



Strengthening democracy and local governance in the Eastern Partnership countries

GEORGIA

Institutionalised citizen participation: assessment of existing mechanisms

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The European Union for Georgia



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Table of contents

| | |
|--|----|
| FOREWORDS | 4 |
| INTRODUCTION | 8 |
| ENGAGEMENT OF CITIZENS IN THE IMPLEMENTATION OF LOCAL SELF-GOVERNANCE: RESEARCH ON THE LEGAL FRAMEWORK | 11 |
| DESCRIPTION OF CHALLENGES AND SUCCESSFUL PRACTICES | 19 |
| Statistical Data | 19 |
| Success Stories | 25 |
| RECOMMENDATIONS | 27 |

Forewords

As citizens across Europe and beyond demand greater transparency and accountability from authorities, it is pivotal for governments to develop democratic tools that meet the increasing needs and provide citizens with complementary ways to participate, alongside elections, in order to make their voice heard in decision-making. This is one of the main components of good governance and can bring about direct routes of accountability with authorities, thereby improving public service delivery and generating better, thus more inclusive, policy-making.

While new tools of participatory democracy are being explored, it is the local and regional tiers of governance who face the challenge of ensuring their effective implementation. Citizen participation requires trust, empowerment and a belief that involvement can make a difference. Failure for local authorities to practically implement citizen participation mechanisms, may further the gap between constituents and the democratic institutions that represent them, leading to a lack of public trust, and dissatisfaction with traditional structures and models of political representation, as well as with democratic processes as a whole. It is with this perspective that central and local authorities must engage, together with citizens, to ensure that the most effective policies and practices are put in place, and that the process is not only understood by citizens but that they have a say in its co-production.

In recent years, Georgia has taken significant steps forward in regard to local government reform and decentralisation. Directly connected with the provisions of the European Charter of Local Self-Government and the rationale to reinforce the ties between local authorities and their citizens, introductions to the Organic Law of Georgia on the “Local Self-Government Code”, in 2014, established “institutionalised mechanisms of citizen participation” that were previously absent. As the system develops, it is vital that an integral look is taken at the effectiveness of such instruments, specifically in the efforts to create a participative culture that respects the local identity, in order to further strengthen local governance.

In light of the announcement by Georgian Authorities on the development of a new decentralisation strategy in 2017, the Congress of Local and Regional Authorities and the National Association of Local Authorities of Georgia (NALAG) jointly commissioned this Study on Institutionalised citizen participation: assessment of existing mechanisms in Georgia. Analysing the legal framework and the present challenges and barriers for its practical implementation, in terms of procedures, experience and will, this study has sought to assess the success of the reform and to provide a set of practical recommendations for more effective and informed citizen involvement.

Through an approach involving in-depth interviews and desk surveys, with the support of local authorities and NALAG, this comprehensive overview sets out the main directions for improvement. These are based on international and European standards and good practices, highlighting the need for Georgia to ratify the Additional Protocol to the Charter on the right to participate in the affairs of a local authority. In this, the Congress is actively engaged and committed to dialogue with the Georgian authorities.

It is with this view that I would like to sincerely thank all that were involved in this process. I am confident that it will serve as a veritable steering point as Georgia undergoes improvements to enhance the quality of local democracy in its country.



ANDREAS KIEFER

Secretary General

Congress of Local and Regional Authorities

Citizen participation in decision-making serves as the foundation of local democracy; local self-government, at a more direct level than central government, is for the people, by the people. The issue of re-establishing a local self-government, grounded on the European model, was raised at the beginning of the 1990s with the restoration of Georgia's statehood. This resulted from the loss, under the Russian imperial administration, of experience in territorial organisation that citizens had gained throughout history. Similarly, in 1920, the self-government established by the First Republic of Georgia was replaced by the soviet administration, excluding citizens from governance processes.

Georgia was facing a complex challenge. On the one hand, the country's population was striving for a European future that implied the establishment of solid democratic governance. On the other hand, Georgia was lacking in the practice and workforce necessary for the effective functioning of its democratic institutions. Consequently, these institutions were set up at the same time as essential resources and practices were developed in Georgia.

Since the local elections of 1998, Georgia had four major waves of self-government reforms. The legislative basis and the patterns of the division of power were improved. However, a shortcoming was obvious: citizen participation in the local governance process was very weak. Due to this shortcoming, in 2014, on the initiative of the Georgian government and in the framework of the 2014 Decentralisation Reform, an Article on the institutional participation of citizens was added to the Organic Law on the "Local Self-Government Code". Of course, the existence of this law does not guarantee a higher level of citizen participation. This can be achieved only through highly qualified and willing public officials, relevant procedures, civil society organisations and most importantly, the

monitoring and analysis of law enforcement that is crucial to make timely revisions.

The National Association of Local Authorities of Georgia (NALAG), which is a representative of the municipalities of Georgia at national level, is very attentive to the fact that the 2014 Amendment is implemented thoroughly. In order to carry out this mission, the association requires a research tool to define the way the law is implemented and what aspects require an improvement. I wish to express my gratitude to the Congress of Local and Regional Authorities of the Council of Europe that responded to this need and supported the commission of the study. NALAG used the final report to develop a package of legislative initiatives and submitted it to the central Government. Today, several of these initiatives have become laws; the remaining part is being examined with a view to their legislative adoption.

In addition, I would like to thank the author of the report, Nino Tvaltvadze, as well as Ms Marité Moras, programme manager, and the Secretariat of the Congress. I would also like to express my gratitude to the European Union for its financial support that made the preparation and publication of this report possible. This work is equally valuable for the National Association of Local Authorities, for the Government of Georgia, for civil society organisations and the general public.

A handwritten signature in black ink, appearing to read 'D. Melua'.

