform, in some municipalities (the municipality of Akhaltsikhe is an example), legislatures voted in favor of establishing small municipalities.

of municipalities' competencies within the Code of Local Self-Government (see chapter 5 below).

In addition, the government assumed an obligation under the organic law to draft legal changes on the distribution of powers before 1 January 2015 (in order to harmonize existing ordinary laws with the requirements of the organic law). Although the process was delayed, a set of amendments to 174 pieces of legislation was sent to the parliament for consideration in April 2016.

Financial issues. Local self-governments' tax revenues have increased. In 2015, income tax became a shared tax: part of the income tax revenues was earmarked for the self-governments (about GEL 245 million in 2016). It should be pointed out, however, that equalization transfers were cut by approximately the same amount (GEL 235 million). All in all, local self-governments' revenues did not significantly increase.

Unfortunately, on 12 December 2014, Article 154 of the Code of Local Self-Government was amended. Instead of determining the amount of the equalization transfer to the municipalities in the form of a certain percentage of the nominal value of GDP and introducing new rules for the distribution of equalization transfers, these obligations were simply deleted from the code.

Furthermore, with a view to strengthen the local self-governments' economic bases, the organic law obliged the government to produce:

- Before 1 January 2016: a bill to define the meaning of local natural resources;
- Before 1 January 2017: a timetable and rules for transferring agricultural land to ownership of the municipalities.

Oversight by the state. The organic law defined the forms of state supervision over local self-governments. It largely copied provisions contained in the 2007 Law of Georgia on State Supervision over the Operation of Local Self-Governance Bodies, removing norms inserted after 2008 that were deemed to be inappropriate.

But the new law was also a novelty: whereas, before its adoption, legal and sectoral supervision over the activities of local authorities was carried out by state trustees - governors in the regions and by the prime minister in Tbilisi and in Adjara Autonomous Republic, the new law gave the prime minister the legal oversight function and declared sectoral oversight to be the prerogative of respective sectoral ministries.

More effective civil service. With an aim to improve civil servants' qualifications, the organic law obliged municipalities to spend at least 1% of remuneration funds on the professional development of their civil servants. In order to help ensure the effective implementation of this obligation, the Georgian government:

- Approved the "Continuous Education for Civil Servants of Local Self-governments Concept" and the "Action Plan to Implement the Continuous Education for Civil Servants of Local Self-governments Concept" through Individual Order no. 959 dated 29 May 2014;
- Approved a document entitled "Continuous education system for civil servants of local self-governments, powers of agencies involved in the system, and the principles and rules of functioning of the system" through Individual Order no. 319 dated 7 July 2015.

Citizen participation. On 22 July 2015, Chapter XI of the Code of Local Self-Government was amended to clarify the existing mechanisms of citizen participation and involvement in self-governance (such as petitions, participation in the work of and public hearing of the

reports of elected officials) and to introduce additional mechanisms (such as the General Assembly at the settlement level and Council of Civil Advisors).

In 2015-2016, as required by law, local self-governments adopted relevant regulatory legal acts and started implementing them.

Other novelties. Activities to improve the existing legal framework and structure were carried out. The Georgian government expressed its readiness to implement the post-monitoring recommendations made by the Monitoring Committee of the Council of Europe Congress of Local and Regional Authorities. According to these recommendations, the Georgian Government was urged to:

- Incorporate the subsidiary principle in the text of the Constitution;
- Continue to work to improve the financial situation of local self-governments (allocate extra resources to local self-governments, make changes to the equalization formula and introduce municipal benchmarking);
- Make the consultation process binding with local self-governments;
- Ratify Articles 6-4 and 9-6 of the European Charter of Local Self-Government, which Georgia did not ratify in 2004.³

2. Recent legal changes

In 2016-2017, legal changes in the legislation on local self-governments were made at three levels: the Constitution, the organic law entitled Code of Local Self-Government and other legal acts (ordinary laws).

The new Constitution of Georgia. On 13 October 2017, Parliament enacted a Constitutional Act amending the Georgian Constitution. A vast majority of the changes will enter into force in 2018, immediately after the president-elect takes the oath of office. Some important aspects of these changes are:

- Chapter 1, Article 7(4), which enshrines important guarantees for local self-governments:
 - Local self-governance is now recognized as a universal right of Georgian citizens, meaning that the state authorities are obliged to establish self-governing units in order to implement this right;
 - A new constitutional principle of subsidiarity concerning the distribution of powers between the central government and local self-governments has been included in the Constitution; in particular, the sharing of powers between the central government and local authorities is based on the presumption of the privilege of local authorities;
 - A clear obligation on the part of the central authorities to provide local self-governing units with appropriate resources has been introduced, which should be welcomed though it would have been more desirable for individual self-governing units to be entitled to apply to the Constitutional Court in reliance of this provision in the Constitution.
- The chapter on local self-governance has been revised significantly. Local self-governments have received three new constitutional guarantees:
 - The new Constitution recognizes the organizational independence of self-governing units, including their right to independently decide on staffing issues;

³ The Congress recommendation (CG/MON/2015(27)15) was for Georgia to ratify Articles 4(6) and 9(6) concerning the central government's obligation to consult with local authorities on any changes related to those authorities. But the Georgian government went even further and the Ministry of Regional Development and Infrastructure started the necessary preparation for ratification all other remaining provisions of the Charter.

- Self-governing units have the right to collaborate with other self-governing units, including the freedom to join associations of self-governing units;
- Central authorities have been obliged to consult with self-governing units when making decisions on issues of self-governance.
- The extent of state oversight has expanded significantly. Whereas the current version of the Constitution confines state oversight to overseeing the legality of the normative acts of local self-governments, no such limitation is envisaged in the new Constitution. In this new reality, state supervision may also cover other legal acts, actions or even the inactions of local self-governments. Further, the new Constitution is vague about the suspension or termination of the powers of municipalities:
 - It is unclear what happens with the executive official of a territorial unit if its council is dismissed or suspended;
 - Reasons for dismissal or suspension are vague and open to different interpretations (in particular, jeopardizing performance of their constitutional powers by the central authorities may potentially be used as a reason to dismiss a local council);
 - Direct governance by the central authorities and grounds for terminating or suspending municipality powers still not defined in the Constitution: the rules are part of organic law but are not expressly authorized by the Constitution.
- Financial autonomy of local self-governments:
 - The new Constitution continues to offer very limited guarantees regarding the financial autonomy of local self-governments. In fact, the Constitution does not provide adequate guarantees to support the three main aspects of financial autonomy: revenues, expenditures and budgeting;
 - The Constitution does not expressly refer to the budgeting and spending autonomies of self-governing units. In terms of revenue autonomy, a relevant provision in the new Constitution is Article 7(4) but the legislator opted for a very cautious approach even in this respect.
- Issues related to the relationship between the Adjara Autonomous Republic and local self-governments remain unclear. Notably, the 2017 Constitutional Act on the Adjara Autonomous Republic does not provide any helpful guidance on this either:
 - Article 75(1): while referring to the need for the separation of the powers of the central authorities from those of local self-governments, this provision ignores the need to separate the powers of the Autonomous Republic from the powers of self-governing units;
 - Wording is vague on how competences should be distributed between local self-governments and the Adjara Autonomous Republic when the competence in question does not clearly pertain to the exclusive powers of central authorities, the Autonomous Republic or the local self-governing unit.⁴
 - The principle of subsidiary does not apply to the separation of powers between the Autonomous Republic and local self-governments;
 - Constitutional regulation of state oversight does not make it clear who oversees the local self-governments located on the territory of the Autonomous Republic with respect to the Autonomous Republic's laws.

