

*Georgian Young Lawyers' Association*

**SELF-GOVERNMENT REFORM,  
AGAINST SELF-GOVERNANCE**

**Legal analysis of processes related to the abolition of the self-governing status of the cities of Zugdidi, Ozurgeti, Ambrolauri, Gori, Akhaltsikhe, Mtskheta, and Telavi**

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## TABLE OF CONTENTS

INTRODUCTION .....	5
LEGAL EVALUATION OF THE PROCESS RELATED TO THE ABOLITION OF THE SELF-GOVERNING STATUS .....	8
JUSTIFICATION OF THE MINISTRY OF REGIONAL DEVELOPMENT AND INFRASTRUCTURE REGARDING THE NECESSITY OF MERGING OF THE MUNICIPALITIES .....	13
AMENDMENTS TO THE LOCAL SELF-GOVERNMENT CODE AND THE PRESIDENT’S VETO .....	14
CONCLUSION .....	18
RECOMMENDATIONS .....	21



## INTRODUCTION

The issue of local self-government still retains its relevance due to the developments that have unfolded with regard to self-government bodies, the more so in view of the changes that followed the abolition of the self-governing status of several cities and their territorial optimization.

Effective self-government is a significant pre-condition for a country's democratic development. Due to the aforementioned, many post-Soviet countries, including Georgia, have amended and improved legislation on local self-government on a number of occasions after achieving independence, introducing new provisions regarding citizens' participation and resolution of local issues independently by local self-government bodies.

On October 26, 2004, the Parliament of Georgia ratified the European Charter on Local Self-Government that was adopted as an international treaty on September 15, 1985. By doing so, the State recognized the principles and commitments<sup>1</sup> laid down by the Charter and established that a law on self-government would determine the legal, economic, and financial grounds for the exercise of local self-government, the state guarantees, and the procedure of establishment of local self-government bodies, in accordance with the Constitution of Georgia and the European Charter.<sup>2</sup>

In spite of this, local self-government bodies faced a number of problems for years,<sup>3</sup> because the existing system failed to ensure adequate and effective provision of public services and citizens' involvement in the decision-making process.<sup>4</sup>

Due to the aforementioned, the Georgian Dream, the political force that came into power after the 2012 parliamentary elections, declared that it aimed to implement the local self-government and decentralization re-

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<sup>1</sup> <https://gyla.ge/files/news/2016%20%E1%83%AC%E1%83%9A%E1%83%98%E1%83%A1%20%E1%83%92%E1%83%90%E1%83%9B%E1%83%9D%E1%83%AA%E1%83%94%E1%83%9B%E1%83%90/%E1%83%9B%E1%83%9D%E1%83%9C%E1%83%90%E1%83%AC%E1%83%98%E1%83%9A%E1%83%94%E1%83%9D%E1%83%91%E1%83%98%E1%83%97%E1%83%98%20%E1%83%91%E1%83%98%E1%83%A3%E1%83%AF%E1%83%94%E1%83%A2%E1%83%98%E1%83%A0%E1%83%94%E1%83%91%E1%83%90.pdf>

<sup>2</sup> The Organic Law of Georgia – the Local Self-Government Code, <https://matsne.gov.ge/en/document/download/2244429/15/en/pdf>

<sup>3</sup> [http://www.osgf.ge/files/2015/Publication/local\\_democracy\\_development\\_report\\_english\\_final\\_2.pdf](http://www.osgf.ge/files/2015/Publication/local_democracy_development_report_english_final_2.pdf)

<sup>4</sup> <https://gyla.ge/files/news/2006/INFORMIEREBULI%20MOQALAQEEBI.pdf>

form, whose main cornerstones were to be the strengthening of local self-government bodies and ensuring citizens' involvement in the decision-making process. Therefore, decentralization and development of self-government became one of the priority areas of the reform.

