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# Needs Analysis on Decentralisation and Local Government in GEORGIA

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## Executive Summary

The Needs Analysis on Decentralisation and Local Government in Georgia contains the overview of the current situation, the main challenges and strategic directions of international organisations involved in this sector. The Analysis has been made with aim to help the Council of Europe make its strategic priorities for fostering decentralisation and local governance in the country and act accordingly.

The needs analysis reveals that the process of improving the local self-governance system in Georgia has good dynamics, which confirms the dedication of the Georgian political actors to the international commitments made. The democratic changes in the law and practice is noticeable in many aspects, but overall approach to the LSG is still cautious from the central authorities, *inter alia* fearing to promote too much freedom and independence that could risk to lead to uncontrolled political processes. The situation with and in the two Georgian regions of Abkhazia and Tskhinvali region/South Ossetia heightens the level of caution not to allow the possibility to manipulate with the local authorities in other regions of Georgia as well.

The high financial dependency of LSG units on the decisions of central authorities still remains a challenge, which is repeatedly reminded by many local and international partners including Council of Europe Congress of Local and Regional Authorities and the UNDP. The recent changes in the tax distribution are important steps forward to improvement of financial independence. However, cutting off the same amount from equalizing funds, diminished the impact of the decision.

The direct election of the heads of municipalities, following the recommendation of the Congress of Local and Regional Authorities of the Council of Europe, could be assessed as an important breakthrough, which has been prepared during several years following the 2007 consultations between the Georgian authorities and the Council of Europe.

The economic opportunities of the municipalities are hurdled by the absence of real motivation to improve living or business environment locally, as it neither directly contributes to their budgetary increases, nor they improve political image of the local politicians.

Higher political, financial and economic dependency ties local decision-makers to overwhelming accountability to central authorities, but less to the local population that results in latter's lower involvement and interest in local public affairs, as they are feeling almost no ownership over the decisions made or the revenues local budgets receive.

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## List of acronyms

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| ACCESS | Engaging Society for Sustainability |
| GoG | Government of Georgia |
| CLRAE | Congress of Local and Regional Authorities of the Council of Europe |
| CoE | Council of Europe |
| CSO | Civil Society Organisation |

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|---|---|
| DLG | Decentralization and Local Governance |
| EU | European Union |
| GD | Georgian Dream political coalition |
| GIEV | The Georgian Institute of European Values |
| GIZ | Deutschen Gesellschaft für Internationale Zusammenarbeit |
| IEOM | The International Elections Observation Mission |
| ILO | International Labour Organization |
| IMF | International Monteray Fund |
| IO | International Organisation |
| LSG | Local Self-Government |
| M-TAG | Media for Transparent and Accountable Governance |
| MP | Member of Parliament |
| MRDI | Ministry of Regional Development and Infrastructure of Georgia |
| NALAG | National Association of Local Authorities of Georgia |
| NGO | Non-Governmental Organisation |
| OECD | The Organisation for Economic Co-operation and Development |
| PACE | Parliamentary Assembly of the Council of Europe |
| ToR | Terms of Reference |
| UNDP | United Nations Development Programme |
| UNM | United National Movement |
| USAID | United States Agency for International Development |
| WB | World Bank |

## 1. INTRODUCTION

1. The Needs Analysis on Decentralisation and Local Government in Georgia contains the overview of the current situation, the main challenges and strategic directions of international organisations involved in this sector. The Analysis has been made with aim to help the Council

of Europe make their strategic priorities for fostering decentralisation and local governance in the country and act accordingly.

2. According to the ToR, the objectives of the present report were to:

-Analyse briefly the current situation of and main challenges to local government, including the legal, institutional and financial framework;

-Analyse studies, recommendations and guidelines offered by international, local and expert organisations in this respect, and in particular the Monitoring Report and Recommendation of the implementation of the European Charter on Local Self-Government, adopted by the Congress of Local and Regional Authorities of the Council of Europe and specific Recommendations of the Committee of Ministers of the Council of Europe;

-Examine the current activities and plans of the international community in the field of decentralisation and strengthening local government, including, as the need may be, interviewing the most important international stakeholders, in order to identify possible gaps or duplications;

- Prepare concrete recommendations as to further action in the light of on-going overall donors and stakeholders' activities and activity, advice and comments formulated by the Centre of Expertise.

3. The present Report has been prepared by Mamuka Jgenti, independent consultant on the bases of available documentation and conducted semi-structured interviews with the relevant stakeholders in Georgia. The author wishes to particularly thank Mr David Chichinadze, Head of the LSG thematic team of the Georgian Institute of European Values (GIEV) for his valuable support in the preparation of the present Report.

4. Some difficulties were encountered in the course of preparation of the report, mainly related to the short time allocated, which coincided with the holiday period in Georgia.

## 2. POLITICAL CONTEXT

5. Georgia joined the Council of Europe on 27 April 1999. While joining the Organisation, Georgia undertook to implement specific commitments, including the signature and ratification of the European Charter of Local Self-Government, which was signed on 29 May 2002. Although the initial commitment was to sign and ratify the Charter within the three years period following the accession to the Council of Europe, Georgia ratified the Charter on 8 December 2004 and consequently the Charter entered into force in relation to Georgia only on 1 April 2005. The ratification instrument of Georgia deposited to the Secretary General of the Council of Europe on 8 December 2004 contained the following declaration: "*Till the restoration of full jurisdiction of Georgia on the territories of Abkhazia and Tskhinvali Region, Georgia declines its responsibility for performing obligations under the paragraphs of the European Charter of Local Self-Government listed [in its declaration regarding Article 12] in such territories*".