DAVID MELUA

*Executive Director
National Association of Local Authorities of Georgia*

Introduction

“Local self-governance means the right and opportunity of local authorities to dutifully and lawfully regulate and administer a significant share of public affairs in favor of the interests of the local population.” Under representative democracy, involvement of citizens is one of the main aspects and characteristics determining the quality of democracy; involvement of citizens determines the quality of local self-governance. Democracy should allow citizens to be effectively engaged in decision-making and to ensure that their important issues are on the agenda; to express their opinions on particular issues and receive comprehensive information from the authorities; as well as to have influence on the government. These rights and opportunities should not be nominal, but powerful and effective.

As stated in the publication developed by the Association of Local Democracy Agencies¹: “Citizens’ participation is nowadays not an option but rather an urgent need... Despite the problems to deal with ‘citizens’ involvement, there is an absolute demand to overcome the difficulties and to find solutions for getting closer to citizens and to make the process understood by them. Furthermore, citizens’ involvement is supposed to improve the quality of governance since the policies and programmes will be more appropriate to their needs, potentials and requests”.

In 2004, Georgia ratified the European Charter on Local Self-Governance, although the Additional Protocol on the ‘Involvement of Citizens’ of the European Charter has not yet been ratified.

One of the most important goals of the local self-government reform initiated in 2013 was to strengthen citizens’ involvement at local level. Upon the approval of the Code, the Government of Georgia was obliged to prepare and submit, to the Parliament of Georgia, the draft legislation for the creation of additional forms of citizens’ participation in the

1. <http://cor.europa.eu/en/activities/governance/documents/c12790f8-8c68-4f31-9804-1b8c2905e3bb.pdf>

implementation of local self-government. In July 2015, the Parliament of Georgia reviewed and approved the amended package, according to which the forms of citizens' participation in the implementation of local self-governance were defined as follows:

- a) *General Assembly of a Settlement ('the General Assembly')*
- b) *Petition*
- c) *The Council of civil advisors*
- e) *Participation in the sessions of the City Council (Sakrebulo) and the sessions of its commission*
- f) *Hearing reports on the work performed by the Governor/ Mayor of the municipality and by a member of the City Council*

According to the authors of the project, the amendment was triggered by insufficient regulation of citizens' participation in the implementation of self-governance, and a necessity to fix and specify separate articles in terms of legal techniques.

This study is prepared within the framework of the European Union/ Council of Europe Partnership for Good Governance (PGG) 2015-2017 for Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus, and specifically the thematic programme "Strengthening institutional framework of local government", implemented jointly by the Directorate General of Democracy and the Congress of Local and Regional Authorities of the Council of Europe. It aims to provide an evaluation of the legal bases, highlight challenges for citizens' participation in the process of the implementation of the local government, study difficulties or successful stories with regard to the implementation of existing mechanisms in practice, and present recommendations to improve the current situation.

In order to achieve a set goal, the study is comprised of three parts:

- a) *Revision of the existing legal bases*
- b) *Description of the challenges and successes in practice*

- c) *Recommendations. The research methodology includes both desk research as well as interviews with different stakeholders. The information on the number of General Assemblies of the Settlement and number of registered petitions held in the municipalities of Georgia, since 2015, has been requested by the Ministry of Regional Development and Infrastructure of Georgia. In the course of the research, the legal acts adopted by the central and self-governing bodies in the direction to regulate citizens' involvement will be studied*

Engagement of citizens in the implementation of local self-governance: Research on the legal framework

In November 2013, the legislative initiative regarding “Local Self-Government Code” was introduced to the Parliament of Georgia. As a result, the next stage of local self-government reform has been launched in Georgia. According to authors of the draft law, the necessity to adopt the Code was caused by the need of “democratization, decentralization and establishment of effective system for local self-governance in Georgia”. Among the main problems, the lack of institutional mechanisms for self-organisation and real participation in the self-governance of the village, town, community and city population was named. Taking into account the existing problems and challenges, the purpose of the draft law was to ensure the gradual implementation of the reform of local self-governance with solid legislative grounds, which, in addition to other activities, meant the “Creation of a legal basis for citizen participation, self-organization and establishment of public self-government bodies in the settlement”².

The first version of the Local Self-Government Code submitted for parliamentary considerations included a 4th section, which envisaged the creation of a new mechanism for citizens’ involvement, establishment of “Public Council of the Settlement”. The Public Council of the Settlement represented the instrument of the registered constituents of the settlement to take care of the settlement(s) and to take active participation in the implementation of local self-government, through General Assemblies and in accordance with the Georgian legislation. The Public Council was not considered as a form of public authority, it was the mechanism of involving the local population in the implementation of local self-governance.

The Public Council of the Settlement should have been created based on the initiative of the local community and its activities should have been implemented on a social basis. The Public Council was not considered as a self-governing body and its highest governance body was the General Assembly, which united all members of the Public Self-Governance Unit.

2. <http://info.parliament.ge/file/1/BillReviewContent/128198>

The revenue of the council was donation, the income from the work performed on a contractual basis, the targeted funds allocated from the local self-government budget, as well as assistance provided by the physical and juridical persons on the basis of the contract.

In the beginning of the discussion, this regulation became a subject of criticism; it was assessed as a hasty and inappropriate decision³ considering the upcoming local self-government elections.⁴ It was decided to remove the regulation concerning the new forms of citizens' involvement from the Code; As a result, Article 85 of the Code reads as follows:

“To ensure citizens’ participation in the exercise of local self-governance, municipal bodies, structural units and officials of the municipal bodies shall be obliged to provide organisational and material-technical base for meeting with citizens, for ensuring their participation in the sessions of municipal bodies and for ensuring transparency of the decision-making process”.

The obligation of the local self-government bodies was to publish draft legal acts, as well as to ensure citizens’ participation in the revision of these acts, to ensure publicity of collegial body sessions, and to hear reports of municipal officials and City Council members. It was determined that the City Council of the municipality shall have the right to initiate the draft resolution by means of petition.

