



ANNUAL REPORT ON LOCAL DEMOCRACY DEVELOPMENT IN GEORGIA (POLICY ANALYSIS)



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Annual Report on Local Democracy Development in Georgia (2009 - 2010) **(Policy Analysis)**

“Policy Analysis” is just one portion of the “Report on Local Democracy Development in Georgia (2009-2010)” and is only a general review of the trends of pending reforms in the field of self-government. For a full version of the Report please refer to: www.osgf.ge

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Preface

In the present publication, “Open Society - Georgia” Foundation continues to analyze developments in the field of local self-government in Georgia and examine the decentralization process initiated in 2009-2010. The report is a methodical continuation of the 2006, 2007 and 2008 publications.

The report describes and assesses the following changes that have occurred during two years of the decentralization process:

- Analysis of the policy and process of pending reforms;
- Impact of the 2010 constitutional amendments over self-government;
- Trends of regionalism and regional development in Georgia;
- Law-making process in 2009-2010 related to decentralization;
- 2010 local self-government elections;
- Powers of local self-government;
- Financial and property status of local self-government;
- State programs implemented in the regions of Georgia in 2009-2010;
- State supervision over self-governments;
- Existing situation in the area of public services.

In conclusion, recommendations are made with the intention of remedying existing flaws in the above-listed areas.

The present report covers the changes made in 2009-2010 only. Elements from previous periods (2004-2008) are referred to as much as is required to describe the current situation.

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Policy Analysis

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1. INTRODUCTION

Since the “Rose revolution,” local self-government has encountered a trend of centralization, not decentralization. The administrative-territorial reform implemented in 2005 (annulment of lower level of self-government - existing at the level of cities, boroughs, communities and villages) has considerably distanced the population from governing bodies. The reform has also sharply curtailed self-government’s powers and its financial base, making local self-governments fully dependent on the central authorities from political, administrative and financial standpoints. While at the initial stage (2005-2007) this process was executed informally, it started to be reflected in legislative norms in 2007.

Centralization intensified in 2009-2010. Starting from this period, the opposite process of de-concentration was launched, along with the suppression of local self-government. The territorial bodies of a host of state institutions (Ministry of Justice, Ministry of Education and Science) were annulled and/or their powers were curbed.

The diluted role of local self-government is evident in all areas that demonstrate a level of development of decentralization in the country:

- **Legislative base** - although a new version of the Constitution has formally reinforced guarantees for freedom of self-government activities, the analysis of effective legislation proves the opposite: laws increasingly more often contradict the principles declared under the Constitution and each other. Additionally, in practice, authorities are guided by requirements of common laws and other legislative acts and not the constitutional provisions;
- **Exercise of powers** - realization of rights delegated to self-governments through international legal acts and practice fully depends on the decisions of central authorities in terms of management and the provision of necessary resources. Notwithstanding annually increasing funding of activities on the ground, the degree of independent decision-making by self-governments is shrinking. The central authorities make decisions on the planning of individual programs and their budgetary back-up;
- **Self-government structure** - local authorities are subject to total control of the central authorities. Although virtual single-party (“United National Movement”) representative structures are active on the ground, the center increasingly underpins its control in the areas of state supervision, property management and budget approval, which is a breach of

a subsidiarity principle taken under international obligations (European Charter of Local Self-Government);

- ***Provision of public services*** - the state is implementing a countrywide array of large, financially voluminous infrastructural programs, some of which are in the domain of self-government powers. Nevertheless, self-governments are either totally excluded from this process, or are practically the local conductors of these services. The implementation and planning process usually do not take into account local specifics. This has a negative impact on the quality of results, while at the same time makes the product/service considerably more expensive.

Reinforcement of the centralization process in Georgia has its causes. Firstly, one must not forget that traditionally, none of the central authorities, especially those who came to power through revolution, were ever supportive of decentralization as they strived for maximum concentration of power in their own hands.

In view of the number of aggravated political, social and economic events (2007 political crisis, 2008 August conflict with Russia, global economic crisis, etc.) in the country, central authorities have gradually constrained the powers of some of their own ruling party officials. It is hard to assert now whether this demonstrates distrust towards local (even those associated with authorities) elite or the central authorities' desire to scoop maximum power.

The situation becomes more comprehensible when one considers that 2012, 2013 and 2014 are the years of parliamentary, presidential, and local self-government elections, respectively, and the ruling elite has started to establish the necessary conditions to maintain their positions.

Interfering with the decentralization process formally is still considered a low priority. The need to solve other, more pressing issues for the country is referred to. Furthermore, throughout the reporting period (2009-2010) an urgent demand for the need to decentralize was absent both internally and from the international community. Therefore, legislative or structural changes carried out by the authorities were aimed at filling individual (mostly secondary) gaps in the existing system and not at addressing problem causes through fundamental changes.

2. LEGISLATIVE ACTIVITY

Legislative activity carried out in 2009-2010 in the field of local self-government must be divided into two major groups:

- Approval of a new text of the Constitution of Georgia (compared to the previous Constitution, local self-government is regulated to a certain extent); and
- Amendments made to the Organic Law on Local Self-Government and other laws.

2.1. Constitutional Amendments

The Parliament of Georgia adopted a new text of the Constitution of Georgia on 15 October 2010, and the self-government provisions entered into effect on 1 January 2011. Noteworthy of the amendments are:

- Article 2, Paragraph 4 (citizens' right to self-government): the phrase "*citizens of Georgia registered in self-government unit*" was added to the text, which to a certain extent limited the scope of this principle. Unregistered citizens of Georgia living in self-government territory no longer enjoy this right, whereas they exercised this right under the previous amendment of the Constitution;
- Article 89: the representative self-government body became entitled to file a constitutional claim in the Constitutional Court of Georgia;
- A new, Chapter VII¹ on local self-government was added to the Constitution, which regulates local self-government at the constitutional level, regulated previously only by the organic law and other legislative acts. In particular, the following has been defined:
 - Suffrage (Article 101¹, Paragraph 1). However, no term of the Sakrebulo's powers has been determined;
 - Procedure for establishing and annulling, as well as changing the boundaries of a self-government unit (Article 101¹, Paragraph 3) - it has become mandatory to consult with a self-government unit prior to making a decision - the Constitution has taken into consideration the requirement of Article 5 of the European Charter of Local Self-Government, to which Georgia had not acceded to at the time of ratifying the treaty (in 2004);
 - Powers of self-governments (Article 101²). Self-governments' own competencies and competencies delegated by central authorities were delimited at the constitutional level (yet, recommendation of the Venice Commission and Georgian experts concerning delimitation of main competence areas have not been taken into account);
 - Self-government property and finances (Article 101³). Direct disposal by the state of property in self-government ownership is prohibited (by which the right of the President of Georgia, granted under the Law on the Local Self-Government Unit Property, to dispose of property in the self-government unit's ownership through direct sale, and at his own initiative, may be regarded as unconstitutional).

