

DESCRIPTION OF THE LOCAL SELF- GOVERNMENT SYSTEM IN GEORGIA

ASTANA CIVIL SERVICE HUB

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This publication is based on research conducted by Ms. Maya Tskitishvili commissioned by the Astana Civil Service Hub (ACSH).

The knowledge product is intended for policy makers, practitioners, experts, scholars, students, and all those interested in open government data related issues.

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Foreword

Over the past three decades after regaining independence countries of our region have undergone significant political, economic, and social transformations, with varying degrees of success.

An integral part of these reforms was the improvement of public administration and the development of local self-government, as they play a crucial role in ensuring effective governance and the efficient delivery of public services.

Local self-government is the cornerstone and foundation of a strong state and the development of the country, as it empowers citizens to participate in decision-making processes and promotes accountability and transparency in governance. Among the countries of the region, the Georgian experience is of particular interest, as it has demonstrated the potential of a decentralized governance system to foster economic growth, social cohesion, and democratic governance.

This descriptive research sheds light on the complexities of Georgia's local self-government, which comprises a two-tier system consisting of municipalities and self-governing cities. By examining the workings of the system this research enhances understanding of this complicated topic.

I would like to express my gratitude to Ms. Maya Tskitishvili for her excellent work in producing this knowledge product, which will be useful to policymakers, scholars, and citizens interested in understanding the functioning of the local self-government system, as it will help in understanding power and responsibilities, identifying challenges and opportunities, and promoting democratic values at the local level.



Alikhan Baimenov
Chairman
ACSH Steering Committee

About the Astana Civil Service Hub (ACSH)

The Astana Civil Service Hub is a flagship initiative of the Government of Kazakhstan and the United Nations Development Programme. It was created in 2013 by 5 international organisations and 25 countries: now comprising 43 participating countries. The geographical range of its participants' stretches from the Americas and Europe through the CIS, the Caucasus, and Central Asia to ASEAN countries, demonstrating that partnerships for civil service excellence is a constant and universal need for all nations.

Its mandate is to assist in the promotion of public service effectiveness by supporting the efforts of governments of the participating countries in building institutional and human capacity; and thus, contributing to the improvement of civil service systems in the countries of the region and beyond.

The Astana Civil Service Hub is a multilateral institutional platform for the continuous exchange of knowledge and experience in the field of public service development, aiming at supporting government in the region and beyond through fostering partnerships, capacity building and peer-to-peer learning activities, and evidence-based research.

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1. Introduction

In 2013, the Georgian Government launched a process of comprehensive territorial and administrative reform. On 5 February 2014, the Georgian Parliament approved the new Organic Law of Georgia - Local Self-Government Code, which defines the legal grounds for exercising local self-governance, powers of local authorities, rules for their establishment and operation, regulates their finances and property, their relations with citizens, with public authorities and with entities under public or private law, and sets forth the rules for carrying out state supervision and direct state administration of the activities of local authorities. With the adoption of the new Code, the previous laws, such as the Organic Law on Local Self-Government, the Law on the Capital of Georgia - Tbilisi and the Law on the Property of a Local Self-Government and the Law on the State Supervision over Activities of Local Authorities, have been repealed.

In 2017 the Parliament of Georgia passed a series of amendments to the Constitution, which completed its evolution towards a parliamentary system and introduced new, additional constitutional guarantees for the implementation of local self-governance in Georgia. The Constitution recognized that the division of powers between State and local self-government is based on the principle of subsidiarity and that the State pledges to ensure the adequacy of financial resources with powers of local self-governments laid forth in the organic law. Also, the Constitution recognized the powers of self-government unit to be both exclusive and full. Those additional guarantees granted by the Constitution of Georgia provide key legal foundation for further strengthening of the decentralization process and creation of strong self-government in line with European standards.

Approaches embedded in the Constitution and the entire legal framework of local self-governance in Georgia are fully compliant with the requirements of European Charter on Self-Government, which was ratified by the Georgian Parliament in 2004.

The following description of the Local Self-Governance System of Georgia will be presented on the basis of the European Charter of Local Self-Government with consideration of the structure and content of the Charter.

2. Article 2 – Constitutional and legal foundation for local self-government

According to the Charter, Article 2, “the principle of local self-government shall be recognized in domestic legislation, and where practicable in the constitution”.

Constitution of Georgia says that the citizens of Georgia decide issues of local importance through representative and executive bodies of local self-government. Powers of State government and local self-governments are separated. Self-government unit (municipality) has its own powers, which it exercises independently, under its own responsibility and discretion within the limits of the law.

In addition to the responsibilities already retained by municipalities, they can be prescribed other functions by state authorities or leadership of the autonomous republic with the rationale that these functions may best function at a local level. According to the Constitution of Georgia, powers can be delegated from State authorities to the local municipality through a legislative act or a contract together with the transfer of relevant material and financial resources.