The Government of Georgia developed and approved the major principles of its strategy for decentralization and development of local self-government for the years 2013-2014, which was to be used for bringing local self-government bodies in conformity with the principles of the European Charter and for forming a self-government system that would be oriented to improving democracy and services for the population. The strategy envisaged the implementation of the reform in two stages. At the first stage, in the years 2013-2014, it was planned to carry out various legal, technical, and organizational measures in order to ensure decentralization – an important stage in the formation of the new system – for the 2014 local self-government elections. The second stage, which covered the period after the elections, envisaged further improvement of the newly formed system in terms of the strength of institutions, financial and economic independence, effectiveness of management, and the level of democracy.<sup>5</sup>

The Ministry of Regional Development and Infrastructure developed the draft Local Self-Government Code. According to the authors of the draft Code, it served to democratize the public administration system, to achieve decentralization, and to form an effective system of local self-government that would ensure the resolution of issues of local importance in accordance with the local conditions and the interests of the local population.<sup>6</sup>

One of the preconditions for the achievement of these goals was the increasing of the number of self-governing units and their staffing/functional redistribution. In particular, as a result of legislative changes, seven cities – Telavi, Gori, Akhaltsikhe, Ozurgeti, Zugdidi, Ambrolauri, and Mtskheta – were granted the self-governing status and added to the five self-governing cities that existed at that time. Elective mayors (in municipalities – heads of municipal administrations) were designated as executive officials, and municipal councils – which were to be elected on the basis of direct, universal and equal suffrage and through secret ballot –

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<sup>5</sup> Decree No. 223 I.03 2013 of the Government of Georgia – “Major Principles of the Strategy of the Government of Georgia for Decentralization and Development of Self-Government for 2013-2014.”

<sup>6</sup> Explanatory note to the draft Local Self-Government Code of Georgia

were designated as representative bodies. These changes were assessed positively by the Council of Europe and other international organizations, which also found a corresponding expression in Georgia's rating in the 2015 report of Freedom House.<sup>7</sup>

In view of all the aforementioned, it was legitimately expected that the Government would consistently carry out the second stage of the reform envisaged by its self-government strategy, including territorial optimization of municipalities, while the ongoing constitutional reform gave rise to the hope that self-government would be further strengthened institutionally at the level of the country's basic law.<sup>8</sup>

However, the self-governing status of the aforementioned seven cities was later abolished on the initiative of the Georgian Government, which was a deviation from the declared principles of the reform.

The present study presents a legal analysis of the processes related to the abolition of the self-governing status of the seven cities. More specifically, the document contains a factual description of the developments related to the abolition of the self-governing status of Akhaltsikhe, Gori, Telavi, Mtskheta, Ozurgeti, Zugdidi and Ambrolauri; an analysis of the recommendation that the Ministry of Regional Development and Infrastructure sent to the municipal councils of the aforementioned self-governing cities for consultation purposes; and violations of law identified in the process of territorial optimization. At the same time, the document discusses Resolution No. N987-II<sup>9</sup> adopted by the Parliament of Georgia on June 15, 2017, several months before the 2017 local self-government elections, amendments to the Local Self-Government Code passed on its basis, and the President's veto. The study also offers recommendations whose implementation will be an important step for the decentralization of self-government bodies and for the enhancement of their independence.

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<sup>7</sup> <https://freedomhouse.org/report/nations-transit/2015/georgia>

<sup>8</sup> <http://info.parliament.ge/file/1/BillReviewContent/152668>

<sup>9</sup> By this resolution, the Parliament established new municipalities of Gori, Ambrolauri, Mtskheta, Ozurgeti, Telavi, Akhaltsikhe, and Zugdidi. See: <http://www.parliament.ge/ge/ajax/downloadFile/69211/987-II%E1%83%A1>

## **LEGAL EVALUATION OF THE PROCESS RELATED TO THE ABOLITION OF THE SELF-GOVERNING STATUS**

On May 15, 2017, the Ministry of Regional Development and Infrastructure of Georgia sent a recommendation – which provided for the abolition of 14 municipalities (including seven self-governing cities) and merging of self-governing cities and self-governing communities – to the cities and municipalities of Telavi, Gori, Akhaltsikhe, Mtskheta, Ambrolauri, Zugdidi and Ozurgeti for consultation purposes.

In accordance with the requirements of Paragraph 2 of Article 12 of the Local Self-Government Code, the recommendation was accompanied by the following:

1. the justification for merging of the municipalities;
2. lists of settlements located in the municipalities that were to be established by merging of the municipalities;
3. the number of inhabitants in the municipalities that were to be established by merging of the municipalities;
4. schematic maps of the municipalities that were to be established by merging of the municipalities;
5. the administrative centers of the self-governing communities that were to be created by merging of the municipalities;
6. documentation containing information on the consultations held.