At the same time, the new amendment of the Constitution is silent on the following:

- Organizational-legal form of a self-government unit;

- Subsidiarity principle, according to which public powers should be exercised by those bodies of authority that stand closest to the population;
- Bases and procedures for limiting local self-governments' powers;
- Guarantees of fiscal decentralization and principles of financial equalization;
- Status of self-government unit unions and their chief powers;
- Early termination of powers of elective self-government bodies.

Overall, the presence of self-governments' rights in the Constitution should be viewed as a positive phenomenon. At the same time, these regulations are mainly declaratory norms and not legal obligations. Furthermore, the unfortunate probability of frequent constitutional amendments casts doubts on the stability of these guarantees also.

2.2. Amendments to Effective Legislation

A new law was not adopted in the effective 2009-2010 legislation, however, a number of amendments were made to existing laws (11 times to the Organic Law on Local Self-Government, 9 times to the Law on Capital of Georgia - Tbilisi, 4 times to the Law on Self-Government Unit Property, 3 times to the Law on State Supervision of Local Self-Government Bodies, and 2 times to the Organic Law "Election Code of Georgia"). Two laws were declared invalid: the Law on the Self-Government Unit Budget (by adopting a new Budgetary Code on 18 December 2009 - where the budgetary issues of local self-governments were regulated under a separate section of the Code) and the Law on the Status of the Member of Sakrebulo - Local Representative Body (by the 28 December 2009 amendment).

Save for minor exceptions, the amendments are unrelated to key novelties (for instance, adoption of a new Budgetary Code has not realistically changed the regulations related to budgets of self-governments). Moreover, the articles of new laws often contradict other laws made during the same period, as well as provisions of other articles (for example, two mutually different amendments were made simultaneously to the Law on Capital of Georgia - Tbilisi on 25 December 2009; the 2 July 2010 law amended those norms of the Law on Supervision, which had been already been amended under the 22 October 2009 Law. What's more, the latter had been declared invalid).

Ten orders of the President of Georgia and 14 orders of the Government of Georgia are worth mentioning for sub-statutory acts.

The frequent amendment of laws and sub-statutory acts were prompted by Georgia's need to meet international obligations, as well as by the existing political environment in the country.

In the first instance, the amendments drew Georgian legislation closer to the provisions of the European Charter of Local Self-Government (a clearer definition of self-government powers that ensure application of its institutional arrangement, definition of citizen participation procedures and legal guarantees, assure autonomy of local self-government and the prevention of non-legal interference of state bodies in the self-government activities).

As for the political context, amendments mainly concerned the regulation of the voting system (enacting a model of direct election of the Tbilisi Mayor, replacing the mixed - proportional and multi-mandate single-seat system of Sakrebulo elections with the mixed - proportional and single-mandate single-seat system).

Mutual contradiction and inconsistency of laws is a persistent and major legislative flaw. Norms guaranteed under the Constitution are often ignored in favor of ordinary laws (especially so-called “field” laws) and sub-statutory acts. A host of laws (Organic Law on Local Self-Government, Law on Local Self-Government Unit Property, Law on Capital of Georgia - Tbilisi, Law on the Police, etc.) already contradicts the Constitution and requires changes.

Finally, it is notable that albeit minor exceptions, the issue of local self-government in the constitutional and legislative processes underway in 2009-2010 did not attract much public interest, while the political circles turned a blind eye to small initiatives proposed by civil society.

3. REGIONAL DEVELOPMENT

3.1. Strategic Vision

Along with the formation of a relatively effective system of self-government over the last two years, the regional development of Georgia has also become an issue of concern. This was driven by the need to develop the country (setting up a two-level self-governing municipality/region system necessary for the country’s future administrative-territorial and state arrangement), as well as by the regionalism enhancement trend taking place globally in general and Europe in particular.

A vision of regional development and regulatory legislation are currently missing. The Law on the Structure, Powers and Activities of the Government of Georgia and Order N406 of the President of Georgia on Approval of Regulations on State Trustee-Governor are the documents that regulate regional governance, however, an array of circumstances hinders the activities of state trustee-governor institute:

- Low degree of de-concentration of powers which inhibits adequate comprehension and utilization of the regions’ comparative advantages;

- Vague legal mandate in development and implementation of the regions' socio-economic development plan (strategy);
- Minimum role of regions in attracting foreign investments and developing investment projects. Neither respective resources, nor mandate are present;
- Scarce institutional and legal capacity to stimulate and implement innovations, relevant projects and initiatives;
- Absence of state strategy on decentralization/de-concentration.

To overcome the above challenges, authorities began to take certain steps in 2009: the position of State (“without portfolio”) Minister for Regional Governance created in 2008 was revoked and the Ministry of Regional Development and Infrastructure was established, which was responsible for developing the “State Strategy for Regional Development of Georgia for 2010-2017” (approved on 25 June 2010 under Resolution N172 of the Government of Georgia). To ensure successful implementation of public service activities, the Government of Georgia drafted two documents: “Key data and directions for 2009-2012” and “Key data and directions for 2010-2013.”

While the strategy has been developed, a long-term action plan is currently missing (a detailed, mid-term action plan for 2011-2014 has not been adopted; minimum standards of public goods and services are absent). Furthermore, notwithstanding the declared priority of this issue, no funds were allocated for this purpose in the 2011 state budget.

3.2. Regional Development in Practice

While financial aid allocated from the state budget plays a key role in funding regional development, the current ratio of regions in total budgetary revenues is unequal.

The increased volume of programmatic financial aid allocated from central budget should be viewed as a positive circumstance. However, this increase represents a virtual compensation for the “expropriation” of income taxes from local budgets in 2008. In reality, reducing regional revenues on the ground so there is a growing dependence on the centre creates the threat of impaired influence on behalf of central authorities. Additionally, this funding is non-systemic and non-coordinated. There is no effective mechanism to fund regional development in Georgia. The existing system does not take into account either the activities of the “State Strategy for Regional Development of Georgia” or the possibility to systemically organize funding of specific regional development.

Funding provided to individual regions is comprehensively unequal and in per capita calculations. A major portion of commercial bank loans issued in the regions serve Tbilisi. The same applies to pro-

jects funded within the framework of the “cheap credit” program. 116 projects were funded under the program to the amount of 43.5 million GEL. 70% of this amount was issued to four regions, and of these only 36% of the total amount was issued to the Kakheti Region. Tbilisi and the Adjara Autonomous Republic received the largest revenues per capita, by region. Moreover, the chief portion of special programs funded by the central authorities accounted for these very two regions. This raises questions into the existence of political subjectivity in the course of funding-related decision-making.