At the same time, it was established that the Government of Georgia was obliged to prepare a draft project on creation of additional forms of citizen participation in the implementation of local self-governance and submit it to the Parliament of Georgia before 1 January, 2015.⁵

On 22 July, 2015, the Parliament of Georgia approved the amendments and additions to the Local Self-Government Code of Georgia, which defined

3. <http://info.parliament.ge/file/1/BillReviewContent/128297>

4. The Local Self-Government Code was enacted following self-government elections held in June 2014.

5. Local Self-Government Code, d) sub-clause of clause 1 of Article 165

the following forms of citizens' participation in the implementation of local self-governance:

- a) *general Assembly of a settlement ("the General Assembly")*
- b) *petition*
- c) *the council of civil advisors*
- d) *participation in the sessions of the City Council (Sakrebulo) and the sessions of its commission*
- e) *hearing reports on the work performed by the Governor/Mayor of the municipality and by a member of the City Council*

It should also be noted that this list is not limited. In addition to the forms of citizens' participation in the exercise of local self-government, a municipality may, under the relevant administrative-legal act, determine other forms of citizen participation in local self-governance, that do not contravene Georgian legislation.

On the basis of the amendments made in 2015, Article 85 – Access to Information has been added to the Local Self-Government Code of Georgia. According to this, municipal bodies shall be obliged to publish adopted administrative-legal acts, their draft versions and other public information in cases and in the manner determined by the legislation of Georgia. Municipal bodies shall also be obliged to publish and/or publicly announce:

- a) *minutes of the sessions of the City Council, its commission and bureau, as well as the minutes of the Government sessions, within 10 days after the relevant session is held;*
- b) *minutes of the sessions of a Council of Civil Advisors, within 10 days after the relevant session is held;*
- c) *minutes of the General Assembly, within 10 days after the Municipal Government/City Council receives the relevant minutes or their copy;*

- d) *information on the agenda and the date, time and place of holding a General Assembly, according to this Law; a report of the execution of a municipal budget for the reporting year, within 10 days after it is submitted to the City Council;*
- e) *a draft municipal budget;*
- f) *a list of municipal facilities that are subject to privatisation, within 10 days after its approval by the City Council;*
- g) *a plan for the privatisation of municipal property, within 10 days after its approval;*
- h) *reports on the work performed by the Governor/Mayor of a municipality and by a City Council member of the municipality provided for by this Law, within 10 days after the respective report is submitted;*
- i) *a petition, within 10 days after its registration;*
- j) *a written initiative of more than half of the members on the current list of the City Council, or of at least 20% of the total number of constituents registered in the territory of municipality proposing a vote of no confidence against the Governor/Mayor within 10 days after its registration.*

Moreover, due to the Code, a City Council may extend beyond the aforementioned list. The sessions of a City Council and its commission, as well as the sessions of the Government shall be public, except for the cases provided for by the legislation of Georgia. Anyone may, without any prior notification and/or prior permission, attend the open sessions of a City Council and the sessions of its commission. Seats shall be allocated in a session hall for persons who wish to attend open sessions of a City Council, as well as the sessions of its commission. Based on the amendments introduced to Code in 2015, if the number of persons wishing to attend a session exceeds the number of seats available in the session hall, the Staff of the City Council shall be obliged to use all available technical means to enable the persons who wish to attend the session to be able to listen. However, it should be noted that if a person may, without any prior notification or

prior permission, attend the session - the staff of the municipality can not know whether the number of seats allocated in the hall are sufficient that restrains it from acting effectively and may cause obstacles in practice. Moreover, due to the provisions of the Code, the session shall be equipped by such technical means that will allow the persons wishing to attend the session to listen to the session – which, of course does not mean to get involved in the session. The person attending the session may only with the consent of the chairperson of the session put questions to the speaker and/or co-speaker, make clarifications and statements and provide information in the manner prescribed by the procedures of the City Council.

According to the Code, the General Assembly of the Settlement shall be a form of citizen participation in the self-organisation of the population of a village/small town/city, and in the exercise of local self-government that ensures active engagement of the constituents registered in the relevant settlement in the discussion and solution of those issues that are important to that settlement and municipality, and in the process of initiation of the above issues before the municipal bodies.

This law defines the powers of the General Assembly, the procedure for its convening and operation for a settlement where the number of registered constituents does not exceed 2,000. In a settlement where the number of registered constituents exceeds 2000, the City Council may determine the powers of the General Assembly, the procedure for its convening and operation, as well as create several General Assemblies in that settlement, and taking into account this Law, determining their powers, names and rules of operation.

In accordance to the Code, the General Assembly may:

- a) *discuss socio-economic issues important to the settlement and draft relevant proposals for their submission to municipal bodies;*
- b) *discuss the projects to be implemented in the settlement before they are included in the municipal budget, and submit reasonable remarks and proposals to the municipal bodies;*

- c) *discuss the ongoing and implemented projects of the municipality, and draft relevant remarks and proposals for submission to the municipal bodies;*
- d) *organise the involvement of the local population in the resolution of issues important for the settlement, in particular, in the cleaning of the settlement territory, in charity activities, in the repair and maintenance of local infrastructure, and also in such fields that do not contravene the legislation of Georgia, and if necessary, apply for aid to municipal bodies;*
- e) *make a decision to file a petition to the City Council;*
- f) *at the initiative of the Governor/Mayor of the municipality, discuss issues relating to the establishment and change of the settlement boundaries, and draft respective proposals;*
- g) *upon the recommendation of the relevant municipal body, discuss the question of including property located in the settlement territory in the list of the municipal facilities subject to privatisation, and submit its remarks to the respective municipal body;*
- h) *discuss issues initiated at the General Assembly by the Governor/Mayor of the municipality;*
- i) *within its powers, give assignments to the Chairperson of the General Assembly;*
- j) *exercise other powers prescribed by this Law and by the respective resolutions of the City Council.*