Changes in the Code of Local Self-Government. In the period between its adoption on 5 February 2014 and the end of May 2017, the code has been amended 31 times. The majority of those changes were technical but some of them were important in terms of content:

- Changes made on 28 December 2014 concerned the formula for calculating the number of municipality civil servants. In particular, they increased the upper limit of the number of employees that can be hired by municipalities;

⁴ Compare Article 75(1) of the Constitutional Act of 13 October 2017 amending the Constitution with Article 2(4) of the Constitutional Act on the Constitution of the Adjara Autonomous Republic.

- As a result of changes made on 7 July 2015, the municipality of Tbilisi received broader property rights, including the right to dispose of municipal property using direct transaction methods, without having to hold auctions;
- Changes dated 2 July 2015 served to substantially revise a chapter on citizen participation in the work of local self-governments (see chapter 1 below);
- By virtue of changes made on 1 June 2017, if a municipality mayor leaves the post before the end of his or her term, the chairperson of the municipality *Sakrebulo* (council) will act as a mayor/*Gamgebeli*, if the first deputy mayor or deputy mayor have not been appointed yet;
- According to changes made on 7 December 2017, sectoral oversight of delegated powers may be granted not only a sectoral ministry but to special-purpose state institution too;
- According to changes dated 15 December 2017, deputy chairs of factions in local councils were added to the list of municipal council officials. In addition, in some cases, the chair of a faction in a municipal council may have several deputies.

Changes in other legal acts. A number of other legal amendments on the topic of self-governments were made in 2015-17. The following changes are worth mentioning:

- A new Law on the Development of High Mountainous Regions was adopted in 2015. People residing in high mountain areas were awarded some social benefits. Tax benefits were also introduced.
- A new Law on Public Service was enacted in 2015. The law established legal grounds for the functioning of civil servants employed by both central and local self-governance authorities. The law came into force on 1 July 2017.
- In 2016, changes in the Budget Code came into force and municipalities were given the right to receive revenues from income tax paid by natural persons;
- On 22 December 2007 Parliament adopted a new Law on Remuneration of Employees of Public Institutions. The law established higher upper limits for civil servant salaries in Tbilisi compared with other civil servant salaries in other municipalities. At the same time, uniform upper limits for salaries were introduced for officials of all other municipalities; for example, the mayor of the Kazbegi municipality (population of 3,800) and the mayor of Kutaisi municipality (population of 147,500) are limited by the same caps on wages of remuneration upper limits;
- The government approved the development strategies for nine Georgian regions for the years 2014-2021.

A persisting and serious problem with the legislation is the existence of legal acts that are incompatible with the Code of Local Self-Government and the Constitution. This problem can be divided into three types of concerns: terminology and legal technique problems; issues with separation of powers among the central authorities, the Autonomous Republics and local self-governments; and identification and conveyance of delegated powers to the municipalities according to the procedure prescribed by law.

As previously noted, in April 2016, Parliament received a set of draft changes concerning 174 pieces of legislation. The changes were adopted in the first reading during the spring 2016 session, but then the discussion of the package stopped and there has been no indication that the process will resume in the near future.

Along with the changes mentioned in the previous chapter, another issue on the agenda was the fulfillment of the Council of Europe recommendations assumed by Georgia. The deadline to fulfill the recommendations was 2017. Of the four obligations assumed, the Georgian government fulfilled the first one in full and partially fulfilled the second one. No substantial progress has happened in regard to the third recommendation and fulfillment of the fourth recommendation has not even been considered.

3. Territorial arrangement

3.1. Municipal level

According to the organic law, the Government Commission on Regional Development was legally obligated to submit proposals on the territorial optimization of the municipalities to the government. These proposals had to be developed in consultation with the self-governments and other stakeholders and submitted to the government at least a year before the 2017 local election.

Unfortunately, no active steps (even formal steps such as holding commission hearings) were taken over the course of three years (2014-2016) on this matter. Following the 2016 parliamentary election and the formation of the new government, representatives from both the government and the parliament announced that the new concept of self-governing towns had failed. The officials' main argument was that the reform did not result in any positive changes and administrative costs increased by around GEL 30 million per year, which then resulted in reductions to the programmatic part of the budgets and the need for the center to make additional equalization transfers to the municipalities.

Officials' complaints about the cost of self-governing towns increased in the spring of 2017. In response, on 29 March, 120 non-governmental, community and media organizations called on the prime minister and the parliament speaker to provide evidence supporting their position. In response, the authorities promised that the Government Commission on Regional Development would start consultations with residents in all municipalities. Regrettably, that promise was never honored.

On 11 May 2017, the Government Commission on Regional Development held a hearing that ended with the decision, without considering any other alternatives, to end the self-governing statuses of seven towns. The decision was then sent to the councils of these seven towns and the relevant community municipalities for consultation.

After some noisy debates, all 14 councils upheld the decision, despite the fact that some of the councils had been reluctant to support re-unification during earlier discussions. Civil society observed instances when the central authorities exerted influence on members of local councils (who did not even deny such influence in private conversations) as well as breaches of procedures defined in the organic law, which became the basis for a court case brought against the government by non-governmental organizations.

As per Individual Order no. 1060 dated 1 June 2017, the government submitted to parliament a set of bills that effectively reduced 14 municipalities to seven (Ambrolauri, Akhaltsikhe, Gori, Mtskheta, Ozurgeti, Telavi, Zugdidi), which were approved by the parliament on 15 June 2017.

The issue was not studied properly before the decision was made and public opinion strongly opposed the reduction of the number of self-governing units. A survey conducted between 18 June – 9 July 2017 showed that 59% of the population disapproved of the merger and only 16% supported the change. A smaller number of residents (11%) thought the decision would yield positive results.

The Georgian president vetoed the bills that amended the Code of Local Self-Government and the Election Code on the ground that "rolling back this process seems completely unsubstantiated and unacceptable. Taking away the self-governing status of seven towns will halt the development and strengthening of self-governance in the country."⁵

⁵ in Georgian, <http://www.livepress.ge/ka/akhali-ambebi/article/20068.html>

The parliament overrode the president's veto on 26 July.

The fact that the authorities ignored not only civil society, but also the dissenting views of the ruling party's local representatives is another example of their bias against the reform. A good example was the 2016 decision of a local council in Chiatura municipality to request the Government Commission on Regional Development to consider making Chiatura a self-governing city. The government did not respond to the request, arguing that the creation of a new municipality would increase administrative costs.

An analysis of local budgets was carried out at the end of 2017 to test the government's arguments about the administrative costs connected to self-governing towns. In the research, budget expenditures of the seven divided municipalities were compared with those of the seven other undivided municipalities (hereinafter "comparators") both before and after amalgamation (2017). Only official data (from the Finance Ministry, GeoStat, and municipalities) were used in the research.⁶ The findings are described below.