6. On the basis of the Resolution of the Committee of Ministers of the Council of Europe, which required the Congress of Local and Regional Authorities to prepare country-by-country monitoring reports on the situation of local and regional democracy in member and applicant States, the CRLAE was monitoring the situation of local and regional self-government in Georgia even before Georgia joined the Council of Europe. The first ever Monitoring Report of the CLRAE on Georgia was adopted on 21 September 1998. The most recent CLRAE monitoring report on Georgia was published on 19 March 2013.

7. On 1 October 2012, parliamentary elections took place in Georgia. These elections, which were deemed to be generally in line with international democratic standards by the international community – including by an ad hoc committee of the Parliamentary Assembly of the Council of Europe (PACE) – resulted in a landslide victory for the opposition united in the Georgian Dream (GD) coalition over the United National Movement (UNM), which had dominated the political landscape in Georgia since the Rose Revolution in 2003.

8. The handover of power after the elections, which took place in a smooth and constructive manner, introduced Georgia to a period of cohabitation, in which President, who, according to the constitutional provisions in force at that time, wielded considerable political power, represented a different political force than the government and the ruling majority in parliament. Regrettably, as a result of the unique constitutional situation, neither opposition nor the majority, were able to move beyond the polarisation and acrimony that was created between them during the election period.

9. A number of developments exacerbated the tense relationship between the new ruling majority and the opposition. Important among these developments were, *inter alia*, the criminal investigations that were started against some former government officials and reports of undue pressure being applied on local UNM officials by Georgian Dream supporters to either switch sides or resign. One of the most known case concerns former Mayor of the capital city of Tbilisi, who was first dismissed in a way that raised a number of questions about the legality of the first instance court decision, including in the Constitutional Court of Georgia. Subsequently, former Mayor has been detained while he was attempting to travel to attend CLRAE event in his capacity of Chairman of the Georgian delegation to the CLRAE and while he was holding a position of a election campaign leader for the opposition candidate for the position of the Mayor of Tbilisi.

10. The formation of the new government was smooth, but the subsequent process of cohabitation was difficult and characterised by outbreaks of tension and antagonism, especially between the Prime Minister and the President. The leaders of the ruling majority and the minority regrettably were not able to overcome the polarised political climate and rancorous rhetoric that characterised the electoral environment. The difficult co-habitation was initially also negatively affected by the unique constitutional context, which was subsequently resolved by the constitutional amendments adopted on 25 March 2013.

11. Following the parliamentary elections, demonstrations were held in several municipalities demanding a change of power in local governments, which were dominated by the UNM. In several local administrations, mayors and local councillors resigned or switched sides. In a

number of cases confirmed by the credible reports by the local NGOs and international organisations, including the CLRAE, these changes were the result of undue pressure being exerted on UNM activists. This has been a continuing source of tension between the majority and the minority, especially in the context of the run-up to the 2014 local elections.

12. The political change of power was further consolidated with the presidential election on 27 October 2013, where the candidate supported by the ruling majority in the Parliament won the elections. The International Elections Observation Mission (IEOM), of which the PACE was part, considered the presidential election to be in line with international standards and far less tense and polarised than the previous parliamentary elections. Following the presidential election, the political environment became somewhat less polarised and contentious, although the relationship between the opposition and the ruling majority remained tense.

13. Upon invitation by the Minister of Foreign Affairs of Georgia, the CRLAE deployed a 22-member delegation to observe the local elections held on 15 June 2014. On 28 and 29 May, a pre-electoral delegation visited the country to assess the situation in Georgia prior to the vote. On Election Day, 11 teams – including 6 participants from the EU Committee of the Regions – visited more than 150 polling stations in different regions throughout the country.

14. In total, 2088 members of "Sakrebulos" (Councils) were elected on 15 June 2014 according to a mixed system: self-governing cities with a population of more than 75,000 voters have "Sakrebulos" comprising 25 members (15 members from the proportional list and 10 majoritarian members). Self-governing cities with a population of less than 75,000 voters have "Sakrebulos" comprising 15 members (10 proportional and 5 majoritarian). The Tbilisi city "Sakrebulo" comprises 50 seats evenly divided between the proportional party-list system (on the whole territory of Tbilisi) and the majoritarian system (on the territory of a single-mandate majoritarian election district). In the 59 municipalities (towns, villages, settlements) the "Sakrebulos" are composed of 15 members elected through the proportional system and one member elected through the majoritarian electoral system from each community and city on the corresponding territory.

15. The CLRAE was satisfied that – despite local incidents and individual irregularities – the elections were carried out in an overall calm and peaceful manner, which was an issue at stake due to a controversial pre-electoral campaign in a heated atmosphere including aggressive rhetoric and violent actions. The CRLAE found that further progress was achieved in respect of the technical side of polling in Georgia, largely owing to the professional performance of the Central Election Commission under difficult circumstances. The Congress received also positive acknowledgements concerning media freedom, access of the political contestants to the media, openness of the electorate and the absence of pressure on voters. According to the CRLAE report, which was published on 15 October 2014 "*the issues, which deserve further improvement include the composition of electoral commissions, the nomination of independent candidates and the counting procedures. With regard to the general electoral atmosphere, the Congress urged both the government and the opposition to contribute to a policy of zero-tolerance towards electoral violence*".