In the description of the General Assembly, there are several important facts:

- a) *Members of the General Assembly shall be constituents registered in the respective settlement. It also states that an owner of an immovable property in the territory of the relevant settlement, and any other adult person residing in that settlement, may also participate in the General Assembly with a deliberative vote;*
- b) *The General Assembly shall be duly constituted if it is attended by the members of the General Assembly, i.e. at least 20% of registered constituents;*

- c) *The right to initiate the General Assembly shall have: a) At least 5% of constituents registered in the relevant settlement; b) Governor/ mayor - on his own initiative or City Council solicitation; c) Chairperson elected by the General Assembly;*
- d) *Men and women shall have equal opportunities to participate in the work of the General Assembly;*
- e) *The General Assembly shall be entitled to elect a chairperson from its members. At least 5% of the members of the relevant General Assembly have the right to nominate a candidate. The elected member of the General Assembly shall chair the General Assembly meeting, present the decision of the General Meeting to the relevant municipal authorities and perform specific tasks of the General Meeting as well.*

The second important instrument of citizen's participation is the petition. As aforementioned, the provisions on the petition existed in the original version of the Code. Following the changes: the circle of petitioners was extended, namely, the petition may be filed by the decision of the General Assembly of the settlement. It also specifies the types of petition to be filed. If before amendments it was possible to file a petition only in the form of a draft resolution of the City Council, following the amendments it is now possible to file a petition in the form of basic principles of, or specific proposals to, a draft normative administrative-legal act that is to be prepared, or a request for the examination, discussion and solution of respective issues at a session of the City Council, based on problems common to a municipality and/or to a settlement.

After the amendments were introduced, the rules on the creation and operation of the consultation/advisory body to the Governor and Mayor were established by the law. The composition of the Council of Civil Advisors has been determined as follows: entrepreneurial legal entities, non-governmental organisations and representatives of the community. The law determines that the Council of Civil Advisors should be represented by at least one third of a respective gender. If the aforementioned provision of this paragraph is violated, then the Civil Advisory Council is not authorised to carry out its roles.

The Council of Civil Advisors is entitled, and the Governor/ Mayor is obliged, to submit the municipal budget, municipal spatial planning documents, the Municipal Geographical Naming proposals, as well as other important administrative acts, infrastructural and social projects, for revision. The powers and activities of the Civil Advisory Council shall be determined by the statute of the Council, approved by the municipality Governor / Mayor.

Description of challenges and successful practices

The following steps were taken within the scope of this research: citizens' involvement mechanisms, in particular, the present challenges and barriers for sound implementation of General Assemblies of the Settlement and petitions, in practice, were studied, public information was requested, several in-depth interviews were conducted and a desk survey was carried out.

Statistical Data

63 municipalities in Georgia have approved the provision on holding the General Assembly. According to the requested information, from July 2015 till now, several municipalities have managed to hold General Assemblies and 75 petitions have been registered since 2015 throughout Georgia.

The municipality that held the highest number of meetings was Rustavi - 466 meetings, whilst most petitions were registered in the municipalities of Khulo and Kobuleti.

The requested material gives light to interesting conclusions:

- a) *The problem in mobilising the minimum number of citizens defined by law*

As mentioned above, for a General Assembly to be legitimate, it should be attended by at least 20% of registered constituents. Obtained public information reveals that despite the efforts made in many municipalities, it was impossible to convene a General Assembly, as the number of participants in the meeting did not meet the requirements prescribed by the law.

| # | Name of Municipality | The number of General Assembly held | The number of registered petitions |
|-----|--------------------------|-------------------------------------|------------------------------------|
| 1. | Abasha Municipality | 25 | 4 |
| 2. | Adigeni Municipality | 57 | 0 |
| 3. | Ambrolauri Municipality | 0 | 0 |
| 4. | Aspindza Municipality | - | 0 |
| 5. | Akhalgori Municipality | 7 | 0 |
| 6. | Akhalkalaki Municipality | 2015 -64 2016 - 68 | 0 |
| 7. | Akhaltzikhe Municipality | 57 | 2 |
| 8. | Bagdati Municipality | 5 | 0 |
| 9. | Bolnisi Municipality | - | 1 |
| 10. | Borjomi Municipality | 2015 - 29 2016 - 32 | 0 |
| 11. | Gardabani Municipality | 0 | 0 |
| 12. | Gori Municipality | 2 | 0 |
| 13. | Gurjaani Municipality | 0 | 0 |

| | | | |
|-----|--------------------------|---------------------------|---|
| 14. | Dmanisi Municipality | 1 | 0 |
| 15. | Dusheti Municipality | 1 | 3 |
| 16. | Eredvi Municipality | 0 | 0 |
| 17. | Vani Municipality | Several in one settlement | 0 |
| 18. | Zestaponi Municipality | 0 | 0 |
| 19. | Tetritskaro Municipality | 0 | 0 |
| 20. | Telavi Municipality | 0 | 0 |
| 21. | Terjola Municipality | 0 | 0 |
| 22. | Tianeti Municipality | 67 | 0 |
| 23. | Tigvi Municipality | 0 | 0 |
| 24. | Kaspi Municipality | 73 | 0 |
| 25. | Lanchkhuti Municipality | 4 | 1 |
| 26. | Lentechi Municipality | 5 | 0 |
| 27. | Martvili Municipality | 21 | 3 |
| 28. | Mtskheta Municipality | 1 | 0 |
| 29. | Ninotsminda Municipality | 30 | 0 |