On the basis of the 15 May 2017 recommendation of the Ministry of Regional Development and Infrastructure, the municipal councils of the 14 municipalities approved the Ministry's recommendation in an accelerated manner – at extraordinary sessions with intervals of several days – and sent the relevant written materials to the Ministry, after which the Government, as the initiator of this issue, applied to the Parliament of Georgia, because the completion of the process of merging of the self-governing units required the adoption of a relevant resolution by the legislative body.

On June 15, 2017, on the basis of the Government's initiative, the Parliament adopted Resolution No. N987-II, by which it created the municipalities of Gori, Ambrolauri, Mtskheta, Ozurgeti, Telavi, Akhaltsikhe, and Zugdidi, while, on the other hand, the legislative body abolished the self-governing communities that had existed in each unit, thereby changing the

existing administrative boundaries.<sup>10</sup> The resolution said that it would take effect on the day of calling the 2017 local self-government elections.<sup>11</sup>

First of all, it should be noted that the Ministry of Regional Development and Infrastructure conducted the process of merging of the municipalities in violation of procedures established by the Local Self-Government Code. In particular, the Ministry conducted the process without any consultation with the public and without studying the public opinion. Although the materials sent by the Ministry included documents on meetings held in each region, these meetings had been held by the National Association of Local Authorities of Georgia with the mayors/heads of municipal administrations and heads of municipal councils of the aforementioned cities and municipalities.<sup>12</sup>

According to the Local Self-Government Code, **in the case of establishing a new municipality (municipalities) by splitting a municipality or by merging municipalities, the recommendation of the Government of Georgia must be accompanied by documents containing information on consultations held with the population of the municipality (municipalities) concerned.**<sup>13</sup> Consultations with the population must be ensured by the relevant governmental commission. As for the format of consultations, consultations with the population must be held in the form of a public discussion with the population of the municipality (municipalities) concerned. Before submitting the issue to be reviewed by the Government of Georgia, the relevant governmental commission must publish information on the establishment/abolition, on the determination/change of the administrative center(s), and on the change of the administrative boundaries of the municipality (municipalities) concerned. The publication of the information in print media that is distributed across the territory (territories) of the municipality (municipalities) concerned and that is published at least once a week is considered as publication of information. Instead of publishing information in the print media, the municipality (municipali-

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<sup>10</sup> <http://www.parliament.ge/ge/ajax/downloadFile/69211/987-II%E1%83%A1>

<sup>11</sup> According to Paragraph 8 of Article 10 of the Local Self-Government Code, "A resolution of the Parliament of Georgia on the establishment or abolition of a municipality shall enter into force on the day of calling the regular local elections. Elections in the municipality concerned shall be held together with the regular local elections."

<sup>12</sup> <http://www.livepress.ge/ka/akhali-ambebi/article/19192-msjelobathvithmmarthvelobisreformazeshekhvedramediisgareshe.html>

<sup>13</sup> Subparagraph G, Paragraph 6, Article 10 of the Local Self-Government Code

ties) may make a public announcement about it.<sup>14</sup>

On June 30, the GYLA, together with its partner organizations, filed a claim against 15 June 2017 Resolution No. 987-II of the Parliament of Georgia on the Establishment of the Municipalities of Gori, Ambrolauri, Mtskheta, Ozurgeti, Telavi, Akhaltsikhe, and Zugdidi, which had been adopted in violation of the requirement of holding public consultations with the population, provided for by the Local Self-Government Code.<sup>15</sup> The organizations demanded the abolition of the resolution.<sup>16</sup>

According to the counter-claim of the Parliament of Georgia, the defendant believes that the proceedings of the case should be terminated, because “none of the legitimate rights and interests of the claimants have been damaged” and “their rights have not been restricted unlawfully either”.

The defendant argues that consultation with the population is “a development that precedes the adoption of the Parliament’s resolution” and is a procedure completely independent from the Parliament; accordingly, the adoption of the aforementioned resolution and violation of the population’s right to take part in the consultation “are not related to each other either directly or indirectly”.