## 3. LSG AND DECENTRALISATION REFORM

16. Since restoring its independence in 1991, Georgia had several attempts to introduce local self-government system in its overcentralised governance inherited from the Soviet period. In 1991 first multiparty local elections were held resulting in establishing local representative and executive bodies, though the heads of the territorial units continued to be appointed by the President of the Republic. In 1992, short-lived attempt to start a full-scale decentralisation just failed due to civil war outbreak. Since then, the country was governed by the appointed Heads.

17. It was only in 1998 when the local elections were held, subsequent to the adoption of Law on Local Governance and Self-Governance in 1997. The amendments of 2001 have introduced only insignificant changes and in 2002 next local elections took place. There is an overwhelming consensus among the involved actors in the field that in the years 1998-2006, the LSG system was only a quasi-system with some façade elements of the self-government.

18. In 2005 Georgia adopted absolutely new local self-governance system with a reservation that the system would be updated/modified should such a need being revealed by the implementation practice over time. The adoption of the system to some extent coincided with and hence, had been influenced by the work the Georgian authorities undertook for preparing the ratification of the Charter. There is a clear understanding among the practitioners that the ratification of the European Charter on Local-Self-Government has laid the solid framework for subsequent reforms. The provisions of the Charter were taken into account while preparing the new legislative pieces.

19. Following 2006 local elections, the number of municipalities has decreased from more than 1000 to 69, through the abolishment of lower tier units at village level. As a result of this abolishment, all the self-governing units lost their status and new ones have been created in the administrative boundaries of former Raions, set of villages and towns, an agglomerations. The changes had negative consequences as the governance has distanced itself from people and narrower issues important to settlement dwellers have lost their importance despite of the fact that some representatives have been appointed.

20. 2006-2014 is regarded as a period of establishing the framework for the real LSG, with the content that still needed testing on the ground and more observation. Intensive and close co-operation between the CoE and Georgia has proved to be essential and instrumental for further improvements in the Georgian legislation. With the change of the ruling party in the 2012 parliamentary elections, the ambitious initiative for new reform has been announced, which aimed at reforming all the aspects of the legislative framework. With the Order Nr 233 of 1 March 2013, the Prime Minister of Georgia adopted the “Main Principles of Georgia’s Decentralisation and development of Local Self-Government for 2013-2014”. However, introduced changes and achieved results prove that the reform announcement was much over-ambitious than the real actions, which in fact took place.

### 3.1. New Code of Local Self-Government of Georgia

21. Soon after the GD coalition assumed the GoG offices, the ambitious LSG reform agenda was announced. The GOG decision was adopted envisaging the time-table for the reform implementation. The idea of abolishing the Ministry of Infrastructure and Regional

Development, which deals at the GoG level with the LSG issues, and merging its functions to the Ministry of Economy was abandonded, among other reasons thanks to the international involvement and particularly clear messages coming from Strasbourg and Brussels based institutions.

22. Despite the declared readiness and willingness, the initially approved time-table for the reform agenda was not respected, resulting in heavy criticism from NGOs, including the NALAG and GIEV. The process of the preparation of the new draft legislation was not sufficiently transparent as well. The NALAG requested on a number of occasions to be involved in the drafting exercises, but in vain. With the delay, working group has been created, though its composition also raised additional questions in terms of transparency and qualification from the civil society organisations. This criticism, was soon joined by the parliamentary and non-parliamentary opposition political forces.

23. As a parallel process, the NALAG has elaborated an alternative draft Code of Local Self-Government and offered it to the authorities for consideration. As the proposed alternative draft Code was ignored by the authorities, the NALAG decided to use the existing legislation and by gathering 30 000 signatures, officially tabled the draft of the Code at the parliament of Georgia. Although the alternative draft was tabled in accordance with the relevant legislation and procedures, the Parliament decided to proceed with the adoption of the GoG presented draft, without even considering the abovementioned alternative text submitted by the non-governmental sector. While local actors, notably the National Association of Local Authorities of Georgia (NALAG), reported to the Congress that they were not sufficiently consulted during the drafting process of the new "Local Self-Government Code", the representatives of the Ministry of Regional Development and Infrastructure described these preparatory activities as transparent and inclusive.

24. As a result, following a parliamentary procedure, which was heavily criticises as non-transparent by the NGOs, on 5 February 2014 the Georgian Parliament approved the new "Local Self-Government Code", which comprises all aspects of LSG system in Georgia, including legal and institutional framework, own competences, local budget procedures, supervision over the activities of LSG bodies, property issues, etc.