| | | | |
|-----|-------------------------|-----|---|
| 30. | Ozurgeti Municipality | 0 | 5 |
| 31. | Oni Municipality | 1 | - |
| 32. | Sagarejo Municipality | 1 | 1 |
| 33. | Samtredia Municipality | 1 | 1 |
| 34. | Sachkhere Municipality | 0 | 0 |
| 35. | Senaki Municipality | 0 | 5 |
| 36. | Signagi Municipality | 3 | 1 |
| 37. | Tkibuli Municipality | 0 | 0 |
| 38. | Ambrolauri Municipality | 0 | 0 |
| 39. | Akhaltikhe Municipality | 2 | 0 |
| 40. | Gori Municipality | 0 | 0 |
| 41. | Mtskheta Municipality | - | 0 |
| 42. | Ozurgeti Municipality | 0 | 5 |
| 43. | Rustavi Municipality | 466 | 0 |
| 44. | Poti Municipality | 0 | 6 |
| 45. | Kutaisi Municipality | - | 0 |

| | | | |
|-----|-------------------------------|------------------------------|---|
| 46. | Kareli Municipality | 1 | 1 |
| 47. | Kobuleti Municipality | 30 | 8 |
| 48. | Kurta Municipality | 0 | 0 |
| 49. | Kazbegi Municipality | 1 | 1 |
| 50. | Kvareli Municipality | 0 | 0 |
| 51. | Chokhatauri Municipality | 20 | - |
| 52. | Chkhorotcku Municipality | 3 | - |
| 53. | Tsalenjikha Municipality | 13 | 5 |
| 54. | Tsalka Municipality | 0 | 0 |
| 55. | Chiatura municipal government | 2 | 0 |
| 56. | Kharagauli Municipality | 2 | 0 |
| 57. | Khashuri Municipality | - | 0 |
| 58. | Khelvachauri Municipality | In every administrative unit | 8 |
| 59. | Khobi municipal government | 1 | 4 |
| 60. | Khoni Municipality | 1 | 1 |
| 61. | Khulo Municipality | - | 9 |

This opinion is reinforced by the Local Democracy Agency in the report presented within the framework of the project “Take part in management”, implemented in Georgia, and in the survey made by Transparency International Georgia⁶. The survey stated that in accordance with the opinion of “Transparency International Georgia”, there are two requirements in order to convene a General Assembly of the Settlement: 1. The General Assembly should be convened upon the signature of 1.5% of the voters and secondly, that the General Assembly is legitimate only if it is attended by no less than 20% of constituents. These requirements significantly hamper the possibility to effectively convene and respectively hold meetings in some settlements, due to the high number of constituents. This is particularly relevant in some villages whereby 20% of the registered constituents do not live in the place of registration, and/or it is also possible that the interest of a small group of citizens wishing to convene the meeting do not match the interests of 20% of constituents. That is why we think that it is of an utmost importance that the smaller groups of constituents are given the opportunity to convey the General Assembly of the Settlement.

b) Insufficient readiness to implement changes in practice

The requested information reveals that, often, even public servants of a municipality are not fully informed about changes. As an example, the public information provided by one of the municipalities states that in spite of attempts, it was not possible to collect the necessary number of registered voters – here 5% is indicated instead of 20% of the registered constituents. This information itself is controversial. Additionally the information provided by the City Hall reads that the General Assembly has not been created in the municipalities, since the number of registered constituents in the city is much higher than 2000. This same City Council goes on to indicate in its answer that “the General Assembly of the Settlement was held in 19 August, 2017”, and attaches a protocol that describes the process of a general meeting of the City Council with the population of one of the villages, which, of course, does

6. <http://www.transparency.ge/en/blog/citizen-participation-mechanisms-inadequate-use-resources-samegrelo-zemo-svaneti-municipalities>

not represent a General Assembly, as it is defined by the law. However, it could be described as one of the mechanisms of public participation in the decision-making process.

Moreover, according to the information provided by one of the municipalities, in 2015-2016, general meetings were held in all the administrative units of municipalities; “minutes and photographs of the meeting are presented”. These minutes state as follows: The minutes indicate the number of population in the community and not the data of registered constituents, so it is difficult to determine exactly how many citizens are the minimum amount required for convening a General Assembly. However, in spite of the above, the number of attendees is less than the minimum possible - for example, the number of population in the village is 998, and the meeting was attended only by 48 citizens; in the second case, the number of the population indicated in the report is 832, and the meeting was attended by 59 people. Despite this fact, the municipal government states that meetings were held in all administrative units.

These deficiencies may be stipulated by the fact that the changes are still new and there is less experience to convey large-scale meetings; on the other hand, the established regulations are quite formal, and even, in case of population initiative, there are many bureaucratic steps to overcome in convening and holding the meeting.

Success Stories

As previously mentioned, in accordance with the information requested, the majority of General Assemblies were held in Rustavi municipality 2015-2016. Despite the fact that the number of registered constituents in Rustavi was significantly higher than 2000, the general provision for holding General Assemblies were approved and the relevant measures were taken for holding meetings. Moreover, it was confirmed that, as stated by the municipality, the minutes of the meeting are uploaded onto the city’s web site.

It is important to emphasise the fact that most of the submitted petitions addressed to the City Council resulted in positive outcomes. It should also be noted that the majority of the submitted petitions refer to existing infrastructural problems in the community, and not to the change or establishment of legal regulations.

Example of the meeting of the General settlement protocol:



Recommendations

One of the most important international legal acts in terms of citizen involvement is the Additional Protocol to the European Charter, adopted by the Congress of Local and Regional Authorities in 2009⁷, which stated that “participation in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe”, considering that “the evolution of the member States has shown the pre-eminent importance of this principle for local self-government” and “that it would be appropriate to supplement the Charter with provisions guaranteeing the right to participate in the affairs of a local authority”, the signatories to this Additional Protocol agree that “1. The State Parties shall secure to everyone within their jurisdiction the right to participate in the affairs of a local authority; 2. The right to participate in the affairs of a local authority denotes the right to seek to determine or to influence the exercise of a local authority’s powers and responsibilities”.