Priorities of regional development are defined in a centralized manner, without the participation of local authorities or communities in the process of considering local nuances, exemplified in the governmental program “United Georgia without Poverty,” approved by the Parliament of Georgia’s Resolution N975-rs on 6 February 2009.

4. POWERS OF SELF-GOVERNMENT UNITS

The classification of a self-government unit’s powers was changed in 2010: voluntary and exclusive powers were united under the term “own powers.”

4.1. Own Powers

One addition has appeared in the list of conditions for limiting a self-government unit’s powers, pursuant to which “application of own powers by a self-government unit in a way that may undermine orderly functioning of the state bodies as well as organizations and institutions” has been prohibited. This limitation, in view of such a vague definition and absence of a normative explanation, creates an extra, and possibly political leverage of influence on local self-government bodies by the central authorities.

Unfortunately, the effective law still contains Article 65², which defines a self-government unit’s “temporary powers” (when the self-government is “granted” the right to fund the powers of central authorities) that belong neither to its own nor to delegated powers. Remarkably, the list of such “temporary powers” increases on a year-to-year basis.

Throughout 2009-2010, the list of own powers of a self-government unit has expanded (promotion of investments in self-governing unit, approval of municipal programs facilitating employment, setting up a municipal archive and determining service fees, etc.). However, the enforcement of several powers under the existing system is impossible, observed by contradictory legislative and practical realities. Namely:

- “Provision of rescue operations” was added to the scope of municipal fire security measures, but it is unclear how, as the fire security infrastructure has not yet been transferred to self-government units.

- The competence to carry out local passenger transportation “is regulated by the procedure established under Georgian legislation,” while the Law on Motor Transport and the Law on Licenses and Permits envisage a permit for regular passenger transportation with respect to self-governing cities of Georgia only. As a result, 59 municipalities are incapable of exercising their own powers.
- Approval of municipal programs facilitating employment also represents one of its own powers. In 2006, a new Labor Code annulled the Law on Employment, in which the state refuses to fulfill Article 32 of the Constitution of Georgia (guaranteed state support in employing citizens who have become unemployed). Four years later, in 2010, the approval of “municipal programs facilitating employment” was defined as own competence of a self-government unit, but this power is not exercised anywhere else but in Tbilisi (programs: “Start up a business with the Tbilisi Mayor’s help,” “Free English and computer courses,” “Employment program for socially vulnerable families with many children”).
- Setting up a municipal archive and determining service fees is another additional own power, however, pursuant to the Law on National Archive Fund and the National Archive, the Ministry of Justice still remains the only body responsible for the Archive Fund. Since 2010, self-governments pay set service fees to the National Archive of Georgia for temporarily storing their own archives.

4.2. Delegated Powers

A power is deemed to be delegated to a self-government unit, if such power: belongs to a competence of state governing body; is granted based on law or agreement; is backed up with adequate financial-material resource (Article 17 of the Organic Law).

Deficient field legislation (approximately up to 50 legislative acts) is also a persisting problem in this respect. Usually, these laws contradict the provisions of the Organic Law. Few field laws (for instance, the Law on Public Health) are positive exceptions, where the powers delegated to a self-government unit are more or less fully defined.

Considerable inconsistencies are found between the Constitutional Law on the Status of Adjarian Autonomous Republic (delimitation of self-government powers in the Adjarian Autonomous Republic) and the Law on the Capital of Georgia - Tbilisi, and between the Constitution of Georgia and the Organic Law on Local Self-Government. For instance:

- Pursuant to Article 101².1 of the Constitution of Georgia: “*Key principles and competences of defining the powers of local self-governments shall be established by the organic law*”, while under Article 8 of the Law on the Capital of Georgia - Tbilisi, the latter defines the capital’s competences;

- According to the Constitution of Georgia and the Organic Law, only the own and delegated powers of a self-government unit may exist, while pursuant to Article 9 of the Law on the Capital of Georgia - Tbilisi, joint competence of the state and the capital is also established;
- Article 9¹ of the Law on the Capital of Georgia - Tbilisi defines own powers of Tbilisi's self-government, while under the Constitution this may be defined only by the organic law.

The legal aspect of the laws also require improvement. For example, field laws often mention local governing bodies, which have not existed in Georgia for several years now. Apart from this, within a framework of the European Neighborhood Policy, by 2010 field legislation should have been harmonized with the Organic Law, which Georgia has failed to carry out.

5. LOCAL SELF-GOVERNMENT STRUCTURE

5.1. Institutional Changes to Local Self-Government Bodies

Chief changes in the local self-government structure in 2009-2010 are related to the increased role of the Sakrebulo at the legislative level and the diminished role of the executive branch - Gamgeoba/City Hall. The capital of Georgia was an exception, as it experienced an opposite trend.

According to amendments made to the Organic Law on Local Self-Government, the powers of Sakrebulo's Chairperson have increased. Now, the Chairperson heads the representative and executive body of a self-government unit and represents the highest political official of self-government. Meanwhile, the role of Sakrebulo has also increased. Pursuant to Article 78 of a new Budgetary Code, since 2010, the Sakrebulo can approve a budget with its own corrections, even if the Gamgebeli/Mayor does not appraise such corrections at the time a draft budget is submitted.

In the meantime, the rights of the executive branch are being curbed. The so-called double status of Gamgebeli/Mayor was annulled in 2010, when his/her candidacy was first selected by the Sakrebulo Bureau (carrying the features of a public servant), and was later elected by the Sakrebulo (carrying a political status). Today the Gamgebeli/Mayor is no longer a political position, he/she is not a political head of the executive body, and is accountable before the Sakrebulo chairperson.

The described changes are presumably aimed to eradicate flawed practice currently prevailing in local self-government. Until now, the role of the Sakrebulo (and its chairperson) was rather limited and the executive branch, which formally or informally had been directly subordinate to directives coming from various central institutions, was the sole governor on the ground.

The opposite picture is detected in Tbilisi. The rights and degree of legitimacy of the city mayor are on the rise (direct elections) and the role of the capital's Sakrebulo is further reduced. Norms related to early termination of mayoral powers have been deleted from the Law on the Capital of Georgia - Tbilisi, which on separate occasions (mayor's resignation, his/her confrontation with the Sakrebulo, etc.) may become a source of political crisis in the country.

5.2. Activities of Local Self-Government Institutions

The described changes would prove effective should the central authorities quit excessive "caring" for the local self-government bodies and their activities, however, the reality unfortunately illustrates the opposite. A number of supervisory bodies and their rights to interfere in local self-government activities have expanded. For instance, state trustees - governors - in the regions are authorized to be involved in the determination of a self-government unit's priorities.