1. The data did not support the government's argument that administrative costs would double in divided municipalities

Comparators and divided municipalities reported a similar increase in administrative costs in 2015 compared to 2013 (in fact, per capita expenditures in comparators were reported to be smaller by GEL 1.3). The amount of subsidies paid to divided municipalities increased by **53%** compared to a 64% increase in allocations to comparators, while subsidies across Georgia increased by 67%.

The state budget saved **GEL 2.6 million across Georgia** after the seven cities lost their self-governing status; that is substantially less than the government's estimates that the amalgamation would save the budget (at the first stage, 30 million GEL, after amount was been reduced to 8-9 million GEL). Incidentally in 2018, saved funds were used not for capital projects but for "subsidies" and "goods and services".

The government had argued that the merger of the so-called "duplicated" agencies that emerged as a result of the division of municipalities would save administrative costs. The data, however, proved that is not true: An analysis of the 2018 budget shows that, in re-unified units, the amount of subsidies paid to municipal enterprises increased by **14.72%**, compared to the **10.20%** increase seen in the comparator municipalities.

2. The government's argument that capital costs have reduced in divided municipalities due to increased administrative costs is wrong

In 2015-2016, the share of "general-purposes services" was 4.6% higher in comparator municipalities than in divided municipalities.

In 2018, instead of the anticipated increase, capital costs actually decreased by **16.93%** in re-unified units, compared to **11.78%** in comparator municipalities. This again proves the fact that **administrative costs can be cut by making the civil service more effective, not by the amalgamation of self-governing units** and cutting down on so-called "inflated" staffing tables.

3. The government's claim that the quality of services had deteriorated in the divided municipalities was disproven

⁶ Report on research on territorial changes in municipalities in 2014-2017, The International Center for Civic Culture, (in Georgian), <http://www.ivote.ge/images/doc/wignebi/2014-2017%20wlebsi%20ter%20cvl%20shedegebi.pdf>

In 2015-2016, divided municipalities provided a higher level of municipal services (such as municipal waste management) and were better at levying fees than the comparator (undivided) municipalities: in 2015-2016, the collection of municipal waste fee increased by 70.8% and revenues from fines increased by 68.3% in divided municipalities, compared to the years of 2012-2013 (the figures for the same period in comparator municipalities were **12.1%** and **49.0%** respectively).

The divided municipalities also performed better in terms of effective spending (for example, they spent less funds on preschool education but the preschool education institutions are capable of accepting 8% more beneficiaries than their counterparts in comparator municipalities). In some spheres (such as local roads), conditions are similar in both types of municipalities. Performance indicators for public services are also similar in both types of municipalities.

In divided municipalities, budget priorities were significantly better tailored to citizen needs, however. Self-governments in divided urban and rural municipalities were paying more attention to real problems: priorities in towns were urban infrastructure (sport and culture, street lighting, waste water and waste management, transport and local roads), while rural communities were more concerned with social protection (reflecting local nuances) and the development of agriculture.

4. The government's argument that the budgets of divided municipalities increased only at the expense of other municipalities due to increased equalization transfers is wrong

Because of the way the equalization transfer formula works, the volume of equalization transfers increased by 1.5 in divided municipalities and by 1.4 in comparator municipalities in 2015-2016. This difference in comparator municipalities withal has to do with reduced financial assets. Without this the difference equals **less than 3%**.

Moreover, the increase in local budgets was not only due to equalization transfers; better administration of local taxes and fees also played a role. In 2016 alone, the tax revenues collected in divided municipalities grew by **133%** amounting to **GEL 95.6** per capita, compared to **122%** (**GEL 73.2** per capita) in comparator municipalities. In total, the share of local tax revenues in aggregate income increased by 3.4% in divided municipalities. For example, if the aggregate local income of the Gori municipality (without the equalization transfer) constituted **GEL 5,868.7 thousand** in 2013, the same figure was GEL 6,546.9 thousand for the city of Gori and GEL 2,860.6 thousand for the community (rural) municipality in 2016, a total of **GEL 9,387.5 thousand**.

In 2018, the amount of equalization and targeted transfers increased by **2.91%** in the re-unified municipalities, compared to 2017; equalization and targeted transfers to comparator municipalities increased by **1.96%** in the same period. **The government's assumption that re-unified municipalities would require smaller transfers did not prove true.** In addition, the projected tax revenues of re-united municipalities were 1.92% less in 2018 than in 2017.

5. The government's argument that civic engagement in divided municipalities did not increase was not supported by the data

A relatively higher number of petitions and other new forms of citizen participation were recorded in divided municipalities than in comparator municipalities and throughout the country in general.⁷

⁷ Local Self-Governance Index, in Georgian, <http://www.lsgindex.org/>

Voter patterns also changed depending on the status of the municipalities, with fewer people casting ballots in united municipalities in elections following the amalgamation. In 2014, voter turnout in municipal election was 44.6% in divided municipalities and exceeded **the national turnout rate (43.3%)**. Following the amalgamation, voter activity in enlarged municipalities was 47.7%, **less than the national turnout rate of 51.6%**. Turnout fell even more in rural areas, according to official statistics (voter turnout was **4.4% more** than the national rate in 2014 and **6.8% less** than the national rate in 2017).

6. Finally, the government's prediction that enlarged municipalities would help cut the size of bureaucracy by half was mistaken

Statistics clearly show an increase in the number of civil servants since 2014. It should be pointed out that, contrary to the government's argument, according to official statistical data, this increase was rather modest in divided municipalities compared to comparator municipalities or even nationwide.

In 2018, following the enlargement process, the number of employees in divided municipalities decreased by **17%**, compared to **19%** in comparator municipalities. **This shows that the number of employees can be reduced without amalgamating the municipalities.**

The upshot is that the reduction in the number of self-governing towns did not bring about an effective outcome. In fact, the enlargement caused administrative costs to rise.

Today, enlargement supporters no longer speak about economic effects; government representatives (both in the parliament and the government) now say that by granting self-governing status to seven cities, the interests of other big towns were ignored. However, instead of giving those other big towns the same status, the authorities decided to deprive the existing cities of their self-governing rights.

The only way to justify revoking the self-governing status is a desire to restore the *status quo* that existed before 2014. It is unclear why Poti must be a self-governing city but not Zugdidi and Gori, when both cities have larger populations than Poti.

This is not a new policy for Georgia; starting in 2005, the previous government also tried to maintain the *status quo* in municipal borders and status (for example, in 2009, the government rejected local residents' request to make the town of Jvari and adjacent villages a separate municipality).

3.2. Regional level

Georgia's administrative and territorial arrangement does not envisage a regional level as such. Although the central authorities have their proxies, known as state trustees-governors, who are appointed in administrative and territorial units (groups of municipalities), regional territorial units as such do not exist. Regions are not legal entities. They have no powers or revenues of their own. There are no elected representative bodies at the regional level.