This section is very important, as it obliges the state to guarantee the right of every person to participate in the process of execution of local self-governance.

According to CM / Rec(2009)⁸ of the Committee of Ministers of the Council of Europe, there are five circumstances that determine the successful participation of citizens in the decision-making process:

7. <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482a>

8. https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d1979

Participation is very successful when citizens:

Have opportunity – this implies presence of resources, knowledge and skills for participation;

Have willingness – this implies a sense of attachment and belonging, which strengthens participation;

Have authority – this implies that they are authorised to participate;

Upon request – this implies that they are involved in the process by the government or volunteer groups;

Upon response – this implies that they can see the proof that their opinions are reflected in appropriate decisions

Citizens' participation in the implementation of local self-governance can be ensured by three main factors:

- a) *Access to information*
- b) *Direct democracy*
- c) *Consultative democracy.*

Existence of these three components enable interested and active citizens to have extensive information, to take part in the elections - to elect or be elected to the appropriate state agencies - and also guarantee participation in the decision-making process and expression of opinion. It should also be emphasised that these forms do not change but complement each other.

If we evaluate valid legal regulations regarding the publication of information in Georgia, we can say that the Code contains quite significant regulations in this direction. Specifically, local self-government is obliged to publish administrative legal acts, their projects and other public information. The Code provides for the list of the acts that are subject to mandatory publishing; moreover, the Code allows the City Council to expand the list.

It is essential to assess if the published information is technically available for the population of the community. Georgia's municipal arrangement should be taken into account, which means that the executive and representative bodies of the municipality are located in the administrative centre, and that those citizens residing in the settlements have limited access to online resources. Therefore, it is very important to guarantee the provision of information to all groups of population, since restrictions or lack of information may lead to the involvement of only certain groups of citizens in the decision-making processes, not an equal or full representation of the community. This can result in inadequate decisions being made and consequently to less active participation by citizens in the decision-making process.

However, it would be appropriate to ask the question as to whether or not informing the population will ensure their involvement in decision-making processes? Unfortunately, in most cases, the problem is that a large part of the population may not link the discussed issue with the personal, everyday problems. Indifference in the population and limited civil activity is one of the urgent issues in the contemporary world. As mentioned by the American scientist David Matthews in his work 'Ecology of Democracy' "The issues that professionals are doing can be technically accurate, but does not concern a matter what people consider important". As it turns out, how you title the problem is directly related to who will be involved in the process of solving this problem. This opinion is relevant in the Georgian context, since a population that has lived under the Soviet Union is less likely to associate itself with the state due to a belief that they exist separately and have different goals. Consequently, in the process of organising public discussions, it is necessary to carefully select the title of the topic to be discussed, so that citizens feel that this issue is aimed at improving the their, or their family members', lives. The revision of the draft budget may not be regarded as so enthralling; the population may show more interest in discussing specific problems of the village. Certainly, not only the title is decisive but also the content. Citizens' involvement is directly proportionate to local self-governance and competence. If the powers, resources and structures allow for vital issues to the population to be resolved, their involvement would be much easier and would require less effort.

In addition to the circumstances described, the data presented above makes it clear that Local Self-Government Code contains a very ambitious rule for the legitimacy of the General Assembly, i.e. the obligatory participation of at least 20% of the registered constituents. The requested information clearly states that the reason for the failure of the General Assembly session in the majority of the settlements is the problem regarding mobilisation of the appropriate population number. As a result of the interviews conducted with others participating in the process, it has been revealed that there are technical barriers for implementation of this norm – starting from low civic activism and ending with internal migration from villages to urban settlements, which leads to the fact that a significant part of the registered population does not live in the place of registration. It is important to note that to initiate a General Assembly is not a simple procedure; it requires great effort and knowledge from the side of those initiating the process.

This conditioned the statement in the survey of Transparency International Georgia that “in most cases the initiator of the General Assembly of the Settlement was not the group of citizens but the governor of the municipality”⁹. It is also important to note that Recommendation 307 (2011) of the Congress of Local and Regional Authorities states that “citizens’ involvement may be hindered due to many circumstances. Citizens’ groups and the authors of popular initiatives may be disappointed by difficult and rigid procedures.”

If we follow the logical chain of questions, the next question would be – will the goal be achieved if the appropriate number of citizens are gathered? Similarly, for instance, if 100 interested persons gather for the meeting, do we appropriately deal with citizen’s involvement? The answer is of course not. The mobilisation of citizens and their interest in the issue is only half the battle. The most important question that should be answered is whether or not citizens can make the right decision, for the benefit of the community? This issue is often subject of skepticism in terms of citizens’ involvement, and is the argument used by the government on mechanisms for citizens’ involvement. What

9. <http://www.transparency.ge/blog/mokalaketa-chartulobis-mekanizmebi-arasakmarisad-gamoqenebuli-resursi-samegrello-zemo-svanetis-m>

prevents citizens from taking the right decision? Firstly, is the lack of actual information on the issue. Very often, citizens may be guided by their personal experience when making decisions, which in most cases do not coincide with the objective reality and prevent them from taking a common decision. Consequently, it is very important that the meeting organisers provide citizens with objective, factual data on the issue, which will facilitate informed decision-making. Secondly, also necessary in the decision-making process other than actual data, is critical thinking. The population should be able to critically assess the data available before making a decision. Critical thinking allows the population to evaluate the positive and negative aspects of several decisions; this also implies the ability to compromise and to make a decision for common good. It is obvious that the more varied and larger the group of citizens, the more difficult it is to reach consensus. This is only possible if there is the opportunity to debate and reach consensus. Studies have shown that sharing experiences, expressing different opinions and taking in all possible alternatives is ideal for sound decision-making.