25. The new Code also had an impact on the local elections held on 15 June. Administratively, Georgia is divided into nine regions (Guria, Imereti, Kakheti, Kvemo Kartli, Mtskheta-Mtianeti, Racha-Lechkhumi/ Kvemo-Svaneti, Samegrelo/ Zemo-Svaneti, Samtskhe-Javakheti and Shida-Kartli and two autonomous republics (Abkhazia and Ajaria). By this new law, the status of "self-governing city" has been granted, in addition of Tbilisi (Capital City), Rustavi (industrial city adjacent to Tbilisi), Kutaisi (city hosting the Parliament), Batumi (Black Sea city) and Poti (Black Sea port), to the following cities: Telavi, Ozurgeti, Zugdidi, Ambrolauri, Gori, Mtskehta and Akhaltsikhe. Previously, these seven new self-governing cities formed municipalities with their surrounding villages.

26. This brings the total of self-governing cities in Georgia to 12 and the number of *Sakrebulos* (Councils) elected on 15 June 2014 from 64 to 71: 59 municipalities (towns, villages, settlements) elected their "Sakrebulos" (Councils) and "Gamgebelis" (Town Managers) and 12

self-governing cities elected their “Sakrebulos” (Councils) and “City Mayors”.

27. In general, municipalities in Georgia are composed of three organs: the Council (“Sakrebulo”), the City Hall (“Gamgeoba”) and the Mayor or Town Manager (“Gamgebeli”). The Council has legislative powers (including issues such as the budget, property and land resources, local taxes, territorial planning, construction permissions but also new competences, according to the new Code, in respect of improvements of the water supply system and the development of infrastructures for persons with disabilities, children and the elderly). Its members are directly elected for a 4-year term. The City Hall is in charge of executive functions and the implementation of the decisions taken by the Council. It is headed by the Mayor (the Town Manager) and is composed of deputies and other members.

28. In the past, with the exception of the Mayor of the Capital City Tbilisi, mayors have been elected in by the “Sakrebulo” (Council). Following the changes to the Electoral Code of Georgia adopted on 7 March 2014, all “City Mayors” and “Gamgebelis” (Town Managers) are directly elected by the population of the territory. The candidate who obtains more than 50 percent of the votes wins the election. At first stage, a City Mayor or Town Manager (“Gamgebeli”) will be elected for three years, as from 2017 she/he will be elected for four years. At the same time, the threshold for the proportional party lists was lowered from 5 to 4 percent. The fact that now all City Mayors and Town Managers are directly elected in Georgia, is in line with CLRAE’ recommendations and has been welcomed by the international community.

29. Despite the fact that after the 2010 local elections, the CLRAE – together with OSCE/ODIHR and other observers – recommended that Georgia permit independent candidates to compete in local elections, the new amendments do not allow them to be candidate for City Mayor or “Gamgebeli” posts. Only candidates nominated either by political parties or election blocs are able to compete for these posts. Independent candidates nominated by so-called “community initiative groups” can run only for majoritarian seats in “Sakrebulos” (Councils). The fact that the new “Local Self-Government Code” gives the power to the Councils to declare (by 2/3 of its members) a non-confidence vote on a Mayor or Town Manager has been critically commented by the civil society representatives in Georgia.

30. On 29 May 2014, the Georgian Parliament revoked in its third and final reading a controversial legislative clause envisaging blanket suspension of all public servants in the local self-governance bodies after the local elections of 15 June. Proposed by the Georgian Dream Coalition, this clause was added to the reform bill on local self-government in early February 2014. According to this clause, all public servants of local self-government bodies should have been suspended after the forthcoming local elections and continue to serve “ad interim” pending on finding vacant posts through competitions later on. This plan was challenged before the Constitutional Court by a local NGO and employees of the Tbilisi City municipality and has caused concern and disturbances at local level.

**i. Institutional Arrangement**

31. Following the good example in Capital City of Tbilisi and the CLRAE recommendation (*d. the direct election of the Tbilisi mayor is considered to have been a success and might serve*

*as an example to launch the debate on the issue of direct election of all mayors in the country*;), the Code stipulates a new institutional framework, where the Head of the municipality (Mayor - in self-governing cities, Gamgebeli – in self-governing sets of settlements) is elected directly and has all political and managerial functions, whereas the role of municipal councils has been slightly diminished in comparison to the previously existed legislation. Moreover, previously much discussed issue on who was the actual head of the municipality has been finally clarified. To avoid possible abuse of power by the head, his/her authority is counterbalanced by the council's power to dismiss the head, through the legal procedures enshrined in the Code.

**ii. Own Competences**

32. Based on the thorough analysis of the CoE member states' best practices and taking into account the CoE expertise regarding the forms and contents of the own powers of the LSG, the Code revised the existent competences by improving the definitions and adding additional ones. Considering the size of the municipalities, the political powers given to them are forming considerable part of locally important public functions to be implemented.

**iii. Territorial Arrangement**

33. One of the main goals of the new Code was to establish rational criteria for territorial arrangement of the municipalities, thus creating legal basis for further optimisation of their geographical sizes. The pursued goal has never been reached through the political process, but some new self-governing cities and artificially divided municipalities have been created. The versions of suggested criteria couldn't meet all the expected requirements and finally, resulted in simply adding few vague norms without any concrete specifics. In this context, it is important to mention that this aspect was one of the most controversial during the parliamentary procedure the new draft Code has undergone. Different interest groups, including the influential Orthodox Church of Georgia expressed their negative stance towards the initial version proposed by the GoG. The final version of the adopted Code significantly differs from the body of the text that could be found in the initial draft of the GoG. This development and the result achieved, was welcomed by the NGOs.