The Parliament of Georgia believes that the rights of the population have not been violated because the public statement about the establishment of the municipalities was published in print media and the claimants had an opportunity to take part in the consultations.<sup>17</sup>

The GYLA requested public information about the public meetings with the municipal councils/population from the Ministry of Regional Development and Infrastructure.<sup>18</sup>

According to the information provided by the Ministry, the meetings that were held across Georgia in accordance with the law had been planned by

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<sup>14</sup> Paragraphs 5, 6, and 7 of Article 12 of the Local Self-Government Code

<sup>15</sup> <https://gyla.ge/ge/post/arasamtavrobo-organizaciebma-saqartvelos-parlamentisdadgenileba-sasamartloshi-gaasachivres#sthash.gcHTidXE.dpbs>

<sup>16</sup> The Kutaisi City Court has yet to examine this case.

<sup>17</sup> The counter-claim of the Parliament of Georgia in the case of *Ketevan Bebiashvili, Nino Zirakishvili, Tamaz Trapaidze, Natia Mekudishvili, Ekaterina Abashidze, Jaba Natenadze and Jemal Chkadua v. Parliament of Georgia* No. 3/851.

<sup>18</sup> The GYLA’s letters no. G-04/201-17 and no. G-04/203-17 of June 13, 2017.

the National Association of Local Authorities, in the framework of cooperation between the Association and the Ministry of Regional Development and Infrastructure. However, the defendant failed to present any evidence in its counter-claim proving that it had delegated this procedure to the Association, which makes us think that such a fact hasn't taken place and the process was not legally in order.

The meetings organized by the Association were attended by members of municipal councils, mayors/heads of municipal administrations, local NGOs working on municipal issues, and representatives of local TV stations and print/online media.<sup>19</sup>

Interestingly, according to a letter from the National Association of Local Authorities, they organized the regional meetings with representatives of member municipalities in the framework of a separate project. As for organizing meetings and consultations with the population, the letter says the legislation does not require them to hold such meetings.<sup>20</sup>

It should also be noted that the meetings held by the Association were not intended for consulting with the population. The population was not informed of the meetings in advance; accordingly, the Association's explanation that the meetings were not closed could not have ensured people's attendance. In addition, consultation with the population of the municipality (municipalities) concerned provided for by the Local Self-Government Code<sup>21</sup> implies holding specially organized meetings with the population in those specific municipalities that are affected by the changes, during which the opinion of the population regarding possible reforms should be listened to and taken into account as much as possible. But the meetings held by the Association, according to their protocols, were not attended by the local population, which ruled out any consultation with the population. It is also noteworthy that the Association only held seven meetings in the regions. Accordingly, the requirement of consulting with the population, provided for by the Local Self-Government Code, was not observed.

It is also noteworthy that, according to the documents that the Ministry

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<sup>19</sup> Letter No. 01/2218 of the Ministry of Regional Development and Infrastructure of Georgia, June 23, 2017.

<sup>20</sup> Letter of the National Association of Local Authorities, June 13, 2017

<sup>21</sup> Paragraph 2, Article 10 of the Local Self-Government Code

of Regional Development and Infrastructure sent to the municipalities and the Parliament's counter-claim filed in the court, the Governmental Commission for Regional Development of Georgia held a session on May 11, 2017, information about which was published in the 19 May 2017 issue (No. 101 (8238)) of the *Sakartvelos Respublika* newspaper, while the same documents sent by the Ministry say that the meetings organized by the National Association of Local Authorities were held in April of the same year.

We should also mention the accelerated speed and tight deadlines within which the bureau sessions and extraordinary sessions of the municipal councils were held and the recommendation was approved in the relevant self-government bodies.<sup>22</sup> This is confirmed by the fact that members of the municipal councils were not informed about the recommendation and they only familiarized themselves with it during the sessions (for example, one of the factions in Ozurgeti didn't even have enough time to assemble in order to formulate the faction's position). The majority of them expressed their negative attitude to the issue. Although the sessions were public, on several occasions the GYLA and representatives of the public didn't have an opportunity to ask questions. The sessions were held in a noisy environment,<sup>23</sup> which violated the rules of convening and conducting extraordinary sessions of municipal councils, according to which, during the sessions, the chairpersons of the sessions of the municipal councils are obliged to contribute to free expression of opinion and to discussion of issues in a meaningful and thorough manner.<sup>24</sup>