In 2010, the power to approve the priorities of socio-economic development was deleted from the list of own competences of a self-government unit. Pursuant to the Budgetary Code, the executive body of a self-government performs this function by consulting the state trustee's administration. The Sakrebulo is not involved in drawing up the priority documents, nor does it even examine them.

We can conclude that since 2007, the central authorities have been working to curb the real powers of local self-government and to increase the center's control over the implementation of remaining functions. Regardless of numerous legislative amendments, a host of difficulties remain in the direct functioning of a local self-government structure:

- Although the functions of the head (Gmgeoba's/City Hall's trustee) of territorial body of Gmgeoba/City Hall have been regulated, his/her role and impact in the process of actual exercise of self-government is still minimal and is virtually limited to informing the population of decisions made by upper bodies of authority;
- According to Article 9 of the Law of Georgia on Public Service, the right to establish limits of salaries by the official ranks of local public servants is the prerogative of the President of Georgia (especially when in practice, limits of salaries are established not in line with the official ranks, but with the positions only). However, in this case, the right of local self-government to determine its own structure and the official hierarchy on its own is being violated;
- Pursuant to the Organic Law (Article 44, Paragraph 3), the Sakrebulo (Article 44, Paragraph 4) and state bodies, which have delegated individual powers to the local self-government bodies from their domain (Article 44, Paragraph 3), enjoy the right to suspend/revoke legal acts of a local self-government. However, under the General Administrative Code of Georgia, this is only the court's prerogative, provided sufficient grounds exist thereto.

Finally, citizen participation in the governing process is worth noting as well. In 2010 a new Chapter X¹ was added to the Organic Law - Citizen Participation in Exercise of Self-Government (pursuant to transitional provisions of the Organic Law adopted in 2005, these norms should have been adopted prior to 1 September 2006), which obligates self-government bodies to publish drafts of initiated decisions, establish procedures and terms for their examination, and set up a system of control over the fulfillment of decisions. Moreover, citizens are entitled to initiate normative acts of self-government through petition procedures and take active participation in the sessions of the Sakrebulo and Sakrebulo commissions. Unfortunately, examples of exercising this right have so far been absent.

6. 2010 MUNICIPAL ELECTIONS

6.1. Pre-Election Period

A number of amendments were made to the Election Code of Georgia in December 2009. Issues changing the Tbilisi election system were of most significance:

- The composition of the Tbilisi Sakrebulo was established at 50 members; 25 of whom were elected from local single-mandate single-seat election precincts, while the other 25 were elected through proportional procedure over the entire jurisdiction of Tbilisi. As a result, the weight of one mandate has been partially equalized (under international standards, a 10%-deviation from the average is acceptable), the absence of which had been identified by international and local observer organizations, both at the parliamentary and local elections. Nevertheless, in Tbilisi we still have a deviation of more than 10% in 4 precincts out of 25, and more than 15% - in 11 precincts. The difference is even larger in other self-government units.
- Direct elections of the Tbilisi mayor have been introduced with a two-round system and 30% election threshold in the first round. International and local organizations have reproached the introduction of a merely 30% threshold for the two-round system. The direct elections of mayors was not introduced to the four self-governing cities of Georgia (Kutaisi, Batumi, Poti and Rustavi).

The term of appealing the Election Commission's decisions has increased from 1 to 2 days; the procedure for electing the Chairperson of the Central Election Commission has changed; the election of secretaries at a lower level of electoral administration by representatives of opposition parties has become possible, etc.

In accordance to the Venice Commission's "Code of Good Practice in Electoral Matters," it is not advocated to change the election system within 12 months of the elections for a number of reasons (reallocation of precinct boundaries, respective division of voters' lists, registration of candidates,

pre-election campaign, difficulties of monitoring, informing constituencies, etc.), however, changes were made to Georgia's system 4 months prior to the voting day.

The Election Code of Georgia still does not regulate:

- The right to submit independent candidates at self-government elections;
- Concept of secret advertising;
- Limits to the use of administrative resources;
- Rules of participation in pre-election campaigns and propaganda by public officials;
- Restriction of the right of public servants to participate in pre-election campaign, etc.

Mutually exclusive articles allowing for different interpretations are still present.

An array of violations have been identified throughout the pre-election period, comparable to those of previous elections:

- Activities of state bodies and the ruling party have not been delimited, therefore unequal conditions for the activities of political parties exist. Although it was prohibited to initiate social and healthcare activities during the pre-election period, the portion of cultural events in local budgets and/or human resources of administrations increased drastically prior to the elections.
- “Transparency International - Georgia” has reported that transfers given to self-governments in 2010, compared to 2009, have grown by 34%. The number of employed in the Tbilisi City Hall has grown as well. A “Georgian Young Lawyers’ Association” study found that expenses of the 2010 Tbilisi budget increased by 84 million GEL (including, the so-called “other expenses” topping the list in the amount of 54 million GEL) compared to previous year.
- Public servants who were members of the ruling party were formally on vacation during the pre-election period, however, they still used official resources (offices, cars, phones, etc.) and met citizens.
- Non-ruling political parties reported incidents of intimidation and threats towards their representatives, owing to which several entities abstained from participating in the elections.

6.2. Voting Day and Results

Albeit minor exceptions, voting at the local self-government elections on 30 May 2010 occurred peacefully. Yet in many places, especially in problematic regions (Kakheti, Samtskhe-Javakheti, Shida Kartli), political party activists (mostly ruling) continued election propaganda despite a legal ban. One day before elections, one of the leaders of the ruling party, Pavle Kublashvili, stated in the party's name that they would monitor the appearance of supporters. As a result, special groups were identified on election day, distinguishing voters in special lists of "supporters".

Technical problems (marking equipment malfunctions, non-application of marking, etc.) also occurred, especially in rural areas.

A number of shortcomings were identified following the election day during the process of examining election-related complaints:

- Election commissions rejected a majority of complaints - as a rule, with 7 votes against 6 (notably, ruling party and the authorities in general appoint 7 representatives in the commissions);
- Election administration did not react adequately to violations perpetrated by commission members. Namely:
- Election commissions did not exercise the right to impose administrative liability (and monetary fines) on offenders, stating they were unable to make these civil servants pay fines "due to low salaries";
- Even though the law provides for a well-structured hierarchy of penalties for improper fulfillment of official duties, as a rule, the superior election commissions applied the lightest forms of penalties on the precinct election commission members;
- Although in individual cases, the Central Election Commission assigned the District Election Commissions to consider imposing penalties on offenders, such decisions remained unenforced (usually due to late adoption);
- Central Election Commission did not react to violations of the District Election Commission members and justified this by stating it is impossible to fully observe all the laws and that the lower commission members were tired of working.
- Decisions of election commissions were often based on personal judgments of commission members rather than on evidence;
- Lower commission members often deliberately misrepresented circumstances when presenting explanations;

- Election commissions, and the court alike, often interpreted individual norms of the Election Code of Georgia differently;
- Some members of election commissions were aggressive towards representatives of observer organizations during the examination of complaints, which often resulted in rendering biased decisions on a particular issue.