The Constitution of Georgia and the country’s legal framework also attribute to local self-governments the power to decide, at their discretion, on matters which do not belong to exclusive competence of state authorities or those of autonomous republic, and which is not excluded by law from the jurisdiction of self-governing unit. The amended constitution includes a special chapter on local self-government:

The Code of Local Self-Government refers directly to the European Charter of Local Self-Government. According to this fundamental norm, “legal grounds for exercising local self-government are the Constitution of Georgia, the European Charter of Local Self-Government, treaties and international agreements of Georgia, this Law, and other legislative and subordinate legislative acts of Georgia”.

3. Article 3 – Concept of local self-government

According to the Charter:

1. Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population;
2. This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute.

The Local Self-Government Code of Georgia defines the concept of local self-government as “the right and ability of citizens of Georgia registered in a self-governing unit to solve, based on the legislation of Georgia, local issues through local authorities elected by them”.

a. Administrative-Territorial Organisation of Local Self-Government

The new Code provides simple and straight forward governance structure. Georgia has one-level local self-governance. A local self-governing unit is a municipality. A municipality is a settlement (self-governing city) with administrative boundaries, or an aggregation of settlements (self-governing community) with administrative boundaries and an administrative center.

The country is subdivided into nine regions, which correspond to the historical and geographical regions of Georgia, two autonomous republics and capital city Tbilisi. Regions are subdivided into municipalities and urban districts in Tbilisi.

There are 64 self-governing municipalities: 59 self-governing communities and five self-governing cities - Tbilisi, Kutaisi, Rustavi, Poti and Batumi. The size of the municipalities varies considerably in terms of population with some as small as 4,000, while Tbilisi has in excess of 1.3 million inhabitants producing almost half of the country's GDP.

Tbilisi – capital of Georgia, enjoys special status, which is defined by the Constitution of Georgia and by the Code of Local Self-Government. Tbilisi enjoys the powers granted to municipalities by the Code and in addition, Tbilisi has further competences in the areas of transport, communication, primary health care, emergency services and local development. Furthermore, the Code contains specific provisions concerning the representative and executive bodies of Tbilisi.

Georgia's administrative and territorial arrangement, as well as local self-governance does not envisage the regional level as such. Although the Government of Georgia appoints its representatives - State trustees (informally referred as Governors) in the regions, regional territorial units as such do not exist. Regions are not self-governing units and there are no representative bodies at regional level. The regions are not legal entities; they have no powers or revenues of their own. Self-governance on the level of the village and town is abolished and not planned at this moment.

b. Municipal Bodies

Local Self-Governance structure involves representative and executive branches.

i. Representative Municipal Body – City Councils

The function of the Representative Body of a Self-Governing Municipality and Self-Governing City is performed by a collegiate administrative body – municipality/city Sakrebulo (here and after referred as the Council).

The Councils are elected for 4 years by the citizens of Georgia registered in the territory of the municipality, by direct elections, based on universal and equal suffrage, by secret ballot. A citizen of Georgia who has attained the age of 21 by the polling day and has resided in Georgia for at least 5 years may be elected as a member of the Councils. A person shall be nominated by a party or by a five-person initiative group of voters.

Elections are held through the proportional and majoritarian electoral systems. The number of members of the Council and a procedure for their election is determined by the Elections Code of Georgia and depend on the number of voters in the self-government community. The Tbilisi City Council shall be composed of 50 members, out of which 10 members are elected in the territory of local single-seat majoritarian electoral districts, and 40 members are elected through the proportional electoral system in the whole territory of Tbilisi municipality.

A candidate who receives more than 40% of valid votes of the voters participating in the elections shall be deemed elected as a member of the Council through the majoritarian electoral system.

The threshold for proportional elections was reduced from 5% to 3% of the valid votes cast in the elections. Seats in the Tbilisi Council shall be allocated under the proportional electoral system only to electoral subjects that received at least 2.5% of votes cast in the elections.

The powers of the Councils are exercised in the areas of administrative-territorial organisation of a municipality/cities, regulation and monitoring of the activities of executive bodies, in the financial and budget area, and in the management and disposal of municipal property. The Councils are entitled to set up a commission, establish interim working group, form deliberative bodies (a council, committee etc.) to examine individual issues that fall within the Council's powers, and prepare appropriate reports and recommendations.