Georgian regions differ from each other by their level and speed of development. There is a clear and growing imbalance in this regard among various regions in Georgia. Almost half (48%) of GDP is produced in the capital and this number is persistently growing (for example, in 2016, nearly 75% of direct foreign investments in Georgia-USD 1.5 billion-were made in Tbilisi), while the share of investment in the regions is extremely low and continues to decline (for example, Imereti's share in GDP fell from 15.2% to 11% through 1975-2013 and Kakheti's contribution to the GDP from 10% to 6% in the same period). The standard of living in the regions (especially in rural areas) is much lower than in urban zones (cities),

especially when compared to the capital, Tbilisi. This trend clearly does not facilitate the equal development of the country.⁸

Whether or not a formal category for the country's regions is necessary has been a subject of discussion since Georgia regained its independence. Supporters of creating a special unit of regional governance believe that regionalism could solve many social, economic and even political problems, while their opponents see this process as a threat to political instability. Currently, the issue is being more actively discussed due to domestic and foreign reasons.

The **domestic reason** is that the Georgian government is trying to eradicate disparities in development in the regions. It has put in place national programs aimed at tackling the different needs of regions using different strategies:

- Rural Development Strategy of Georgia 2017-2020;
- Social and Economic Development Strategy: Georgia 2020 (targeting years 2013-2020);
- Country basic indices and directions for 2014-2017; etc.

The **foreign reason** is that Georgia is required to focus on regions as part of its approximation with the European Union.⁹

Two articles in Georgia's Association Agreement with the EU, Articles 372 and 373 in Chapter XXI, envisage addressing inequalities among the country's regions by establishing multi-level governance systems (based on NUTS and LAU standards). The initial stage of the plan calls for elaborating a concept on the development of the regions based on the principles of subsidiarity and participation and to establish structures for effective governance. It should be noted that the European Union offers financial support instruments in addition to technical assistance to achieve these goals.

Taking into consideration both the domestic demand and the country's obligation under the Association Agreement, the government of Georgia developed several strategies and development programs: the Regional Development Strategy for 2010-2017; Regional Development Strategies for the regions of Georgia for 2016-2021; and Regional Development Programs for 2010-2014 and 2015-2017. It remains unknown, unfortunately, whether a new strategy will be developed for the period starting from 2018. In 2017, the government did start drafting a new working document for regional development program - Georgia's Regional Development Program for 2018-2020.

The draft program realistically assesses the existing challenges, emphasizing the need for developing endogenous programs at the local level (in other words, establishing homogeneous self-governing systems in order to ensure closer connections with the citizens) and creating certain regional instruments (through ensuring compatibility with NUTS standards). For implementation purposes, four pilot regions have been selected at the initial stage (Samtskhe-Javakheti, Imereti, Samegrelo-Upper Svaneti, and Kakheti). Other criteria to identify development zones have also been determined.

The following challenges have been identified:

- Lack of regional institutions;

⁸ Report on regional disparities in Georgia, http://www.regpol.ge/images/Documents/Report%20on%20Regional%20Disparities%20in%20Georgia_June_2013.pdf; Socio-economic and Territorial Disparities in Georgia, "Support to Regional Development Policy Implementation II", 2017, http://www.regpol.ge/images/Socio-economic%20and%20territorial%20disparities_Georgia_Report_final%2012.12.2017.compressed.pdf

⁹ The European Union considers the eradication of disparities among regions in EU Members States as one of its domestic policy priorities; it is spending 30-40% of its budget every year, which amounts to about EUR 100-150 billion (through equalization/cohesion and other similar funds and programs).

- Lack of a long-term vision on regional development;
- A precise definition of specific needs (for example, the government considers only large infrastructure projects as instruments of spatial development in the regions);
- It is unknown whether regional development elements are compatible with the existing self-governance system.

The program is scheduled to be presented to all interested stakeholders in the spring of 2018. If the program is approved at that time, Georgia can make use of several EU-provided technical and financial instruments (amounting to 60 to 90 million Euros at the initial stage) in 2019.

It is currently unknown when the program will be adopted and whether the approaches described in the final draft will be retained.

4. Municipal bodies

4.1. Setting up municipal bodies

Until 2017, as per the Election Code, the councils of self-governments were composed of 15 members elected through the proportional system and one member elected under the majoritarian (single vote) system from each community and town in the relevant self-governing unit.

The problem is there are vast differences between rural communities and towns in various municipalities in terms of quantity of registered voters (for example, in Dusheti municipality, the township of Zhinvali (1,095 voters) and the village of Kaiskhevi (82 voters) each elect one majoritarian member to the council). This provision in the Election Code contradicts the equality-before-the-law principle enshrined in Article 14 of the Constitution (because it establishes discriminatory treatment of voters by their residence place) and the equal voting rights under Article 28(1) of the Constitution (which protects equal voting power).¹⁰

The Georgian parliament tried to address the issue by making changes in the Election Code in 2017. In particular, the number of members of a council to be elected from the administrative center of the relevant municipality (administrative centers normally have the largest number of residents) increased but this did not resolve the main problem.

4.2. New model of institutional arrangement of the municipalities

In 2014, the Code of Local Self-Government changed the institutional arrangement system in municipalities. As a result of the changes, each municipality has two bodies with high (directly elected) legitimacy: a mayor who is the executive official of the municipality and chosen through a direct election and a *sakrebulo* (council), a representative body.

Under this model, it is possible to avoid conflicts between the representative and the executive bodies by clearly delienating and separating their powers and establishing

¹⁰ As the Venice Commission recommends in its Code of Good Practice in Electoral Matters, election districts should be determined a manner that the seats are evenly distributed among the constituencies. The permissible departure from the norm should not be more than 10% and should certainly not exceed 15% except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).

It should be mentioned that the Georgian Constitutional Court abolished those provisions in the Georgian Election Code that were in breach of the equality-before-the-law principle and equal voting power with regard to electoral constituencies of majoritarian MPs of the Parliament in decision no. 1/3/547 dated 28 May 2015.

balanced mechanisms of mutual control.¹¹ If the mayor is a directly-elected official, the municipal council should possess levers to effectively control the executive, especially in areas such as the budget and taxes. The legislation should minimize the potential of conflicts between the representative and the executive bodies.¹²

The Code of Local Self-Government creates a series of mechanisms to influence the executive authority of the municipal council. In particular, the municipal council can: enact normative acts; approve the budget; approve spatial and territorial planning documents; challenge individual administrative acts of the mayor or of the town hall; approve the salary scales of municipality officials and other civil servants; dismiss a mayor before the end of the term in office; approve a list of privatization property and a privatization plan; hear a mayor's reports and put questions to the mayor.¹³ The council can also make changes in a mayor-proposed budget and, if the mayor disagrees, can approve its own version of the municipality budget with the support of three-fifths of its members.

Mayors have important exclusive rights too. A mayor can draft a budget and submit it to the council; propose a legal act determining the salaries of municipality civil servants; appoint and dismiss deputy mayors and other town hall civil servants; manage the municipality in compliance with the Georgian legislation and the council-enacted resolutions. The mayor is not authorized to dismiss the council. If no agreement is reached with the council on the budget, both bodies may be put to an extraordinary election.

Two approaches to overcoming the existing challenges are currently under discussion in the government and the expert community:

- Giving the council a role in appointing civil servants at town hall in order to improve the council's position;
- Introducing a collegiate executive body at town hall in order to limit a mayor's ability to make unilateral decisions.

As different ways to improve the existing model are contemplated, the following threats and challenges are worth taking into account: *First*, considering the existing model, inclusion of the council in the appointment and dismissal of town hall civil servants will increase the threat of conflict between the council and the mayor. *Second*, collegiate bodies in general are prone to weakening personalized responsibility. There is a risk, therefore, due to the existing model, of utilizing the collegiate decision-making mechanism when making legally doubtful decisions for the purpose of blurring or reducing responsibility.