**iv. Municipal Finances**

34. The municipality has its own revenues in a form of property tax from physical and legal persons, equalizing funds distributed among municipalities through a special formula, direct grants from the central authorities, yearly assignment of the funds for delegated competences and other minor fees and charges. Since 2016 the government amended the legislation and some parts of the revenues from the income tax has been shared with the municipalities. The drawback was the almost proportional decrease in the amount of the equalizing funds per municipality, which resulted in almost unchanged total budgets for 2016. As for the property tax, it is paid by all the legal persons and those physical persons whose officially declared household income per year exceeds the amount of GEL 40.000. Even arable land up to 5 ha in private property is excluded from the property tax. The last part is very low, especially in the regions, where it is close to zero.

35. Moreover, LSG implies a degree of autonomy in financial and budgetary management, without which local and regional authorities cannot be accountable for, and control and manage the share of public affairs falling within their remit. *In this context, it might be useful for the Georgian authorities to undertake measures to comply with the Council of Europe Committee of Ministers Recommendation Rec (2004)1 of 8 January 2004 "on financial and budgetary management at local and regional levels"*.

**v. Fiscal Authorities**

36. The municipality has no fiscal authority to administer the tax collection, which on one hand ensures the overall fiscal discipline in the country but on the other hand leaves no room for municipal participation in the taxable property identification, imposing real market value taxes, request audit for property value assessment, etc. The municipalities have administrative powers to impose changes on different administrative violations, as well as to determine and collect municipal service fees.

**vi. Municipal Loan**

37. Despite of in-depth discussions, the Code has strict and limiting rules for municipalities' access to private funding or finance institutions unless is it authorized or done by the central government itself. A number of surveys and analytical evaluations conducted by the CoE, WB, IMF, OECD and others, assessing latest financial crisis and some European municipalities' larger powers to play on the assets market, prompted the authorities to take a decision towards the maintaining stricter discipline and closer involvement of the state actors in any such decision-making process by the municipalities. In practice it resulted in getting needed infrastructural loans through well-coordinated and highly bureaucratized process of decision-making in which the primary decisions on the needs are prepared mainly by the municipality itself and then the initiative is assessed by several state institutions. It is important to emphasise that almost identical procedure applies to the grants from the central authority.

**vii. Municipal Property**

38. The new Code almost copy-pasted the previously existing legislation on the municipal property and has not changed much in how the property division between the State and municipalities is arranged. The principal approach is that everything belongs to the state and the municipality has to ask the state for the transfer of any property in latter's possession if it intends to either sell it or use for any particular reason. Otherwise, besides the private property, whatever the property is, it belongs to the state.

**viii. Capital Tbilisi**

39. The Code has special provisions for Tbilisi municipality, which has some specific and unique institutional and power setup established only for the capital of Georgia. However, it is extremely difficult to logically assess the real rationale behind this unique approach for the capital city. *The Code does not provide with the reasoning of why only the capital city has these*

*unique powers, as considering their nature and functions, these powers could be equally attributed to other municipalities as well.*

**ix. Citizen participation**

40. The new Code kept few instruments for civic participation in the municipal decision-making, including the public hearings and petition rights. Though, it went further by stipulating additional effective mechanisms for the democratic participation. The process, with its pros and cons, has been launched by the Code aiming at increased civil participation in the daily life of the municipalities beyond the election day.

**x. Modification of the Election System**

41. New thresholds have been introduced to the election system: a) Head of Municipality – 50% and b) Political Party – decreased to 4%. The number of the council members, elected under the proportional system in the self-governing sets of settlements, have increased from 10 to 15.

**3.2. Other Developments**

**3.2.1. Regional Development**

42. Since 2008, Georgia has launched regional development initiative, which currently consists of comprehensive Regional Development Strategy – Georgia 2020[1] that frames all strategic directions Georgia aims to develop to enhancing regional well-being and improve competitiveness of its regions. The Strategy was followed by the National Action Plan and Regional Action Plans defining all the actions to be implemented in particular geographical regions of Georgia. In 2015 under the auspices of the Ministry of Regional Development and Infrastructure the draft law on Regional Development has been prepared to institutionalise government efforts in the regional development, assigning competent bodies necessary powers and establishing coherent coordination and decision-making processes. The Congress has noted its satisfaction that "*c. the regional development efforts have been considerable and have borne fruit, with Adjara as a dynamic and positive example*;".[2]

**3.2.2. Law on Development of High Mountainous Regions**

43. In 2015 Georgia adopted the Law on Development of High Mountainous Regions that stipulated additional rules to enhance economic attractiveness of high mountainous regions which are less developed and disadvantageous unless supported by the state. The law provides increased salaries for medical and school personnel as well as tax exemption for physical persons who permanently live there. Some social packages are envisaged for children and parents. The special procedures are enshrined to ensure sound and good governance in applicable cases. The adoption of the law in question was in general welcomed by the general public. However, some experts are of the opinion that the main objective of the adopted law is more populistic, keeping

[1] In Georgian - http://static.mrdi.gov.ge/551018320cf24147438b16fd.pdf
[2] https://wcd.coe.int/ViewDoc.jsp?id=2041765&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C

in mind the approaching general election in the fall 2016, rather than the legislative piece, which could be implemented and really contribute to the aim of developing the high mountainous regions. At the moment, it is premature to evaluate which of these assessments is more appropriate.