For the purpose of regulation and monitoring of the activities of a municipality's/city's executive bodies the Councils:

- monitor the activities of a municipality's executive bodies and their officials, hear and evaluate their reports;
- approve the statutes and staff lists of a City Hall and its structural units;
- pass a vote of no confidence against the Mayor of a municipality;
- approve concepts and drafts of spatial planning, master plans and development plans/detailed development plans of a municipality;
- approve plan for management of windbreaks and issue permits for tree cuts in the windbreaks;
- definition of the terms, procedures and fees for issuance of permission for regular urban carriage of passengers, transportation by taxi. Procedures of holding relevant competitions on gaining the transportation rights (Tbilisi Council);
- making decisions, upon the recommendation of the Government of Tbilisi, on the establishment, reorganisation and liquidation of a legal entity under public law, as well as on the approval of its statute in accordance with the legislation of Georgia (Tbilisi City Council).

In the finance and budget area the Councils:

- discuss and approve draft budget of a municipality, make amendments to the approved budget, monitor and evaluate budget execution;
- introduce and abolish local taxes and fees within the threshold set by the legislation of Georgia;
- approve the agreements concluded on behalf of a municipality upon recommendation of the Mayor of the municipality, also give consent to the conclusion of those transactions the value of which exceeds 5% of the municipal budget payables;
- approve the remunerations of a Mayor, the officials and other employees of the City Halls; officials and members of staff of the Council, within thresholds determined by the Law of Georgia on Remuneration of Labour in Public Institutions.

The Councils have the following functions in the area of management and disposal of municipal property:

- determination of the procedure for the management and disposal of a municipal property, also for disposal of the property of an enterprise established with the participatory interest of over 50%;
- determination of the normative price of a non-agricultural land owned by a municipality, and setting out the procedures for the determination of the initial privatization cost of a municipal property and of the initial rent price;
- approval of the list of municipal property items that are subject to privatization, and of a privatization plan, upon the recommendation of the Mayor of a municipality;
- making a decision on the transfer of municipal property to the state free of charge in the manner stipulated by this Law;
- determination of the procedure for the management of the forest and water resources owned by a municipality.

Regular sessions of the Councils shall be held at least once in a month, while extraordinary may be convened upon the proposal of the Mayor, request of at least one third of the members, the faction and upon the request of at least one percent of the total number of voters registered in the territory of the municipality.

The Councils exercise the function of control over the activities of the executive organs of the Municipalities and its officials. Control are exercised by the Bureau, commissions, working groups, fractions and elected members through the following formats: interpellation (requesting answer to the questions formally asked by the members of the Council); request for information; listening for the report; assessment of the activity. Control exercised by the Councils is permanent process, at the same time the Council may set regular periods for assessment of the activities of the executive branches of the municipalities.

Decisions of the Council are made by an open ballot.

For organization of its activities the Council has a Bureau, which consists of its chairperson, deputies, commissions and factions. The organizational support for the activities of a municipality Council shall be provided by the Staff of the municipality Council, which are appointed by the Council Chairperson

The chairperson of the Council is elected (and can be removed) by more than half of the total number of the Council members. A candidate for chairperson of a municipality Council may be nominated by not less than 3 members of the municipality Council.

Up to 5 commissions (11 commissions in Tbilisi Council) may be set up in Council from its members to prepare issues in advance, to facilitate the implementation of decisions, and to monitor the activities of the City Hall, its structural units and legal entities established by the municipality. Chairpersons of the Commissions are elected (and removed from the position) by more than half of the Council members with the nomination of 1/5th of the Council members.

A member of a municipality Council shall be obliged to be a member of at least one and maximum two of the commissions of the municipality Council.

Members of the political parties may join in the factions (minimum 3 members). A faction may be also set up on a non-partisan basis. A member of the Council shall exercise his/her powers without abandoning his/her work, and free of charge, though he might be reimbursed for the costs associated with the exercise of his power (for example business trips). Only the work of the officials the Council shall be remunerated. The employer of a member of Council may not restrict his right to participate in the work of the Council. A person may not be dismissed from his/her job, transferred to a lower-paid job, or otherwise discriminated against on the above grounds.

ii. Executive bodies – Mayor and City Hall

Mayor

The executive body and the highest official of a municipality/self-governing city is the Mayor. The Mayor shall represent the municipality/city, ensure the exercise of the powers of the municipality and the enforcement of decisions of a municipality representative body in compliance with this Law, other legislative and subordinate acts of Georgia and the normative acts of the relevant municipality. The Mayor shall be accountable to the Council and to the population.

The new Code of 2014 brought important changes in the system of local self-government in Georgia. It introduced the direct election of the Mayors by the citizens of the municipalities and self-government cities through universal, equal and direct suffrage by secret ballot for the 4-year term. Previously, Tbilisi had been the only city in Georgia in which the mayor was elected directly, while other mayors were elected by the Councils.

In order to bring the electoral system in line with the new Local Self-Government Code adopted in 2017, the parliament adopted an election-related package of bills which included increasing the minimal threshold for electing the Mayors in the first round of voting from 30% in 2014 to 50%.