It follows that the mechanism eventually selected should reduce the risk of conflict between the mayor and the council as well as establish a degree of control over the mayor's personnel policy. At the same time, the mechanism selected should also ensure that the advantages of the existing model are retained, as suggested in the recommendations from the Congress of Local and Regional Authorities, in particular: political liability should be easily identifiable; there should be a clear division in the political responsibilities of the council and those of the mayor; stability of the executive body must be ensured; the decision-

¹¹ Congress of Local and Regional Authorities, Recommendation 151 (2004), on the advantages and disadvantages of a directly elected local executive in the light of the principles of the European Charter of Local Self-Government, <https://rm.coe.int/16807198d7>

¹² Congress of Local and Regional Authorities, Recommendation 113 (2002), on relations between the public, the local assembly and the executive in local democracy (the institutional framework of local democracy), <https://rm.coe.int/16807191c1>

¹³ Notably, these powers of local councils are compatible with the Congress' recommendations: see Congress of Local and Regional Authorities, Recommendation 113 (2002), on relations between the public, the local assembly and the executive in local democracy (the institutional framework of local democracy), <https://rm.coe.int/16807191c1>

making process should be flexible, etc.¹⁴ One possible alternative could be requiring that the council approves the appointment of deputy mayors (this mechanism exists in Tbilisi). This solution would also support to increase the extremely low legitimacy deputy mayors are enjoying now.

Another matter of dispute is the right of the council to impeach the mayor through a vote of no confidence. In 2018, the relevant provision of the Election Code was challenged in the Constitutional Court.

Interestingly, according to the 2002 Recommendation no. 151 of the Congress of Local and Regional Authorities, a municipality's representative body should be able to call the executive to account before the end of the executive's term of office, including removing from office. However, "where those in charge of the public authority are directly elected by the people, any dismissal must be endorsed by the people. However, these procedures should at the same time carry all the guarantees necessary for stable local government (precise definition of issues on which the executive can be called to account, qualified majorities for votes of no confidence, reasonable time-limits for implementing the procedure)."¹⁵

The Code of Local Self-Government addresses the issue of a budgetary crisis, i.e. the failure to approve the budget, and specifies that the crisis will be resolved by the termination of power of both authorities. Since neither party benefits by removal from office, there is an additional incentive for the two bodies to compromise.

4.3. Professional development of municipality civil servants

The Law on Public Service came into force in 2017, replacing Government Resolution no. 319 dated 7 July 2015. The law does not include any new regulations for the professional development of municipality civil servants.

The new law does not make any distinction between the challenges and needs of municipalities and those of central authorities. That said, it is widely recognized that there is an acute lack of qualified personnel at the local level.

5. Competences of the municipalities

Since one of the essential functions of local self-government is to provide public services, this report includes a brief description of the current situation in Georgia in terms of service provision.

Preschool education. Preschool education is available for 83% of the population. Last year there was an improvement in the services that are funded by local self-governments. An increase in spending was also noted: local self-governments spent 14% in 2017, compared to the previous level of 5-7%.

Water supply. In 2017, centralized water supply systems were available for 72% of population (compared with 68% in 2013). Cities, towns and townships as well as about a dozen villages near towns receive water from the United Water Supply Company of Georgia; in rural settlements, this service is provided by the municipalities, and makes up around 5-

¹⁴ Congress of Local and Regional Authorities, Recommendation 151 (2004), on the advantages and disadvantages of a directly elected local executive in the light of the principles of the European Charter of Local Self-Government, <https://rm.coe.int/16807198d7>

¹⁵ Congress of Local and Regional Authorities, Recommendation 113 (2002), on relations between the public, the local assembly and the executive in local democracy (the institutional framework of local democracy), <https://rm.coe.int/16807191c1>

6% of their budgets. However, not all municipalities monitor the quality of state company-provided services. There are also problems connecting municipality-owned pipelines to the company-owned system.

Local roads. In 2016, there were 20.7 thousand kilometers of national roads in the country. No exact statistical data on local roads exists: central authorities and municipalities each have contradicting data. Local roads are serviced by local self-governments. Unlike the national roads, local roads are in poor condition. As a rule, they are repaired with funds the local self-governments receive as capital transfers from the state budget (from the Fund for Implementation of Regional Projects; until 2017 the money came from the State Program for Village Support). About GEL 350 million and GEL 260 million were spent in the years of 2014 and 2017 respectively.

Municipal waste management. The number of people who had access to cleaning and solid waste removal services increased from 59% to 79% in 2013-2017. Since 2014, the situation in villages has dramatically improved but, according to 2017 data, 88% of the village population still lacks these services.

Other services worth mentioning are: **social protection and healthcare**; local self-governments spend around 5-7% of their budgets on this (in addition, they spend 1-2% of their budgets to perform their delegated powers, which include public healthcare); **culture places** (libraries, etc.) that started to be transferred to self-governments in 2007 but a considerable number of these objects were quickly shut down due to the poor condition of the facilities and the low level of financing (only 3-5% of municipality disbursements); and issuance of **permits** (as an administrative service), although a majority of permits have become centralized since 2005 and self-governments are now limited to issuing construction permits and passenger transportation permits.

Municipalities have an obligation to provide these services. However, a number of services in the regions are provided by the central authorities through individual programs, financed by the central budget. A major source of funding is the Fund for Implementation of Regional Projects, which is financed by capital transfers. The fund financed projects worth GEL 900 million in 2013-2017 (227 million was spent in 2013, 140 million in 2014, 175 million in 2015, 175 million in 2016, and 190 million in 2017).

The way the fund functions is not perfect, however. There is a lack of engagement during the processes of setting priorities and project selection, which was mentioned in the 2016 report no. 53/36 of the State Audit Office.¹⁶ No clear and measurable criteria or indicators exist to evaluate project outcomes. Fund resources can be used by municipalities as well as government ministries to finance their own programs in the regions (the resources are passed on to self-governments).

Apart from the Fund for Implementation of Regional Projects, programs in the regions are implemented by the Municipal Development Fund (with an annual budget of about GEL 200-250 million in 2013-2017) and other state programs (for example, the Fund for Developing Mountainous Settlements has been spending GEL 10 million for programs in municipalities since 2015).

Local self-governments are given a very limited amount of discretion, despite the fact that one of the major objectives of the decentralization reform that started in 2013 - a fact that has been widely documented in reports by Georgian and international experts as well as by the authorities.

¹⁶ Report on the management of projects funded from the Fund for the Projects Implemented in the Regions, State Audit Office, 2016, №53/36, in Georgian, https://sao.ge/files/auditi/auditis-angarishebi/2016/tb-52_36-natsvlishvili.pdf

As mentioned above, the Code of Local Self-Government did not make substantial additions to the list of self-government competences in 2014 but did include a number of responsibilities:

- Supplying water for local residents;
- Developing local melioration systems;
- Protecting and developing local authenticity and cultural heritage;
- Maintaining and protection of local culture objects;
- Adapting local services and buildings to the needs of disabled people, children and senior citizens;
- Providing homeless people with shelter and registration;
- Regulating services for domestic animals and stray animals.¹⁷

Taking into consideration the skeptical attitudes that exist in the government, it should be commended that some government bodies, particularly the Ministry of Education and Science, have proposed initiatives, such as the plan to start delegating public school services (including construction, repair, equipment, school buses) to local self-governments. No details about the initiative are known, however, and no attempts to turn the proposal into action have been observed at by lawmakers.