Based on the findings above, the following recommendations, presented in several groups, should be taken into account:

- a) ***Legislative institutional strengthening of citizen participation as a value*** - Georgia has ratified the European Charter on Local Self-Government in 2004. However, to date, the Additional Protocol to the Charter on the right to participate in the affairs of a local authority has not been ratified. If you look back at the number of legislative amendments adopted in the last 20 years, and the attempt to regulate the local government structure, powers and involvement mechanisms in a new way, it is clear that the inconsistent and chaotic processes create quite fragile preconditions for sustainable development of the local government. Consequently, it is necessary to guarantee citizens' participation on the level of principles and fundamental values, and in the conditions of systematic change.

This certainly does not restrict the state to define and use different mechanisms of participation. Despite the diversity of forms, the state obligation should be strengthened a) To ensure presence of such regulations that guarantee the involvement of all

groups in the decision-making process, so as to avoid obstacles in the participation of individual groups of the population b) to ensure the establishment of such mechanisms and procedures that guarantee response to complaints and proposals concerning the functioning of local authorities and local public services; And most importantly, to equip local self-government bodies with relevant powers that ensure enactment of the right to participate. In order to take into account the above recommendations, it is desirable to start working with the Parliament of Georgia, the Ministry of Regional Development and Infrastructure, the Ministry of Foreign Affairs of Georgia in order to assess the compliance of Georgian legislation with the requirements of additional protocol and studying established procedures for ratification and enforcement;

b) *Citizens' participation mechanisms should be simple, realistic and effective* - Recommendation 307¹⁰ (2011) of the Congress of Local and Regional Authorities states that "it is important that such instruments [instruments of participation of citizens] are not just empty frameworks but are actively used: however good an instrument is, poor implementation can damage trust in the democratic process rather than encourage it". Consequently, legislative regulation on citizens' involvement should be more empowering and discretionary rather than imperative, leaving space for open and encouraging initiatives. It is important that the mechanism, in addition to simplicity, is effective and provides people with the opportunity to influence the use of local authority and accountabilities. Nowadays, the mechanisms valid in Georgia, taking into consideration its quite formal nature and high margin for legitimisation, create a high expectation in the population. If, after all the procedures – whereby the gathering of 100-200 people is attained, the meeting is convened, and a protocol developed and published - the decision of the population is not taken into account, due to it being recommendatory and at the governor's discretion, a pessimistic attitude of the population will of course deepen, impairing democratic values.

10. <https://wcd.coe.int/ViewDoc.jsp?p=&id=1854865&Site=COE&direct=true>. "It is important that such instruments are not just empty frameworks but are actively used: however good an instrument is, poor implementation can damage trust in the democratic process rather than encourage it".

Finally, any mechanism should be relevant to the current situation in the country; and if this reality is unsatisfactory, the state must ensure that the mechanism is carried out by means of mobilising additional resources. The existing mechanism represents an attempt to formalise the decision made on behalf of the settlement, but the realisation of the above is not possible due to several objective circumstances: a) The settlement, as such, is not an administrative body. According to Article 4 of the Local Self-Government Code of Georgia, the settlement is the primary territorial unit of settlement, which has the name, administrative boundaries, the territory and the registered population. Consequently, the act issued by the General Assembly cannot be considered as an administrative act and its legal consequences are equal to the application submitted by one interested citizen. In both cases, the Governor is obliged to start a simple administrative proceeding, and to satisfy or not to satisfy the application. b) 20% for legitimisation of the General Assembly is not a guarantee that the decision of the General Assembly reflects the opinion of the entire settlement. Moreover, even under such legitimacy, there is a possibility that the other group(s) of the settlement, which may also stand as 20%, have radically different opinions and requests. Therefore, such a margin is futile, it does not guarantee the legitimacy of the decision taken on behalf of the settlement and, as practice has shown, is only a barrier for the municipality to convene the meeting, in accordance with the requirements defined by the law. Accordingly, there are two ways to eliminate the shortcomings: formalise the process even further and increase the limit for legitimisation up to 50% + 1 (the decision is legitimate only by this percentage or more), which can be regarded as inappropriate given the current reality, or simplify the procedure and make it feasible. c) The existing system does not envisage budgeting based on the needs of local settlements and does not provide budget support for the implementation of this instrument; d) Municipalities may not be currently ready to initiate the process due to incomplete information available and lack of support from the state, which is also a challenge for the implementation of the abovementioned mechanism.

Consequently, it is advisable to introduce following amendments to the Local Self-Government Code:

- 1) The first clause of Article 85 of the Local Self-Government Code of Georgia shall be amended as follows: reduce/ revoke the minimum number - 20% of registered constituents necessary for empowerment of the General Assembly;
- 2) Appoint a person responsible for ensuring the participation of citizens in the local self-government in each municipality. The obligations of this person shall be as follows:
 - Ensure revision of the internal legislative acts of the municipality and reflect the principle of citizen participation in them, prepare relevant draft acts / introduce amendments and supplements in valid acts that determine the obligations of municipalities, and other provisions related to citizens' involvement;
 - Annually submit to the council, a report on the activities carried out by the municipality for the participation of citizens, on achieved results (both quantitative and qualitative) and planned activities. This report should be public and subject to publication. It should include an assessment of the efficiency of the existing mechanism of citizens' involvement and recommendations for improvement.
 - Ensure cooperation with civil sector representatives, meet with representatives of different organisations or civil activists, and have complete information on ongoing projects in the relevant municipality aimed at ensuring citizens' involvement. Coordinate these activities as far as possible, for the purpose of spending resources and donor funds more efficiently.
 - Provide information to the representatives of the Governor and provide consultation to facilitate the planning and implementation of citizens' participation mechanisms.
 - Elaborate and submit initiatives and recommendations to the Governor to enhance citizens' involvement in the respective municipality, take part in the preparation of the budgetary programmes and project proposals in this regard, and find potential partners and donors to improve the process;