In view of all of the above, the ruling party received 86.4% of mandates at the 30 May 2010 local self-government elections.

Notwithstanding the number of amendments made to the legislation of Georgia, inadequate and often illegal actions by the ruling party throughout the election period marred a positive occasion, which distinguished the 2010 elections from the 2008 parliamentary and presidential elections.

Remaining flaws in the election system rendered it impossible to proportionally reflect the voters' will on the election results. For instance, in Tbilisi, the ruling party received only 52.5% of votes in proportional elections, but nevertheless collected 78% of mandates. Election results have once again practically left the single-party system in Georgia unchanged, both at central and local levels.

7. ECONOMIC GROUNDS

7.1. Revenues

Total revenues of local self-government units in 2010 constituted 1.567 million GEL, exceeding 2009 by 307,6 million GEL, and 2008 - by 289,9 million GEL.

Revenues of local self-governments have grown significantly. This cannot be said about the degree of independence of local budgets. Growth has mainly been triggered by increased transfers (including special transfers) from the central budget and the volume of programmatic funding. Additionally, the revenues of self-governing cities are witnessing growth while revenues of municipalities has reduced over the last two years (536 million GEL in 2008, 447 million GEL in 2010).

Key among the revenues are those (1.412 million GEL) marked with a negative trend of a reduced portion of tax and non-tax revenues (24.7% in 2009, 23.4% in 2010). 88.5% of the self-governments' revenues is attributed to funds received from the center. Self-government units only received 180,7 million GEL from taxes in 2010, thus demonstrating a low degree of independence of local budgets. Furthermore, 66.7% of taxes fall on the five self-governing cities and this indicator is on the rise (64.4% in 2009).

Such a grave picture is preconditioned mainly by extremely weak economic activities in the municipalities, as the state finds supporting these zones less important than supporting the self-governing cities (especially Tbilisi and Batumi).

Property tax. Following the amendments made to the Tax Code in 2010, the annual tax of enterprises has increased by 1.5-3 times. A property tax rate for individuals has also increased. Nevertheless, the situation is rather grave. Self-governments do not enjoy discretionary right (determination of base, establishment of rate, imposition of benefits, tax administration) in respect of this tax.

Structure of transfers. Budgets of self-governments are filled mainly with funds received from the center, the largest portion of which accounts for state grants (77.8%). Growth in the volume of grants (more by 222,6 million GEL - 26% - in 2010, compared to 2009) should be assessed positively to a certain extent, however, it should also be taken into account that the growth in aid is driven by the existing situation. At that, only 27% of grants account for the municipalities.

In 2009, 59% of transfers constituted special transfers, 32% - equalizing, 7% - other non-classified, and 2% - target transfers. This data for 2010 equaled to 41%, 48%, 10% and 1% respectively. The increase in the portion of equalizing transfer and decrease in the portion of special and target transfers are welcomed. Provided this event becomes a trend, it can have a positive impact on the self-government budgets.

An equalizing transfer's (called '*gamotanabrebiti*' prior to 2010 - same translation in English, i.e. '*equalizing*') deficiency lies in restricted legislative regulation, whereas the Ministry of Finances enjoys virtually unrestricted powers. It is encouraging that the procedure for receiving a non-state grant by a self-government unit has been simplified, however, it is still difficult to receive a loan, which must be received from or authorized by the Government of Georgia only.

The level of fiscal decentralization in Georgia is rather low, while the revenues of local budgets fully depend on the will of the Ministry of Finances (identification of key parameters of revenues, development of quarterly revenue plans, administration of local taxes, subsidizing various expenses). This results in frequent amendments to self-government budgets: throughout a given year, budgets are amended 8-10 times and often the budget is changed by 100, 200, 300% over a budgetary year. What this all does is empower central authorities to exercise unrestrained interference in the process of self-government activities.

7.2. Expenses

In 2010 expenses constituted 1.570 million GEL, which exceeded the 2009 indicator by 331 million. 33% of expenses fell on the housing-utility economy, 20% on economic activities, 11% on state purposes of a common purpose. Incidentally, the latter (169,8 million GEL) includes service costs of single-seat MPs, which according to legislation, should not be funded from local budgets.

Sadly, this is not the only instance of non-purposeful expenditure of local budgets - considerable amounts are allocated to fund non-own competences of self-government (communal expenses of police departments, general education and healthcare costs, etc.). The fact that funding occurs simultaneously and for similar activities everywhere raises the question of whether the assignment comes from the central authorities and has nothing to do with local initiatives.

The largest share of expenses of self-government budgets is attributed to housing-utility costs (875,9 million GEL in 2009-2010). Funding in other areas has also increased. The only area with reduced expenses was education (108,9 million GEL in 2009, 102,2 million GEL in 2010).

The increase of the share of local budgets in the volume of mobilized taxes in the country should be assessed positively (2,8% in 2008, 3,7% in 2010), however, this share is still extremely small (for reference, prior to the reform this figure in 2004 equaled 22,8%).

An on-line procurement system was introduced in 2009-2010 in the area of *state procurements*, which became mandatory on 1 December 2010. The new system has made number of areas in public services significantly cheaper, however, the cheapest system does not imply the most qualitative. An on-line procurement system has created certain problems in purchasing goods such as food and oil products, the prices of which often change. Owing to this, up to 100 tenders failed in 2010. An additional problem is associated with a short distribution of computer technologies in the country (especially in regions).

7.3. Self-Government Property

The process of transferring property to local self-governments, which was launched in 2005, is still underway in Georgia. Since 2007, however, an opposite trend has been discerned in which the state is gradually reducing the list of categories of property in state ownership that should be transferred to self-governments:

- Under the 21 July 2010 amendment to the Organic Law, pastures have been deleted from the list of categories of land to be transferred to self-governments. They have been transferred to the management of the Ministry of Economy and Sustainable Development;
- Due to gaps in legislation, the process of the registration of forests of local importance in self-governments' ownership, which began in 2007, is suspended. The Forest Code of Georgia does not recognize self-government as the owner of a forest;
- Although pursuant to the Organic Law, the water resources of local importance are under the ownership of self-governments, however, the Government has not established a respective mechanism to regulate water resource issues.

The only area where the property registration process is actively underway is in the registration of non-agricultural land, yet a different type of problem emerges here. through the “legalization commission”, the population often legalizes non-registered parcels of land 3 times cheaper (for 2.5 GEL) than the starting privatization price. Furthermore, the Ministry of Economy and Sustainable Development is sometimes involved in the process, which at the initial stage requests registration of concerned land in the state ownership, thus increasing the transactional costs of self-governments.