In spring 2016, when the government was abolishing seven self-governing towns, it announced plans to launch a new process of decentralization. A later announcement stated that a presentation of the new vision and strategy would take place by the end of 2017. This deadline was not met, however and no presentation has been held yet.

On 5 March 2018, the prime minister and parliament speaker announced that the strategy would be presented to the public in the summer of 2018 and would be adopted by the end of the year.

It is hard to say what changes will be proposed; however, several ideas were mentioned at a meeting on 5 March:

- Emphasis was put on delegating more powers but no specifics have been provided on the powers are being contemplated (it is worth noting that the delegation of powers is under discussion rather than the transfer of exclusive powers - which is considered an inviolable right of self-government according to the European Charter of Local Self-Government);
- According to the statements, local budgets must amount to at least 7% of the GDP (this is a minimum threshold based on European countries' practice);
- And most importantly, a tentatively deadline is being discussed for the first stage of the reform: 2025. This deadline raises concerns about the likelihood delay and/or interruption of reform.

Following the signing of the Association Agreement with the European Union, Georgia has also gained access to new instruments of EU assistance:

- ***Intermunicipal collaboration*** which may be considered as an alternative to increasing the size of the bureaucracy in self-governing units. This kind of collaboration is gradually beginning in Georgia. In July 2015, the organic law empowered the municipalities to establish joint enterprises. Now self-governing units are proposing their own collaboration initiatives. For example, the city of Zugdidi and the community of Zugdidi successfully have been able to maintain a joint waste management enterprise even after the

¹⁷ It should be noted, however, that fire safety and rescue functions were taken away from the municipalities in the same period. They also lost the responsibility to ensure the functioning of agricultural information and advice centers, which had been delegated to them in 2012.

municipality was divided into smaller units in 2014; other self-governing units have established regional development agencies that are still functioning in some regions (for example, Mtskheta-Mtianeti in 2016). Three municipalities in mountainous Adjara established a joint "Municipal Services Development Center" in 2017 and the center has already received some funding from the European Union in order to improve solid waste removal services.

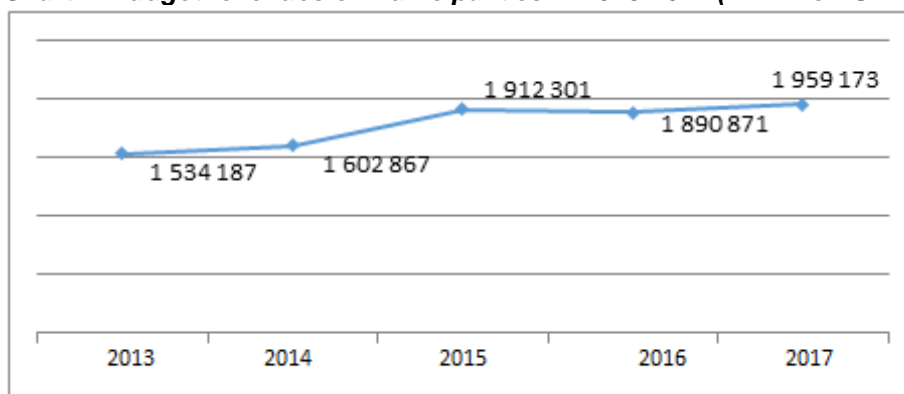
- **Energy efficiency.** Through 2010 – 2017, Georgia's 18 municipalities - including nine cities (four of which were abolished in 2017) and two regional administrations (Mtskheta-Mtianeti in 2015 and Guria in 2017) joined the European initiative "Covenant of Mayors for Climate and Energy". Eleven municipalities already have sustainable energy and climate action plans and have submitted them to the European Commission.¹⁸

6. Funds of local self-governments

6.1. Revenues

Budget revenues have been increasing in municipalities since 2013 (see chart 1), which certainly is a positive development. However, a large part of budget revenues continues to come from the central authorities through transfers. In 2013-2017, the share of grants received from the central budget made up 49.7-47.7% of total revenues.

Chart 1. Budget revenues of municipalities in 2013-2017 (in million GELs)



Source: MoF of Georgia

In 2017, municipalities received tax revenues amounting to GEL 559.5 million, which is GEL 269 million more than in 2015, due to amendments made to Budget Code. In particular, since 1 January 2016, local self-governments also received income tax paid by private individual entrepreneurs on their income; income tax paid by non-residents (income from property sale); income tax paid by natural persons on the surplus from the sale of material assets; income tax payable by natural persons on donated property; income tax paid by natural persons on inherited property; and income tax paid by natural persons on rental property. Municipalities received GEL 245.4 million in 2016 from these taxes, which then decreased to GEL 162.3 million in 2017. It should be mentioned that, because these taxes are now given to municipalities, the volume of equalization transfers from the central budget has decreased. Equalization transfers from the central budget were GEL 834.6 in 2015, falling to GEL 599.7 million in 2016 and GEL 655.1 million in 2017.

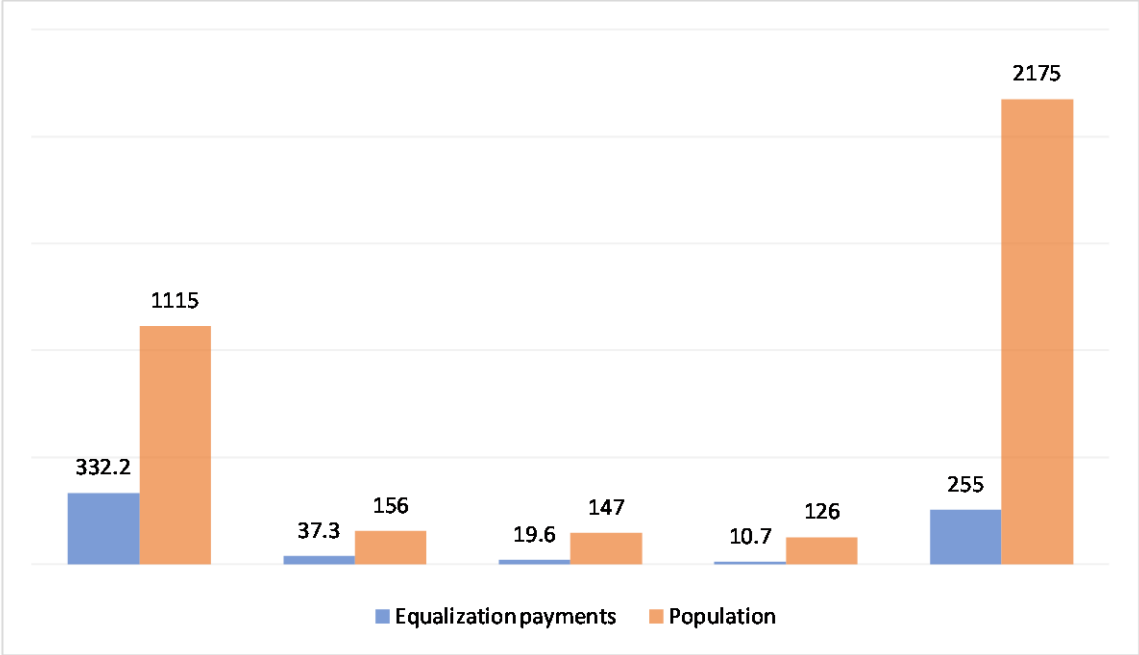
The existing formula to calculate equalization transfer is designed to fill the gap between projected revenues and the expenses of individual local self-governing units. Accordingly, an increase in a municipality's own revenues will lead to a decrease in the equalization transfer received. As mentioned in the previous chapter, the organic law (specifically, Article 154 of

¹⁸ http://www.covenantofmayors.eu/about/signatories_en.html?city_id=1537

the Code of Local Self-Government) was amended to resolve this shortcoming but was quickly cancelled.