- Exercise other activities that do not contradict the law and aim to improve citizens' participation in the appropriate municipality.

c) Amend Clause 5 of Article 85 of the Local Self-Government Code as follows:

remove the grounds for the cancellation of registration when it is permissible to refuse the initiative of holding the General Assembly in the case that the issues on the General Assembly's agenda does not fall within the competencies of the municipality and/or General Assembly. Under the Constitution of Georgia, every citizen of Georgia has a guaranteed freedom of assembly without any preliminary permission. In addition, according to the General Administrative Code of Georgia, in the case that the solution of the issue requested by the application falls within the competence of other administrative organs, the administrative body shall be obliged to send the application, and the documents attached to it, to the authorised administrative body within 5 working days. Therefore, it is unclear why the issues of the voters of the settlement should be restricted and that the initiative should not be registered if the issue concerns the problem of settlement but doesn't fall within the competence of the municipality. In such cases, the provisions established by the General Administrative Code of Georgia should be applied and the municipality should submit this decision to the relevant authorised bodies. Besides, it should be taken into account that the regulations concerning registration extends to the request of only the initiative group to hold a General Assembly and not to the initiative of the chairperson, making the limitation more obscure.

d) Organisational and material-technical recommendations - To provide citizens with the opportunity to participate, engage and express their opinions, it is very important to have the proper infrastructure, as well as a technically organised process.

- It is desirable to use the buildings of local schools, self-government and art institutions, where it will be possible to accommodate people.
- It is important that the meeting place is adapted for people with disabilities.

- The format of the meetings should be interactive and the population should have the opportunity to express their opinions, ask questions and be provided with answers. At the same time, there should be a meeting agenda and all participants should be able to get acquainted with it in advance.
- While planning meetings, it is necessary to determine the correct timing, so as to not coincide with works planned in the village or other unfavourable periods for the population that would restrict citizen's participation from the beginning.
- The executive body of the municipality with its representatives shall evaluate and decide on the appropriate procedures to inform the population. Just the publication of the document is not enough. Moreover, informing should not be formal. In the settlements, the representatives of Municipal Government should ensure that the population is maximally informed; involvement of every group member residing in the settlement should be promoted. It is important that the meeting attendance indicator is not the number of population, but the type of representation - how does the meeting reflect the interests of all categories of people residing in the settlement.
- The meetings should be reflected in the minutes, which should be as comprehensive as possible; minutes should be signed. Participants should be able to get acquainted with the document before their publication.
- Since according to the law, only registered citizens have the right to vote on sessions, the self-government representative shall have a comprehensive list of the registered constituents in the village. As the survey revealed, there is a list of registered constituents by polling stations, but in most cases, the boundaries of the polling stations do not coincide with the settlement boundaries that need to be regulated. In addition, the possibility of attending the meeting and expressing own opinion should not be limited to other interested persons.

e) *Advancement of the knowledge and skills of local self-government employees in terms of citizen involvement* - It is of an

utmost importance that the representatives of local self-governments address the issue of citizen's involvement in a professional manner.

Their main task is as follows: 1. to ensure maximum public awareness; 2. to create appropriate conditions for participation; 3. to ensure that those interested persons in meetings are able to express their opinion; 4. to ensure non-discrimination against representatives of different groups; 5. to ensure consistency in the process. As the process is quite labour consuming and requires great effort, knowledge and experience, it is advisable to train representatives of the governor and respective municipal officials in practical skills, as well as to reinforce co-operation with the civil sector. Non-governmental organisations are actively involved in the mobilisation of citizens in communities, are engaged in educational activities, and carry out information campaigns. It is therefore, desirable to increase the involvement of self-government representatives in the aforementioned process and, within the framework of cooperation, implement projects to ensure the effective usage of existing resources.

- f) ***The National Association of Local Self-government should elaborate criteria*** for the assessment of municipalities to ensure citizens participation and their systematic evaluation, based on objective indicators. The annual report of the relevant public servant can be used as one of the sources of assessment, which was discussed above. It is advisable to name up to 1-3 municipalities at the end of each year, which were able to develop good practices and achieve the desired results. This event will provide an incentive for the active engagement of municipalities in activities related to citizens' involvement.
- g) ***When talking about citizens' involvement, it does not mean a community that only gathers to hear its leader's decision and verify it.*** It means an interrelated and motivated community which can make its own decision and develop an action plan upon mutual consent on specific problems by understanding the positive and negative sides of the results. To improve the citizens' involvement process, from both sides, the state and the population should be in a state of readiness. As already mentioned, to

ensure effective decision-making, it is necessary that the population is provided with all information, i.e. objective facts, and at the same time be able to evaluate this information and achieve a group consensus. Of course, this is not a simple process and requires efforts from both sides.

In order to improve citizens' respective skills for better civil liability, relevant educational programmes should be developed together with different stakeholders involved in the process: a) it is advisable to intensify the civic education component in schools; b) practical activities should be added to the teaching programmes – i.e. working in the community, whereby students will have the obligation to mobilise citizens in their communities or in the neighborhood to collect signatures and perform other relevant activities; c) intensify education at faculties on public involvement related issues, such as public governance, law and other fields related to political science.

“If we think them (the people) not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion by education”.

Thomas Jefferson

The study on "Institutionalised citizen participation: assessment of existing mechanisms in Georgia" aims to provide an evaluation of the legal bases, highlight challenges and success stories for citizens' participation, with regard to the implementation of existing mechanisms in practice, and present recommendations to improve the current situation.

It is prepared within the framework of the European Union/Council of Europe Partnership for Good Governance (PGG) 2015-2017 for Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus, and specifically the thematic programme "Strengthening institutional framework of local government", implemented jointly by the Directorate General of Democracy and the Congress of Local and Regional Authorities of the Council of Europe.

ENG

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