All the aforementioned raised doubts about the legitimacy of the process, leading us to think that the concrete changes were not directed at strengthening local self-government and decentralization, which were the main concepts of the local self-government reform launched in 2014.<sup>25</sup>

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<sup>22</sup> <https://www.gyla.ge/en/post/arasamtavrobo-organizaciata-mimartva#sthash.up6R4rkl.dpbs>

<sup>23</sup> <http://rustavi2.ge/ka/news/76273>

<sup>24</sup> <http://www.zugdidi.gov.ge/1373-1337-geo.htm>

<sup>25</sup> <https://gyla.ge/files/news/2006/INFORMIEREBULI%20MOQALAQEEBI.pdf>

## JUSTIFICATION OF THE MINISTRY OF REGIONAL DEVELOPMENT AND INFRASTRUCTURE REGARDING THE NECESSITY OF MERGING OF THE MUNICIPALITIES

We should also pay attention to the justification attached to the documentation the Ministry of Regional Development and Infrastructure sent to the municipalities, which the Governmental Commission relied on when developing the recommendation on merging of the municipalities.

In the Commission's opinion, the reform implemented in 2014 had achieved a qualitative improvement of the institutional arrangement, clearly separated the powers at the central and local levels, increased the resources of self-government bodies and, also an important change, split seven municipalities which resulted in the establishment of 14 new municipalities (including seven new self-governing cities: Telavi, Zugdidi, Ozurgeti, Gori, Ambrolauri, Mtskheta, and Akhaltsikhe), which was expected to be followed by a number of positive outcomes, in particular:

1. more involvement of citizens in self-government and decision-making;
2. increased access to services and improvement of their quality;
3. increasing of municipalities' own revenues.

In spite of this, in the Commission's view, the splitting of the municipalities had not yielded the aforementioned positive outcomes. Moreover, the splitting had doubled administrative expenses and deteriorated the efficiency of spending; accordingly, mechanical splitting of municipalities and turning them into smaller units was not an effective mechanism for exercising local self-government in the best interests of the local population.

We believe that the arguments of the Governmental Commission were devoid of relevant evidence due to the following circumstances:

- **Citizens' involvement, quality of services, and access to services have not improved** – The document didn't reflect the local population's opinion about their involvement in self-government, as well as about improvement/deterioration of the services provided by local government bodies. In addition, the document didn't contain concrete criteria and comparative data by which deterioration or improvement of the quality of provision of services was assessed. It should also be taken into account that in 2015 changes were made to mechanisms of citizens' involvement;<sup>26</sup>

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<sup>26</sup> <https://matsne.gov.ge/ka/document/view/2929985#DOCUMENT:1>;

- **The splitting of the municipalities has not increased their own revenues** – The figures of the revenues of the self-governing cities and communities of Telavi, Zugdidi, Ozurgeti,<sup>27</sup> and Gori<sup>28</sup> have actually increased significantly, which is also confirmed by the comparative analysis of the budgets of the local self-governing bodies over the past three years;
- **As for the other arguments about the doubling of administrative expenses, deterioration of the efficiency of spending, and other issues, in this case, too, the Governmental Commission failed to present properly confirmed information.**

The ruling team also failed to present concrete justification and arguments, which would clarify the government’s vision and present the strategy for further development of self-government, at the committee discussions.<sup>29</sup>

## **AMENDMENTS TO THE LOCAL SELF-GOVERNMENT CODE AND THE PRESIDENT’S VETO**

In the same period, after the Parliament started to perform the procedures necessary for adopting the resolution, the Bureau of the Parliament began to discuss a draft law that was to introduce the results of the resolution with regard to abolition of the self-governing units into the Local Self-Government Code. In particular, the Parliament began to discuss the draft law at the session of the Bureau on June 5, 2017, i.e. before the adoption of the resolution on June 15, 2017. This indicates that the decision on changes had already been made before the adoption of the resolution, and the discussions only had a formal character.