The problems with the equalization transfer policy are also clear when the payments are analyzed based on the population of the recipients: 61% of equalization transfers are channeled to large self-governing cities with a population of 42% of the nation’s population, while only 39% of the transfers reach municipalities where 58% of the country’s population resides (see chart 2). Also, according to the Mountainous Regions Development Act, the size of the transfers did not change in 2015-2017 even though additional responsibilities were delegated to the municipalities: equalization transfers amounted to GEL 11.4 million in 2015, GEL 11.6 million in 2016 and GEL 11.7 million in 2017.

Chart 2: Equalization transfers allocated from the State Budget in 2017 (correlation between the size of population in thousands of residents and transfer amounts)



Source: MoF of Georgia

The volume of capital transfers fell in 2015-2017: GEL 271.9 million in 2015, GEL 240.6 million in 2016 and GEL 212.5 million in 2017. Municipalities receive these transfers for infrastructural projects from the Fund for Implementation of Regional Projects and the Fund for Developing Mountainous Settlements.

The existing transfer policy does not motivate local self-governments to increase revenues because this would automatically cause the Ministry of Finance to reduce equalization, and other, transfers.

As for tax revenues of municipalities, property tax has played an important role as it is becoming a growing source of revenue for municipalities: it was GEL 397.2 million in 2017, which is GEL 33.8 million more than in 2016 and GEL 107.6 million more than in 2015. Despite this trend, there is room to increase tax revenues, although this will be difficult due to existing tax privileges (for example, owners of agricultural land who have owned their land plots since before 2015 and natural persons whose income is less than GEL 40 thousand per year are exempt from paying the property tax) and ineffective property tax laws (for example, the value of the property on which property tax is payable is determined by the taxpayers

themselves, and the self-governments have no information on property and income taxes paid by legal entities and natural persons).¹⁹

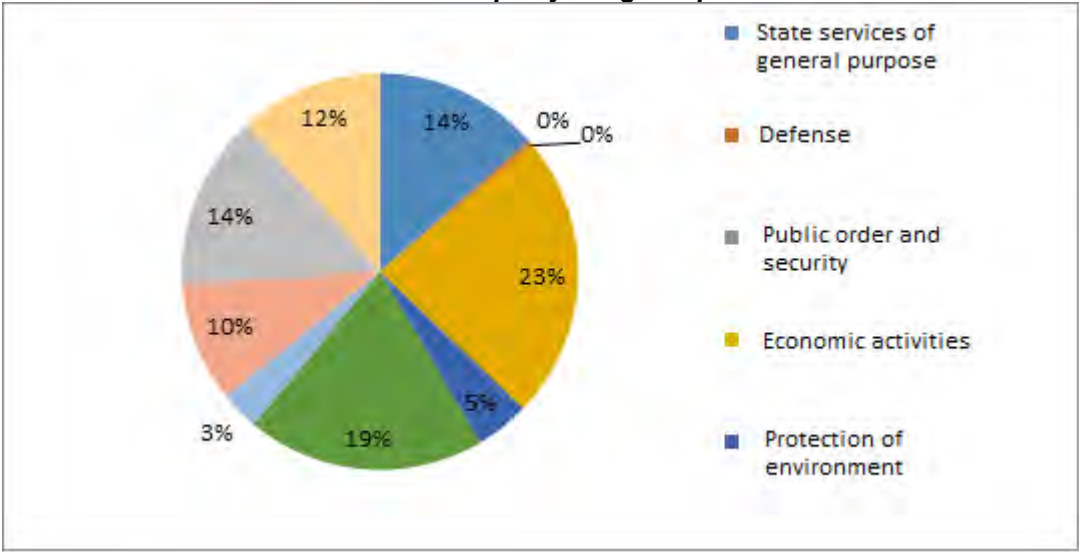
Non-tax revenues (mainly property-related income and fees), made up 17% of local budgets in 2015, 15% in 2016 and 19% in 2017. It should be noted that tax and non-tax revenue are very small in community municipalities, compared to the volumes received in big towns.

Fiscal decentralization is an important concern for the local self-governance system in Georgia. The ration of the revenues of municipalities' and those comparison with the State Budget has dropped in 2015-2017. More specifically, this figure was 23.4% in 2015, 22% in 2016 and 20.1% in 2017. The share of revenues of municipality budgets (except for Tbilisi) in relation to the GDP is still low: 3.16% in 2015, 3.21% in 2016 and 3.06% in 2017. Based on these two criteria, it may be argued that there have been no improvements in terms of fiscal decentralization in Georgia.

6.2. Expenditures

In 2017, municipality budget expenditures amounted to GEL 1.813 million, which is GEL 24 million less than in 2016 and GEL 66 million less than in 2015. In 2017, local budget expenditures were economic activity (23%); housing and utilities (19%); education (14%); and other general-purpose services. In fact, these areas have been priorities for the past several years.

Chart 3: Functional structure of municipality budget expenditures in 2017



The budget article entitled "State services of general purpose," which concerns administrative costs and the costs for the maintenance and functioning of the relevant apparatus of self-government bodies, was funded with GEL 245.9 million in 2017, which is GEL 23 million less than the same figure in the previous year and-GEL 4.3 million less than in 2015. It should be pointed out that this figure is relatively high in small municipalities and, despite the government's promise to significantly optimize administrative costs in municipalities, no significant changes have been observed.

¹⁹ For example, the Kulevi Oil Terminal indicated a low figure as a value of its property; as a result, property tax revenues of the Khobi municipality (where the Terminal is located) decreased significantly and the Khobi municipality started receiving equalization transfer in 2015. It had not been receiving such transfer before.

Another concern is there are too many people employed in municipal institutions (such as limited liability companies and especially not-for-profit entities). These legal entities have de facto become "shelters" for retired civil servants and other people with close ties to government officials. By 1 January 2017, self-governments (with the exception of Tbilisi) employed 11,913 individuals directly and additional 19,825 individuals through not-for-profit entities, a total of 31,738 employees.

According to Georgia's Budget Code, local authorities should have started creating programmatic budgets in 2012; however, even today there are real problems with drafting a programmatic budget.²⁰ For example, objectives, tasks and expected outcome indicators-data that should supposedly serve as a basis for local self-governments to make decisions on how to distribute their financial resources-are not clearly defined or are even missing. As a result, it is difficult to create a transparent budget or financial report, which makes it difficult for citizens to become involved in the process of drafting the budget.