## 4. CHALLENGES

44. Despite some improvements in the legislation, there are number of issues that still need to be solved in order to move forward the process of decentralisation. The Council of Europe may consider its involvement, within its mandate and resources, to assist the Georgian authorities in dealing with the main challenges that could be summarised as follows:

### 4.1. Political Will

45. There is a rotation of political parties in the government, but the further steps to decentralisation process are hardly made as pre-election political commitments do not always hold valid right after the elections are over. The groups supporting the process all the way from the very beginning change the mind as soon as they become decision-makers referring to unpreparedness of the society, political actors and having other important political issues on the agenda. The establishment of real self-government system has become a deadlocked issue. While more-or-less all the components are in place, central institutions still remain reluctant to let municipalities determine their own priorities, ensure financially independent decisions, promote more accountability to local population. The excuses employed openly or in off-the-record discussions are: possibility of territorial integrity threats from ethnical minorities, risk of improper financial management if more independence granted, lack of professional human resources at place, macro fiscal discipline etc. While it would be wrong to deny any rationale behind these arguments, it would be also inappropriate to state that there are reliable arguments confirming that these challenges cannot be overcomed. More structured dialogue with the Georgian authorities and other involved actors, could be of added value in identifying possible solutions in this regard.

### 4.2. Political Competition in the Councils

46. The political stability in the municipalities is considerably influenced by the results of the parliamentary and presidential elections. Due to high financial and political dependence on who runs the central institutions, local politicians in power tend to change political affiliations easily, thus securing their own place in the municipality. The practice has shown that after the local elections ALL the municipalities tend to be run by ruling party that decreases level of political competition within the councils as majority is always on the side of the centrally ruling party and there is almost no need for political discussions or political compromises on the issues in question. This results in higher dependency and formal or informal accountability to central authorities than to the local population thus pushing for their increased marginalisation from the political processes.

47. As mentioned above, such changes follow in some cases with violence at local level some of which have been reported to the CLRAE by the NALAG. The fact-finding mission to Georgia

reported: “17. The resigned heads of the executive (*Gamgebelis*) and heads of council were replaced by members of the GD; this was essentially achieved through the council members changing their political affiliation and then electing a new head of council who then appointed a new head of the executive (*Gamgebeli*), who in turn was responsible for appointing the administrative staff; however in others, for example in Tsalka municipality, the head of the executive (*Gamgebel*i) accepted to resign after five weeks of blockage, a descent from the financial police, and an impeachment procedure which failed.

…

24. They also conclude that, at all levels, from local activists to the top layers of power, national election results seem to have been expected to influence and change the local government representative structure, automatically aligning it with the political landscape of the national level. This has been explained to the rapporteurs by various interlocutors as being the result of a certain political culture inherited from an era when political party power equaled State power. According to some interlocutors, the UNM perpetuated this heritage”.[3]

### 4.3. Competition Among Municipalities

48. The absence of real fiscal or tax powers hinders municipalities from thinking more profoundly on their own development, creating attractive living or business environment, deliver better municipal services. The only property tax that can directly benefit municipalities at a rate of max 1% of the value fails the possibility of competition between municipalities that may in other cases gain from various economic factors. Nor the investors are interested in engaging with local authorities as they cannot offer any better options for businesses and at the end of the day all potential meetings where decisions could be reached are still conducted at the central level. Basically speaking, central authorities make real decisions on how, when and where things may change for better controlling finances, fiscal powers, property and resources. *This is the issue, where permanent dialogue could be held with the Georgia authorities and where some best practices employed in other CoE member states could be useful to share with the Georgian stakeholders.*

### 4.4. Civic Participation

49. Despite of the mechanisms included in the legislation for civic participation, the involvement of local population in municipal decision-making is low or almost none. Georgia has explored successful cases but more information gathering and experience sharing is needed to find locally functional tools. *International donours may consider paying more attention and support to locally functioning CSO’s, as their effective activities are intrinsic for further development of local democracy in Georgia. It would be also advisable to assist the Georgian authorities in exploring ways to harmonise the legislation and improve the practice in line with the Council of Europe Committee of Ministers’ Recommendation (R(2001)19) of 6 December 2001 on “the participation of citizens in local public life”.*

### 4.5. Ownership Feeling by Local Population

[3] https://wcd.coe.int/ViewDoc.jsp?Ref=CG(24)11&Language=lanEnglish&Ver=original&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C

50. As the decisions made at local level de-facto exclude much of the involvement from local population, as the revenues to local budget are least connected to the physical persons or families, as the real accountability of local authorities are prioritised towards central authorities instead of local population, the feeling of ownership over the decisions or activities of the local authorities is missing resulting in zeroing economic or social multiplying effects of synergy between authorities and population. *Again, the solution here is twofold: apart of tackling the abovementioned systemic challenges, more attention is to be paid to the promotion of active civil involvement of the population, without which, no efforts would bring to any tangible results.*