A rather grave picture can be identified in relation to disposal of local property. Paragraph 11 of Article 19¹ of the Law of Georgia on the Local Self-Government Unit Property, grants the President of Georgia an exclusive right to dispose of self-government unit’s property through direct sale. This contradicts not only the Organic Law, Constitution of Georgia and the European Charter of Local Self-Government, but fundamental principles of ownership rights as well.

Property registration is also a serious problem. Real balance value is not often established and the Ministry of Economy and Sustainable Development does not possess such information.

Thus, a picture of public property distribution can be illustrated by comparing revenues generated from reduced non-fiscal assets of a self-government unit with revenues generated from the sale of property in state ownership: In 2009-2010, the amount mobilized by reduced non-fiscal assets constituted 100 million GEL in all self-government budgets, while during the same period and through the same procedure the state budget received 307.1 million GEL.

8. STATE PROGRAMS

8.1. Programs Funded from International Sources

Since 2008, due to a variety of factors (August conflict with Russia, global economic crisis, end of the so-called “huge privatization” process) the flow of investments in Georgia has significantly declined. This has compelled authorities to start indirectly stimulating the economy by its own means.

In the meantime, because local self-governments have reduced functions and an absence of necessary resources for such functions, it has become necessary for the central authorities to implement local-scale programs. The state’s effort to promote local development through implementing infrastructure projects countrywide has been a benefit to the above.

Economic data reveals the pursuit of such a policy has improved some factors in the regions. However, these achievements are linked to loans from a number of foreign financial organizations, contributing to a considerable growth of Georgia’s foreign debt. Paying these off will create an array of difficulties for the country (population) in the future. To fund various programs,

Georgian authorities receive international credits from both western and Asian (Kuwait Fund for Arab Economic Development, Asian Development Bank) banks. Fortunately, a key portion of generated funds were international grants.

Worth noting from infrastructure projects implemented in 2009-2010 are:

- *Millennium Challenge Georgia (MCC)* - Regional Infrastructure Development and Road Rehabilitation - 419.1 million GEL grant;
- *Rehabilitation of Municipal Infrastructure Institutions in Batumi* - loan from German credit organization (KfW) - 58.5 million GEL;
- *Batumi Urban Transport Project* - loan from the European Bank for Reconstruction and Development (EBRD) - 5.9 million GEL;
- *Rural Development Project* - loan from the World Bank and IFAD - 111.9 million GEL;
- *Intrastate and Local Roads Project* - World Bank loan - 81.4 million GEL;
- *Municipal Services Development Project* - loan from the Asian Development Bank (ADB) - 85.7 million GEL;
- *Regional and Municipal Infrastructure Development Project* - World Bank loan - 88.8 million GEL;
- *Rehabilitation of Water Supply System of Kutaisi* - loan from the European Bank for Reconstruction and Development - 4.5 million GEL;
- *Tbilisi Roads Rehabilitation Project* - loan from the Kuwait Fund for Arab Economic Development - 26.2 million GEL;
- *Rehabilitation of Municipal Infrastructure Institutions of Khelvachauri Municipality* - loan from the German credit organization - 2.8 million GEL;
- *Irrigation and Drainage Customer Organizations' Development Project* - World Bank loan - 4.0 million GEL.

Overall value of listed projects is 788.9 million GEL (358.3 million in 2009, and 430.6 million in 2010), 369.8 million GEL of which are loans.

The largest program is the “Millennium Challenge” Compact, an agreement executed between Georgia and the United States on 12 September 2005, part of which (65,7 million GEL in 2009-2010) was used to restore municipal infrastructure and set up sustainable development conditions for transportation services.

8.2. Programs Funded from State Budget

Apart from the capital received from international financial organizations, the Government of Georgia funds programs directly from its own budget also.

In this respect, *special transfers* should first be mentioned. Only two units received such transfers in 2010 - Tbilisi (196.6 million GEL) and Batumi (100 million GEL). However, the specific programs that these amounts were distributed to have not been clearly identified. Pursuant to the legislation of Georgia, special transfers may be applied as a result of natural calamities and cases of “emergencies.” Tbilisi (as the country’s capital) and Batumi (as the capital of an autonomous republic) enjoy enough benefits through equalization transfers (coefficients equal to 2.5 and 1 respectively), therefore the Government should have at least explained the reason for allocating extra special transfers.

The process of distributing funds allocated from the state budget for the *Regional Projects Implementation Fund* appears rather chaotic as well. 123 million GEL were allocated to this end in 2009, however, throughout the year this amount increased to up to 182.6 million GEL. The planned budget was subjected to even bigger changes in 2010. The allocated amount increased from 91 million to 240 million GEL. Governmental documents were also frequently amended. For instance, the 20 January 2009 Decree #34 of the Government of Georgia, which defines activities to be funded, was amended 17 times throughout the year.

A majority of planned projects concerns the rehabilitation of roads and the water system. Although since 1 January 2008, the rehabilitation of drinkable water was no longer a duty of the local self-government, self-governments in villages still had to bear the expenses related to system rehabilitation, as the state limited liability company, “United Water Supply Company of Georgia” (which was founded by the central authorities), rendered services only to the cities and boroughs. Except for Tbilisi, the state has not been able to make this segment attractive for investors, hence it must annually allocate funds from the budget for water system rehabilitation. Thus, stripping self-governments of the authority to supply water should be regarded as a classic example of a thoughtless reform.

Another example of uncertainty is the transfer of 76.7 million GEL to the Kutaisi budget for construction of a new parliament building. Funds were allocated by a resolution of the Government of Georgia, however, the significant cost was not identified in the state budget separately and is integrated in a list of other expenses.

A key actor in the implementation of local programs is the *Ministry of Regional Development and Infrastructure*, which funds the water system infrastructure through the *Regional Development Agency for Water Provision*, and road infrastructure through the *Motor Roads Department of Georgia*. In 2009-2010 the latter implemented the “Intrastate and Local Roads” project, which was funded by the World Bank with 115.5 million GEL. In the meantime, the rehabilitation of local roads still remains under the domain of self-governments.

The amount allocated from the state budget for the *Municipal Development Fund* constituted 201.6 million GEL in 2009, and 154.4 million GEL in 2010 (in 2010, the regional and municipal infrastructure development fund received an extra 40.3 million GEL). The Fund additionally received funding from international organizations (EU, etc.) to an amount of 161 million GEL in 2009 and 147.2 million GEL in 2010.

The Municipal Development Fund implemented 25 large projects in 2009-2010. Most remarkable of these were the construction of residential houses for the internally displaced persons, as well as projects aimed at municipal services development and regional and municipal infrastructure development.