6.3. Property of self-governments

According to the National Agency of State Property, 1,038 buildings and other types of real estate were transferred to the municipalities in 2017, down from 1,335 in 2016. In general, it is difficult to properly evaluate the value of the property transferred to local self-governments because their value is not being defined. Even the Ministry of Economy and Sustainable Development does not have this information, despite the fact that it is directly responsible for the process of transferring property to the local authorities.

While they have made some steps to transfer some property to local self-governments, the central authorities have not fully implemented the decentralization of land, water, forest and natural resources. Even more so, the central authorities have not managed to meet the 1 January 2016 deadline to fulfill their obligation under the Code of Local Self-Government to develop a bill to define local natural resources.

Although agricultural land located in the municipality is its property, according to the Code of Local Self-Government, municipalities have to go through difficult procedures in order to register the land, which remains a problematic issue.

The process of handing agricultural land over to self-governing units has not started, and the Ministry of Economy and Sustainable Development remains the largest owner of agricultural land in Georgia.

All these factors indicate that the actual level of financial and economic autonomy of self-governing units in Georgia is insufficient and a consistent policy to improve the economic foundations of local authorities needs to be implemented.

7. State Supervision

Under the Code of Self-Governance, the prime minister is now responsible for overseeing the activities of municipal bodies, instead of state trustees / governors and the Ministry of Justice. Putting a single body in charge of oversight (instead of having two bodies supervise the same issue) is in line with the Council of Europe Committee of Ministers Recommendation no. 12 of 1998 on supervision of local authorities' action.²¹ However, there are a number of questions about the system now in place in Georgia: no Council of Europe

²⁰ Although there is a "Methodology of drafting a programmatic budget of local self-government budget" approved by the decree of the Minister of Finance of 11 July 2012 (Annex # 4)

²¹ Recommendation No. (98)12, 18 September 1998 of the committee of Ministers to member states on supervision of local authorities' action, <https://rm.coe.int/09000016804f8499>

member countries has tasked the prime minister with direct responsibility for legal supervision. Normally, this function is given to a sectoral government ministry, which is a body within the central government that is responsible for local self-governance policy and has the expertise to provide proper oversight. The system that is in place now in Georgia creates some overlap of certain functions in the executive government, which may hinder the implementation of a uniform policy.

There are also several problems with the formal side of oversight by the prime minister. The current code does not allow the prime minister to delegate its legal oversight function. It means that, formally, the legal findings of an oversight mission have to be endorsed by the prime minister, which is not easy to do in practical terms. In reality, legal findings are signed by the head of the relevant department in the government administration.

In order to optimize the existing system of legal oversight, the central authorities are considering returning this function to state trustees / governors. If this change is to take place, the following issues have to be taken into account:

- Georgia is a small country in terms of territory. It is unnecessary and even ineffective for nine different officials to exercise legal oversight in their own territories.
- The tradition of informal control exerted by state governors over municipalities has to be acknowledged and taken into account. If state governors regain this competence, the bad experiences of the past could lead to an even worse situation today.
- Administrative costs will notably increase if the oversight function is returned to state governors.
- There is a risk that a "competition" between Prime Minister's administration and the relevant sectoral ministry may be created, which would make it more difficult to run a uniform and effective local self-governance policy.

8. Citizen engagement

Municipalities began making changes to facilitate citizen engagement after July 2015, when new mechanisms for citizen participation in the self-governance process were introduced to the Code of Local Self-Government. As expected, implementing these changes has taken longer than the two-month period envisioned in the code. It took local authorities nearly a year to make the relevant changes to their rules of procedures. Putting the public on notice also slowed down the process.

Due to these delays, there were relatively few citizens taking advantage of their new rights in the second half of 2015. Starting 2016, the process started moving faster, aided by the fact that the Ministry for Regional Development and Infrastructure started drafting relevant guidelines.

The civil society also began getting involved by increasing citizen awareness. Furthermore, the heads of several municipalities took the initiative to increase the use of the new citizen engagement mechanisms, particularly in terms of participating in the General Assembly of a Settlements and Council of Civil Advisors.

On the other hand, the process was not perfect. Civil servants in municipalities did not have the proper qualifications to organize the activities envisaged by law. Often municipalities did not even know how to prepare the necessary documents (for example, application forms) and what formats to use. Civil society organizations turned out to be better prepared.

Despite the difficulties and nihilistic attitude of the public, since the second half of 2016, general meetings in settlements have started to be held. The following list reflects data from the Ministry for Regional Development and Infrastructure as of 1 January 2017:

- A General Assembly has been held in 415 villages (11.78% of all the village settlements in Georgia). At about ten percent of those meetings, village elects were chosen;
- In 2016, citizens filed 55 petitions with local self-governments. This figure exceeds the number of all petitions in the last decade;
- A council of civil advisors has been set up in all municipalities and in all districts of the capital city.

The level of activeness differed across the municipalities. Meetings were most frequently conducted in the settlements of Abasha, Vani, Tianeti, Keda, Kobuleti, Chokhatauri, Tsageri and Khulo. The most active cities/towns and rural communities to submit petitions were the cities of Batumi and Ozurgeti and the communities of Abasha, Akhaltsikhe, Akhmeta, Dusheti, Zugdidi, Martvili, Kobuleti, Shuakhevi, Chkorotsku, Khelvachauri and Khulo.

Regrettably, there are no precise statistical data about citizen engagement in 2017. In general, it is safe to say the process has continued and engagement is increasing.

Empirical observation shows that part of these activities for show but examples of real civic engagement have also emerged. Initially, self-government bodies or civil society organizations were the initiative to hold general meetings in some settlements (for example, in Adjara) but later on civic activist groups formed locally and became involved in organizing meetings independently, without external support. They often successfully lobbied settlement interests before local self-governance bodies.

Another trend has shown a correlation between citizen activity and the size of settlements: Meetings have been taking place more frequently in small villages where it was easier to gather citizens. These were settlements that had not been benefited from the work of self-governments in the past (due to the small number of voters) and had many unresolved problems (such as roads, water supply, etc.).

A third observation is that the leaders of self-governing units have positively used their legal powers to initiate additional mechanisms for citizen participation. An example is the municipality of Marneuli, which implemented participatory budgeting (the so-called Brazilian or Sopot model) in 2015-2017. Other examples include municipalities (such as Gori, Zugdidi, Lagodekhi, etc.) where electronic petition systems have been put in place. In the municipality of Gori, acting on its own initiative, the self-government started to proactively publish more documents.

The regrettable aspect of the process is that the general meetings and civic advisory councils have no real power. Since citizens only have the power to consult/lobby, the level of activeness dropped once citizens saw they were not making an actual difference. In addition to the lack of strong rights, there is also a technical issue related to organizing meetings: decisions can be made at a general meeting if 20% of registered voters in the settlement attend; however, on practice, that is nearly impossible to arrange in medium and large settlements.

At this stage, it is difficult to predict how the process will develop. With the end of the *State Village Support Program*, villages lost the only instrument that helped them, albeit rarely, to resolve problems. The central authorities have announced that, in order to boost citizen participation and encourage local initiatives, mayors' representatives in self-governing units will receive more powers and village meetings will have a new status. However, how this will happen and whether these intentions will actually be implemented, remains unknown.