Later, before the Parliament’s resolution on the establishment of new municipalities entered into force, the legislative body discussed the amendments to the Local Self-Government Code which provided for the reduction of the number of self-governing cities and merging of the municipalities that had been split as a result of the reform of 2014.<sup>30</sup>

The explanatory note to the draft law reads that “The amendments make

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<sup>27</sup> <http://droa.ge/?p=5004>

<sup>28</sup> <http://droa.ge/?p=4233>

<sup>29</sup> <http://droa.ge/?p=4196>

<sup>30</sup> <http://info.parliament.ge/#law-drafting/13984>

terminological changes in the entire text of the Code and replace the words “Gangebeli/mayor”<sup>31</sup> and “Gangeoba/city hall”<sup>32</sup> with the words “mayor” and “city hall” in the relevant articles of the Code, which will prevent non-uniform interpretation of the norms of the Code and, in fact, will leave only the position of the mayor instead of two office holders with similar functions. In addition to the aforementioned, the draft law makes an amendment to Paragraph 1 of Article 151 of the Code which reduces the number of self-governing cities from 12 to five.”

This amendment, in the opinion of the author, “is going to make the institutional arrangement more democratic and the activity of municipalities more effective. And effective self-government is the basis of the development of participatory democracy in a country and an important instrument for improving the well-being of a country’s citizens. From this perspective, the amendment to be made is an important step which will create a firm basis for further democratization and decentralization.”

“At the same time,” according to the explanatory note, “the amendments lay down the procedure of holding the 2017 local self-government elections and establish that the local self-government elections will be held in municipalities that existed as of May 1, 2017 – except for the municipalities that were abolished on the basis of the 2017 resolution of the Parliament of Georgia – as well as in the new municipalities established on the basis of the 2017 resolution of the Parliament of Georgia.”<sup>33</sup> The reference was made to the resolution of the Parliament, which, as noted above, was due to enter into force only after the announcement of the 2017 local self-government elections.<sup>34</sup>

The legislative body also made amendments to the Election Code, increasing the number of majoritarian members of municipal councils representing cities from two to five (in accordance with the number of voters), in order to strengthen the representation of the abolished cities in municipal councils.<sup>35</sup>

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<sup>31</sup> Gangebeli – the Georgian term denoting the head of a municipal administration.

<sup>32</sup> Gangeoba – the Georgian term denoting a municipal administration.

<sup>33</sup> <http://info.parliament.ge/file/1/BillReviewContent/151201>

<sup>34</sup> <http://droa.ge/?p=4196>

<sup>35</sup> <http://info.parliament.ge/#law-drafting/14225>

The GYLA, together with its partner organizations, made an appeal<sup>36</sup> to the President of Georgia with a request to veto the draft law.<sup>37</sup>

The veto had been necessitated by several factors. In particular, together with appealing the Parliament's resolution in the Kutaisi City Court, the GYLA had also demanded the suspension of this normative act before the Court made the final decision on the case. The Court refused to grant our motion, arguing that the entry into force of the appealed normative act was provided for by a legislative act, the Local Self-Government Code,<sup>38</sup> according to which the Parliament's resolution must enter into force on the day of calling the regular local elections. Accordingly, the Court held that such an act could not be suspended. Thus, the State "abused" the legislative provision, depriving the interested parties of the opportunity to protect their rights in court.<sup>39</sup>

Taking the position of the NGOs into account, the President used his veto powers and returned the draft law to the Parliament with motivated remarks.<sup>40</sup>

In the motivated remarks, the President gave a negative assessment to the draft amendments, because they contradicted both the Constitution of Georgia and the fundamental principles of self-government – the interest of citizens of Georgia to exercise local self-government independently and with their own responsibility.<sup>41</sup>

Representatives of the civil society sector and the President of Georgia, as well as a significant part of the population of the municipalities concerned

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<sup>36</sup> The appeal was signed by the International Center for Civic Culture, the Open Society – Georgia foundation, the Center for Strategic Research and Development of Georgia, the International Society for Fair Elections and Democracy, the Management Systems Development Center, the Local Democracy Network Center, the Media Club of Georgia, the Civil Development Agency, and the Regional Development Center.

<sup>37</sup> <https://gyla.ge/ge/post/arasamtavroebeprezidentsmimartavensthash.2IGh10GT.dpbs>

<sup>38</sup> Ruling of the Kutaisi City Court in case no. 3/851-2017, July 3, 2017

<sup>39</sup> The dispute still continues, although as the CEC has already determined districts, the initial situation cannot be restored even if the dispute is completed successfully.