The quality of undertaken works is a separate problem, however. For example, 4 million GEL was allocated to ensure a 24-hour water supply to Kutaisi, but this self-governing city still receives limited water, according to schedule.

Serious predicaments have emerged as a result of limiting the powers of self-governments and centralizing a number of service areas (especially in village-type settlements). The “Rural Aid State Program” was developed in 2009 to partially overcome these problems, which continued also in 2010 and 2011. The program aimed to identify the most significant problems of concern through consultations with the population and to promote a solution. To this end, 20 million GEL was allocated in 2009, and 40 million in 2010. Amounts (from 2,000 to 12,000 GEL) were issued to villages according to population size. The trustees of territorial bodies of local self-governments were instructed to hold consultations with the village populations.

The project was flawed in that the meetings were often held in a formal environment, while a tender would not be announced for the planned works. Under a resolution of the Government of Georgia, negotiations with one person were approved as a form of state procurement. The program amount for 2010 was allocated on 13 January and was spent promptly. This gave rise to speculations that the program was being implemented for “bribing” voters ahead of the 30 May 2010 municipal elections. Another circumstance is worth noting: The requests of the village population were grouped by municipalities. In some municipalities all villages (save exceptions) requested a bus stop built, while in some a bridge repaired, etc. This also raised doubts that in reality, the priorities were determined by the head of a municipality’s executive authority (Gangebeli) and not the population.

Nevertheless, a host of successful examples of engagement by the local population was demonstrated throughout the implementation of the “Rural Aid State Program”. The active population was identified in a number of communities and villages. Many villages managed not only to change the priorities prompted from the top, but to advocate and lobby their interests successfully and achieve their goal. The program has clearly illustrated that rather than being implemented by the directives of central authorities, local self-governments that ensure citizen

participation in the discussion process are capable of finding solutions to numerous problems through small amounts of funding.

9. STATE SUPERVISION

9.1. Legislation on State Supervision

In general, the exercise of state supervision aims to defend state interests on the ground, as well as to create guarantees for free decision-making for the self-government bodies within the scope of their powers. “The notion of local self-government is defined mainly by the scope of state supervision... the position of local self-government in the state structure is of principle importance.”

Pursuant to Paragraph 3 of Article 101³ of the Constitution of Georgia, “State supervision over the activities of local self-government bodies shall be exercised in accordance with the procedure determined by law. State supervision aims to ensure compatibility of normative acts of local self-government with legislation of Georgia and proper fulfillment of delegated powers. State supervision shall be exercised in proportion to its objectives.”

The Law of Georgia on State Supervision of Local Self-Government Body Activities was enacted in 1 August 2007. Under the Law, only the state trustees - governors (not the respective ministries) - are entitled to exercise supervision over activities of self-government bodies (the Prime Minister in respect of self-governments of Tbilisi and the Adjara Autonomous Republic). Thus, no field of supervision is exercised over self-governments that would create additional hindering circumstances for self-government activities. Notably, the Prime Minister of Georgia exercising control over the activities of the Adjara self-governments, instead of the Adjara authorities, is unjustified.

Among the negative aspects of this law is the addition of Paragraph 9,¹ with similar content to Articles 8.7 and 9 by the amendments dated 28 December 2009: If prior to that, a supervising body was obligated to suspend the effect of a normative act in the course of exercising legal supervision, which grossly violated basic human rights or caused irreparable damage and resorted to court, as a result of amendments, the scope of issues within this damage has been expanded (causing damage to state security, protection of cultural heritage, environment, human health, state bodies, as well as impeding proper functioning of organizations and institutions). This paragraph has been extended to exercise delegated powers as well. Furthermore, a supervising body became entitled, following consultations and warnings, to perform preventive measures against damage on its own. Luckily, the need to enact this article has not arisen until now, but there was no need at all to apply such a special case to delegated power, as a supervising body could still revoke any normative act of self-government. Expansion of the scope was also un-

justified because in light of its own powers, a self-government cannot inflict such damage at all and if it abuses its powers, it will be an invalid act with no legal consequences. Paradoxically, this amendment has limited the activities of a supervising body because if it had resorted to the court directly, it should currently first hold consultations with the self-government, then warn it and act only afterwards.

Apart from the Law on State Supervision of Local Self-Government Body Activities, supervision in the financial sphere is exercised by the 26 December 2008 Law on the Chamber of Control of Georgia, pursuant to which, the Chamber of Control controls the spending of local budgets, management and disposal of property of a self-government unit and the financial-economic activities of legal entities of private law, in which a local self-government unit possesses over 50 per cent of shares (Paragraph 2 of Article 6). This amendment to the law contradicts Paragraph 1 of Article 97 of the Constitution of Georgia, according to which the Chamber of Control examines activities of state bodies and not self-governments, which are alienated from the state bodies (pursuant to Paragraph 1 of Article 101² of the Constitution). This norm also contradicts Article 8 of the European Charter of Local Self-Government, according to which any administrative supervision of local authorities' activities shall normally aim at ensuring compliance with the law only, and not establishing reasonableness or effectiveness.

9.2. Practice of State Supervision

Out of 2,740 normative acts adopted by self-governments in 2010, 34.2% were given legal notice, 28.7% were amended, and 8.2% were annulled.

Throughout the effect of the Law on State Supervision of Local Self-Government Body Activities (2007-2010), a supervising body has challenged a normative act of self-government only once, when it requested the annulment of Resolution N237 adopted by the Rustavi Sakrebulo on 1 June 2009 (“Concerning the Procedure for Disposal and Transfer of Fixed Assets on the Balance of Enterprises, in which the Rustavi Local Self-Government Owns over 50% of Shares”) and managed to annul this resolution based on the decisions of the Rustavi City Court and the Tbilisi Appellate Court.

Regrettably, the number of normative acts sent officially for consulting purposes is insignificant, while legal notices are declining (43,42% in 2007, 34,16% in 2010), which is a positive trend, although still in large dimensions.

A new problem emerged throughout the process of state supervision in 2009, when the territorial bodies of the Ministry of Justice were abolished and their functions were transferred to the Law-Making Department of the Ministry. Such a centralist approach has reduced the degree of independence of supervising bodies, but has also had an adverse impact on the efficiency and

quality of decision-making. A four-person staff of this department has to examine an average of 10 normative acts daily. As a result, the number of technical and legal errors in these examinations, in addition to the number of violations of this law has grown.

The 2010 Resolution N37 of the Batumi Sakrebulo on “Approval of Regulations of Architectural and Urban Planning Office of the City Hall of Self-Governing City Batumi” is a case in point. Under Sub-Paragraph “i” of Paragraph 3 of Article 6 of these Regulations, the Head of the Office shall “issue within his/her competence an individual administrative/legal act, which shall enter into force immediately upon signature” These regulations blatantly contradict the Organic Law of Georgia on Local Self-Government, according to which the head of a structural unit is not authorized to issue legal acts.