### 4.6. Sectoral Legislation

51. Over the years, approximation of the sectoral legislation with the SLG legislation has been a huge challenge as in many cases they remaining contradictory or inappropriate. The process has started on many occasions and some of the minor type of improvements has been achieved. However, a number of significant laws need revision as they still impose on LSG units' powers and expenses of the central authorities while creating unhealthy substitution of co-operation between partners by the accountability of lower authorities towards the higher one that leaves whole decentralisation and subsidiarity concepts unrealised and undermined. The CLRAE has expressed its concern on this in its most recent Monitoring Report as follows "*a. the principle of subsidiarity is still not enshrined in the Georgian Constitution and there are cases where some "field" laws enter into contradiction with the Organic Law. Substantial progress is still to be made through institutional and legislative changes, as regards decentralisation, local autonomy and accountability*"[4]. It would not be an exaggeration, if this particular challenge is one of the most significant topics that deserves particular and more importantly immediate attention. *Bearing in mind the experience, mandate and the know-how of the CoE, active expert support in the fields of standard setting and legislative drafting could be offered by the organisation to the Georgian authorities.*

### 4.7. Financial Independence

52. *Another field where international assistance should be of added value concerns the matter of financial dependency.* Despite of sharing some part of revenue from income tax, the government almost proportionally decreased the amounts due through the equalising formula resulting in unchanged and continued financial dependency on good will of central authorities. The Municipalities in general are in desperate need for more adequate financing, but most importantly they need to be adequately independent in decision-making how to spend resources and be accountable to local population.

53. The CLRAE has expressed its concerns that "*c. financial autonomy of local authorities continues to be a problem and their limited "own resources" make them dependent on government grants, carrying with it, particularly during a financial crisis, the risk of a cut down on grants, which could limit their discretion in the use of their finances;*

[4] https://wcd.coe.int/ViewDoc.jsp?id=2041765&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C

*d. the equalisation formula may not be serving the interests of the weaker municipalities in that the ratio of allocations they receive are not sufficiently high to enable an acceptable level of delivery of public services;"*[5]

„205. Another issue is that of financial autonomy. Local authorities' own resources constitute approximately 20% of their total revenues, the rest coming from government grants. This is a serious limitation and carries with it, particularly during a financial crisis, the risk of a government cut down on grants. The financial capacity of local government units including the capacity to generate their own resources need to be enhanced by introducing more lucrative assets: it is not for the Rapporteurs to make detailed proposals in this respect but, it is conceivable to attribute some portion of important revenue source taxes such as the value added tax and/or the personal income tax, etc. These are both available and convenient as regards the more developed urban local authorities and would allow them to keep pace with the real evolution of the cost of carrying out their tasks.".[6]

### 4.8. Human Capacity Building

54. Current challenges at the grassroots' level include the concrete implementation of the local administration reform. According to Congress' interlocutors in the Ministry of Regional Development and Infrastructure of Georgia, the major aim is to ensure efficient planning and stronger mayors. At the same time, standards were to be implemented to improve the skills and capacities of local civil servants in the different territorial entities. This was of particular importance for sectors such as public procurement or reporting. In order to further improve the performance of civil servants at local level, training programmes and systematic competitions should be introduced. The transfer of competences and budgetary means has to be accompanied by a transfer of knowledge to the local level. Therefore, under the LSG reform agenda, the MRDI launched the process of establishment of permanent training system. The principles and rules for the permanent training of LSG officials have been approved and up to 2000 public officials benefited from continuous training activities. The test exams have been introduced in the processes of selection and attestation. *These steps are to be welcomed, though more support could be of added value, especially in elaborating concrete training modules based on the best practices from other member states of the Council of Europe.*

## 5. INTERNATIONAL INVOLVEMENT

55. The present chapter aims to analyse studies, recommendations and guidelines offered by international, local and expert organisations in the DLG sector, and in particular the most recent Monitoring Reports and Recommendations of the implementation of the European Charter on Local Self-Government, adopted by the CLRAE and specific Recommendations of the Committee of Ministers of the Council of Europe in relation to Georgia. In order to identify possible gaps or duplications and plan possible future interventions, the chapter also describes and analyses the current activities and plans of international community in the field of

[5] *idem p.15*
[6] *ibidem*

decentralisation and strengthening local self-government. These activities could be compared with identified needs of international support and relevant decisions made on this bases.

56. According to the stakeholders, apart of the CLRAE monitoring reports, there are not many broadly accepted monitoring reports and recommendations for DLG sector released by international or expert organisations, which would have sufficient political leverage to influence the country's policies. The civil society organisations, think-tanks and the NALAG have released numerous policy briefs and recommendations within relatively small-scale advocacy actions, while donors make efforts to influence the policy frameworks through the projects. This chapter offers the overview of identified areas of ongoing international intervention in Georgia.

57. The CLRAE has conducted monitoring over the LSG status in Georgia through several missions to the field and in-depth analysis of legal and factual frameworks. The final report on Local and regional democracy in Georgia[7] adopted on 19 March 2013 has set new milestone for the topic and in a year from this date, on February 2014 new Code has been adopted by Georgia.