<sup>40</sup> <http://droa.ge/?p=6860>

<sup>41</sup> <http://droa.ge/wp-content/uploads/2017/07/%E1%83%9B%E1%83%9D%E1%83%A2%E1%83%98%E1%83%95%E1%83%98%E1%83%A0%E1%83%94%E1%83%91%E1%83%A3%E1%83%9A%E1%83%98-%E1%83%A8%E1%83%94%E1%83%9C%E1%83%98%E1%83%A8%E1%83%95%E1%83%9C%E1%83%94%E1%83%91%E1%83%98-II-%E1%83%93%E1%83%9D%E1%83%99%E1%83%A3%E1%83%9B%E1%83%94%E1%83%9C%E1%83%A2%E1%83%98.pdf>

had a negative attitude to the said initiative and amendments, which was clearly demonstrated by citizens' speeches at the time of discussions on the Constitution held in the regions.<sup>42</sup>

The authorities conducted the working process on changes to the self-government system without the involvement of experts and representatives of the public. This is all the more surprising because on March 29 up to 130 non-governmental, community and media organizations expressed their readiness to discuss this issue together with the Ministry of Regional Development and Infrastructure and with the Parliament. Unfortunately, this appeal was not followed by any desire to engage in dialogue or consultations on the part of the authorities.

Finally, on July 26, despite the negative attitude of the public, the Parliament overrode the President's veto and passed the amendments.

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<sup>42</sup> <https://gyla.ge/en/post/arasamtavrobo-organizaciata-mimartva#sthash.RltAYk7S.dpbs>

## CONCLUSION

Ultimately, the decision of the Georgian authorities to abolish the self-governing status of seven cities and to stop the successful reform failed to garner the support of the local population, the civil society, the head of state and political parties, and the process was assessed as a step backwards in terms of decentralization and development of local self-government.

In the opinion of local community organizations and NGOs, the decision of the authorities is going to:

- **deteriorate the quality of local democracy**, because opportunities of resolving local issues will be limited and citizens' participation in the exercise of local self-government will become more difficult (for example, the number of signatures required for petitions will increase);
- **restrict the future development of the cities and villages**, because the cities and community municipalities will no longer have independent budgets as a strong instrument for determining local priorities and resolving problems of the cities and villages;
- **put the cities in an unequal situation**, because cities will only have a maximum of five majoritarian members in municipal councils, while municipalities will have several dozen majoritarian members;
- **weaken the social consensus and international support**, because the decision on this issue was made without consulting citizens and local and international organizations, which will negatively affect Georgia's international ratings.

In addition, it should be noted that the aforementioned processes have:

- **brought the democratic nature and fairness of the 2017 local self-government elections under question**, because, before the legislative changes, political parties and initiative groups had already started nominating candidates for the positions of heads of municipal administrations and mayors in the electoral districts created by the CEC in the municipalities to be abolished, as well as nominating observer organizations for registration; under these circumstances, election commissions and courts had to make unsubstantiated decisions, by which they increase the risks of restriction of passive suffrage and posed a threat to competitive

electoral environment;<sup>43</sup>

- **created problems related to management**, because when the resolution adopted by the Parliament on June 15 entered into force from the end of August, 14 self-governing units (legal entities under public law) ceased to exist and seven merged municipalities came into existence, while the abolished municipal bodies – municipal councils, city halls, and municipal administrations – continued to exist without a legal basis.
- **created problems related to budget**, because at the end of August, this year's budget law still envisaged the equalization transfers provided for 14 separate municipalities, but the legal entities under public law entitled to receive and administer them – municipalities – were no longer be in existence.<sup>44</sup>

The GYLA also responded negatively to an ordinance of the Government that approved a temporary procedure of assessment of professional civil servants of municipalities abolished in 2017,<sup>45</sup> which had entered into force on September 5, 2017.<sup>46</sup> In particular:

In the GYLA's opinion,<sup>47</sup> the ruling team planned the territorial optimization of municipalities and the changes underway in local self-government bodies in the run-up to the elections and without a strategy of the development of self-government,<sup>48</sup> which negatively affected the degree of independence and decentralization of local self-government bodies.<sup>49</sup>