Additional problems are created by the reporting forms of a supervising body, which (based on requirements of law) include only statistical information data and a number of adopted, challenged, amended and revoked normative act that provide no opportunity to analyze and react to problems accordingly.

Supervision on the motive of reasonableness is quite rare, as the number of powers delegated to self-governments is small as it is. In addition, such mechanisms of supervision are not smooth, and therefore the supervising bodies refrain from using it.

10. PROVISION OF PUBLIC SERVICES

The degree of provision of own and delegated services of self-governments is not so advanced in Georgia. This primarily applies to the exercise of own powers. Self-governments’ own taxation base is rather scarce and local budgets are mostly dependent on equalizing transfers. Although the latter’s volume is constantly growing, it is still insufficient for rendering full public services. This conclusion is drawn from the analysis of several individual service areas:

- Self-governments try to implement social programs oriented to children of various age groups, however, due to the absence of a precise statistical base and low level of coordination with central authorities, these programs often apply to the same group of children, which illustrates a low degree of coordination and delimitation of functions among respective levels and structures of authorities. Additionally, self-governments lack relevant long-term strategic programs;
- In the majority of municipalities, cleaning and waste management services are not equally provided to the population. Usually this service is only available in the centers of municipalities and not in the villages within a municipality. The problem is especially acute in municipalities with tourist potential. There are also no well-organized landfills;

- Another measure directly linked to the provision of public services is the “one stop shop” principle introduced in a number of municipalities by programs funded by international donors. This has been introduced in 5 self-governing cities and 15 municipalities of Georgia. Following the completion of several programs it became apparent that the absolute majority of self-governments were incapable of continuing to provide such services due to limited human, technical and financial resources.

The fate of limited liability companies with share interests of municipalities (where municipalities own 100% of shares) is also on the agenda. Following the dissolution of the Soviet Union, the management of several state institutions (cleaning, sewage, design-construction, transport, municipal improvement and other services) had to be decided on. They required logistical bases, but would have been unable to work under the old status. Transforming their boards into the direct structural services would not have been effective either. As a result, a majority of these services have been established as LLCs set up by the municipalities.

Until 2011 these LLCs were funded from municipal budgets, but on 1 December 2010 the system of state procurements switched to an on-line format, which has increased a degree of competition (by emerging competitor private operators). Pursuant to legislation, if a probable value of similar goods or services exceeds 5,000 GEL throughout the budgetary year, the self-government is obligated to announce an on-line tender and not assign these LLCs to carry out activities based on negotiations with one person. As a result, the trend of abolishing municipal LLCs and setting up non-entrepreneurial, non-commercial legal entities has emerged, because in such cases, the self-government is authorized to directly subsidize non-commercial entities. Subsequently, the procurement principle is being ignored in the competitive environment of state procurements.

The practice demonstrates that often it is better for the municipal LLC, which has already worked in a specific market, to continue rendering services, as the municipal LLCs often carry the functions of social orders as well. This cannot be ignored in view of the economic and social situation in the country. Among the positive examples are the benefit offered by the Tetrtskaro Municipality to IDPs settled in the Manglisi borough (they travel to Tbilisi for 70 Tetris when the market price is 1.5 GEL), as well as the activities of municipal LLC “Mshenebeli-2011” established by the Dusheti Municipality, where the latter undertakes work free of charge with its own equipment during accidents and natural calamities, based on the written request of the trustee of the municipality’s territorial unit.

One problem persisting in the area of public services is linked to ensuring the quality of services rendered, as mandatory standards and regulations do not exist. There is additionally a low level of qualification in planning and management of various types of services in the municipalities.

Because of the centralization process underway in Georgia, various powers that are based on the subsidiarity principle and international practice as a function of self-government, are exercised by the central authorities through special programs.

The “Rural Aid State Program” is a classic example of such programs. It cannot be regarded as either its own or a delegated power and represents a rather vague symbiosis (funded from the central budget and organized by local authorities) management-wise.

11. CONCLUSIONS

Individual spheres of the decentralization process may be assessed based on the analysis of the functioning of the current local self-government structure:

Legislation. A new draft of the Constitution of Georgia has reaffirmed the rights of self-government, but the legislation has to comply with the Constitution, with the Organic Law and sometimes with each other also. Regrettably, the legislative practice usually aims to fill individual gaps instead of establishing an institutional system built on declared principles.

Regional development prospects. Regional arrangement prospects appear in the country gradually, but the declaration of a respective strategy has not entailed action plans, laws and regulations. In addition, the declared priority area has not been reflected in the state budget.

Powers of self-government. Self-governments lack technical, human, and most importantly, financial resources for fully performing their own competences. It is obvious that the volume of equalizing transfers allocated to this end is not sufficient. Central authorities often exercise the powers of self-governments on their own and apply the mechanisms of influence on local self-governments (especially during the pre-election period).

Institutional arrangement. The self-government structure has somewhat changed during the reporting period: representative bodies have strengthened, while the role of the executive branch has been curbed. This does not apply to Tbilisi, where the opposite trend is apparent.

Elections. 30 May 2010 municipal elections witnessed significant violations. Although breaches were not as severe as the 2008 presidential and parliamentary elections, the election administration still has not applied any measures foreseen under the law against offending officials.

Economic grounds. Despite the growth in total volume of local budgets, the degree of financial independence of self-governments is declining. They are becoming increasingly more dependent on the good will of central authorities. Transfers (including special) are the chief source of local revenues, while the sources of local incomes are insignificant. “Voluntary” funding of expenses of central authorities is still on the list of costs. A vast portion of local property is still at the disposal of central authorities.

State programs. Important infrastructure projects funded from the central budget and grants and credits of international organizations are being implemented in the regions, which, in line with the subsidiarity principle, are often the competence of local self-governments. Non-accountability of local specifics and the activities performed independently from self-governments are often ineffective and financially burdensome. Furthermore, ineffective management of fulfilled works (e.g. hollowing out newly paved asphalt to rehabilitate water systems, etc.) raises questions about non-purposeful, and in the worst case, ineffective (and possibly illegal) expenditures.

State supervision. State supervision on the activities of self-governments exercised by the central authorities is becoming increasingly tougher. The process of centralization of controlling bodies is underway. By violating the law, the center examines local budgets by means of the Chamber of Control, in which it places a self-government in the position of structural division of the central authorities.

Provision of public services. The quality of local services in self-governments is unsatisfactory. Moreover, a huge portion of these services is often dealt with by the central authorities through the state programs (“Rural Aid State Program”, etc.). Nevertheless, if the objectives are clearly defined, the population is actively involved in the decision-making process and they dispose the funds allocated to them effectively and qualitatively.

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