56. The Congress in the report highlighted its satisfaction that "*Georgia has made considerable progress, through a big scale reform of local government and regional development, and that the guiding principles of local democracy have been integrated into domestic legislation*" and took note that *"the financial capacity of local authorities to generate their own resources and their discretion on the use of their finances remains low."*

58. The CLRAE recommended the Georgian authorities "*to enhance the financial capacity of local governments and to improve the financial equalisation procedure*", while encouraging "*continuity in the existing regional development efforts"*. The Georgian authorities were also invited to sign and ratify *"the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207), and to ratify the Additional Protocol to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS No. 159)"*.

59. In 2012 Georgia and the EU initiated Association process that has passed all the stages by Georgia meeting set of requirements after which draft Association Agreement has been prepared and agreed upon. The Association Agreement was signed by parties in Vilnius, Lithuania in December 2013. The signature was followed by the domestic legal procedures in Georgia, the EU and its Member states. At the moment its ratification by the EU Member States is almost completed (with only one EU member state's ratification remaining) that would allow its entry into force. The Association Agreement Between the EU, Euroatom and Georgia lays down normative framework for parties to enhance, including alignment of Georgian practices with following principles: "*a) strengthening multi-level governance as it affects both the central level and municipal communities with special emphasis on ways to enhance the involvement of local stakeholders; (b) consolidation of the partnership between all the parties involved in regional*

[7] https://wcd.coe.int/ViewDoc.jsp?id=2041765&Site=COE&BackColorInternet=C3C3C3&BackColorIntranet=CACC9A&BackColorLogged=EFEA9C

*development, and (c) co-financing through financial contribution by those involved in the implementation of regional development programmes and projects.*"[8]

60. From the early stages of the LSG reform process, a number of international structures and donour organisations have been involved in supporting the Georgian authorities and other local stakeholders. In terms of achieved results and resources allocated, the main supporters include the Council of Europe, UNDP, USAID, EU, GIZ, as well as embassies of different EU member states accredited in Georgia. The focus of all the international partners were placed on different aspects of the reform agenda, such as legal expertise, legislative drafting, trainings, experience exchange, institutional twining, advocating on political level, political consultations, assessments and recommendations.

61. From the currently ongoing assistance activities, the following projects need to be underlined:

62. **UNDP** project on Fostering Regional and Local Development in Georgia. The project is aiming at:

- supporting national institutions, such as the Ministry of Regional Development and Infrastructure, in planning and running the reform process.
- working closely with regional and local administrations to help them perform their duties effectively and professionally.
- encouraging participation of communities and individual citizens in decision-making.
- supporting Ministry of Regional Development and Infrastructure in its efforts to foster regional development, establish sound training system for local officials and staff;

63. UNDP is also implementing project Assistance to Electoral Process, which aims at working closely with all electoral stakeholders, including the electoral administration, political parties, domestic observers, voters and the media. Assistance focused on the major components of credible elections:

- Qualified electoral administration and other electoral stakeholders
- Electoral legislation
- Informed voters

64. **USAID** project for Good Governance supporting civil society, municipal activities, citizens' participation including:

- The Good Governance Initiative (GGI) seeks to: improve the administrative and financial management of public institutions at all levels; increase the openness of government; strengthen policy development and lawmaking processes; and strengthen institutional oversight of government;

[8] Chapter 21 Regional Development, cross-border and regional level cooperation, Article 371, para. 2. Association Agreement http://eeas.europa.eu/georgia/pdf/eu-ge_aa-dcfta_en.pdf

- In support of Georgia's media sector, Media for Transparent and Accountable Governance **(**M-TAG) works to build the capacity of journalists to demonstrate accurate and ethical reporting on public interest issues, including key government reforms, as well as support regional media outlets to improve financial viability and transparency;
- The purpose of HICD 2020 is to achieve tangible improvements in the human and institutional capacity of USAID's strategic partner organizations in Georgia including governmental, non-governmental, or for-profit entities in both the public and private sector;
- Advancing Civil Society Organisation Capacities and Engaging Society for Sustainability (ACCESS) aims to make citizens more aware of and be involved in CSO activities; improve CSO leadership, organizational capacity and sustainability across a range of organizations in and outside of Tbilisi; empower CSOs to more effectively monitor and influence government policies and processes; and ensure that, through local ownership, Centers for Civic Engagement continue to operate as politically neutral gathering spaces for public discourse.

65. **GIZ** assistance activities are mainly focusing on:

- **Good local governance**: This component focuses on promoting examples of best practice relating to transparent, citizen-oriented and efficient municipal financial management and improved local services, with the aim of strengthening municipalities' performance capacities;
- **National frameworks for municipal development**: This component aims to improve the policy and administrative framework by advising on national standards for local governance and implementing participation-oriented local and administrative reforms;
- **Governance at sub-national level**: This component is designed to improve coordination and cooperation between the municipalities on the one hand and regional and central government on the other, e.g. by advising on the preparation and implementation of regional development strategies;
- Under the Local Governance Programme South Caucasus, the EU commissioned GIZ in late 2013 to act within the framework of 'delegated cooperation' arrangements, focusing on cross-border cooperation between local governments in Georgia, Armenia, Azerbaijan, Ukraine, Belarus and Moldova.

66. **EU** implements a number of project amongst which the following put more emphasis on local and regional development issues:

- Budget support for Region Development
- Support for regional policy implementation
- Promoting Credible and Sustainable Electoral Institutions and Processes
- Introduction of E-governance in Local Governments (completed)