These processes that were planned in an accelerated manner and in parallel with the merging of municipalities – without any thematic discussions<sup>50</sup>

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<sup>43</sup> <https://www.gyla.ge/en/post/sainformacio-biuleteni-1#sthash.f9fA25W1.dpbs>

<sup>44</sup> <https://gyla.ge/ge/post/ngo-ebis-mimartva-saqartvelos-parlamentis-tsevrebs#sthash.YDRrAkKO.dpbs>

<sup>45</sup> The municipalities of Telavi, Gori, Mtskheta, Akhaltsikhe, Ambrolauri, Zugdidi, and Ozurgeti.

<sup>46</sup> <https://matsne.gov.ge/ka/document/view/3797704>

<sup>47</sup> <https://gyla.ge/ge/post/saia-ekhmaureba-saqartvelos-mtavrobis-dadgenilebas-2017-ts-gauqmebuli-municipalitetebis-profesiul-sajaro-mokheleta-shefasebis-droebiti-tsisis-damtkicebis-shesakheb#sthash.7QeQ5zrP.dpbs>

<sup>48</sup> <http://netgazeti.ge/news/201447/>

<sup>49</sup> <https://gyla.ge/ge/post/ngo-ebis-mimartva-saqartvelos-parlamentis-tsevrebs#sthash.eJg8Wv48.dpbs>

<sup>50</sup> <https://gyla.ge/en/post/arasamtavrobo-organizaciata-mimartva#sthash.KpHvFskN.dpbs>

and without studying/analyzing the concrete data on HR and material needs – posed risks of using administrative resources for the elections. In particular:

By the amendments of July 26, 2017, the Government of Georgia was tasked with introducing a number of procedures in the municipalities that were abolished and created anew before August 1 this year.<sup>51</sup> These included a temporary rule of assessment of professional civil servants employed in the abolished municipalities, which was based on a recommendation of the Public Service Bureau.<sup>52</sup> On the basis of this rule, the employees of municipalities that were abolished by the Parliament's resolution<sup>53</sup> were interviewed and assessed in accordance with criteria<sup>54</sup> determined in advance by a commission specially created for this purpose. The results of the assessment will be taken into account in the mobility planned after the elections. The Government's ordinance on the temporary rule of assessment also established that this process was to be completed no later than 10 working days before the regular local self-government elections of 2017.

The aforementioned created a risk of subjective decisions and using official position in favor of a political party, as well as a risk of hindering the creation of a politically neutral public service in the run-up to the elections.

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<sup>51</sup> The procedure of compiling a temporary budget and of transfer of property

<sup>52</sup> <https://matsne.gov.ge/ka/document/view/3735939#DOCUMENT:1>

<sup>53</sup> <http://www.parliament.ge/ge/ajax/downloadFile/69211/987-II%E1%83%A1>

<sup>54</sup> Compatibility of the employee's knowledge, experience, professional skills and competences with the positions held by them

## RECOMMENDATIONS

On the basis of the findings identified during the research, we are offering recommendations that are important for forming effective self-government bodies oriented to protecting citizens' interests, on the one hand, and for improving legislative norms on the administrative and territorial organization of local self-government bodies, on the other. In particular:

- All changes in local self-government should be carried out in view of the basic principles of self-government and with the involvement of citizens;
- The State should have a long-term vision/strategy directed at increasing the degree of independence and decentralization of local self-government bodies;
- It is recommended to make the following changes to the Local Self-Government Code:
  - **Revising the procedures of territorial optimization:** The effective date of the Parliament's resolution on abolition/merging of municipalities should be separated from the date of calling the regular elections, and the effective date of such a resolution should not be dependent on the official announcement of elections.
  - **Determining the period during which it will be prohibited to carry out territorial optimization:** In particular, territorial optimization – in the case of both splitting and merging – should not take place during one year before elections of self-government bodies, because stability of the law is crucial to credibility of the electoral process, which is itself vital to consolidating democracy.<sup>55</sup>
  - **Defining the term “public discussion” in the Code and introducing the requirement to hold consultations with at least 1% of the population registered in the municipality (municipalities) concerned** at the time of territorial optimization.

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<sup>55</sup> [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2002\)023rev-geo](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2002)023rev-geo)