A citizen of Georgia with the right to vote from the age of 25 who has resided in Georgia for at least 5 years may be elected as the Mayor.

With introduction of the direct elections of Mayors, the procedures for Casting a vote of no confidence against the Mayor were enabled in 2014. The procedure may be initiated based on an initiative of more than half of the members of the Council, or of at least 20% of the population of the municipality, proposing a vote of no confidence against the Mayor. A vote of no confidence against the Mayor shall be considered passed if the initiative is supported by at least two thirds of the members of the Council.

Powers of the Mayor

The Mayor shall:

1. In the area of the organisational activities of the City Hall:

- provide general management and coordination of the activities of the structural units of the City Hall;
- submit for approval to the Council the statute and the staff list of the Mayor, as well as the statutes of the structural units of the City Hall;
- appoint or remove from office the officials and employees of the City Hall, allocate their functions and hear their reports on work performed;
- delegate powers to the officials of the City Hall.

2. In the area of interaction with a municipality Council:

- report to the Council, at least once in a year, on work performed, as well present a special report at the request of at least one quarter of the Council members;
- draft and submit for approval to the Council administrative-legal acts;
- apply to the chairperson of the Council with a proposal to convene an extraordinary session of the Council, raise an additional issue to be reviewed during a regular session of the Council, attend open and closed sessions of the Council and of its commissions;
- ensure the execution of the administrative-legal acts adopted by the Council.

3. In the financial-budgetary area:

- draft and present for approval to the Council a municipal budget and amendments to the budget; ensure the execution of the approved budget;
- submit for approval to the Council a report on the execution of the budget for the reporting year;
- according to the Budget Code of Georgia, deliver a decision on the allocation of funds between the articles and codes of the budgetary classification of a spending entity, without making amendments to the approved budget of a municipality, in the manner prescribed by Council;
- submit for approval to the Council draft resolutions for the imposition, change and abolition of the local taxes and fees determined by law;
- on behalf of the municipality and with the approval of the Council, take loans in accordance with this Law and other legislative acts of Georgia;
- submit to the Council a report on the procurements performed in the previous year according to the procurement plan; perform procurement according to the legislation of Georgia.

4. In the area of management and disposal of the municipal property:

- make decisions on the management and disposal of municipal property in the manner determined by this Law and by the Council;
- with the approval of the Council, make decisions: on the establishment, reorganisation and liquidation of a relevant legal person under private law; on the participation in the establishment of and joining a legal person under private law in accordance with this Law; on the acquisition of shares of an entrepreneur legal entity;
- in cases provided for by this Law, make a decision, with the approval of the Council, to transfer the municipality's movable and immovable property by direct transfer, with the right to use with or without consideration, conditionally or unconditionally;
- with the approval of the Council, may make a decision to discharge the buyer of municipal property/the person who has received the right to use/manage the municipal property, from the penalty imposed/to be imposed for the violation of obligations assumed under the respective agreement;
- with the approval of the Council, make a decision to discharge the recipient of privatised property and/or of property transferred with the right to use, from the obligation to perform the condition(s) relating to that property, except for the conditions related to the performance of financial and investment obligations;
- ensure the maintenance, construction, reconstruction and restoration of the municipal property;
- submit for approval to the Council a list of municipal property items that are subject to privatisation, and a privatisation plan;
- monitor the use by physical and legal persons of municipal property transferred to them with the right to use, and compliance with the rules for the use of the property;
- in the case of disposal of municipal property in the form of an auction with conditions, monitor compliance by physical and legal persons with the respective conditions;
- exercise powers under the Law of Georgia on Public and Private Cooperation.

5. In other areas of executive activities:

- sign contracts and agreements entered into on behalf of the municipality;
- represent and act on behalf of the municipality in official relationships, grant representative powers on behalf of the municipality, including authority (power of attorney), except for the cases provided for by this Law;
- within the powers of the municipality, ensure the preparation of relevant socio-economic development and other programmes, strategies and plans, their submission for approval to the Council, and their implementation;
- elaborate, and submit to a Council for approval concepts and drafts of spatial planning schemes, master plans and development plans/detailed development plans of a municipality;
- issue individual administrative acts within his/her powers;
- set up consultative bodies – councils and working groups to examine individual issues that fall within his/her powers, as well as to prepare relevant conclusions and recommendations;
- exercise other powers prescribed by this Law, by the statute of the City Hall and by the administrative-legal acts of the Council.

Village Trustees

The Mayor may appoint a representative of the Mayor in an administrative unit of the municipality. Who represent the Mayor in the villages and assist the Mayor with the execution of her/his functions. The power of a representative of the Mayor shall be determined by the statute of the City Hall.

City Hall

A City Hall is an institution subordinated to the executive body of the municipality, which ensures the exercise of powers of the Mayor. The City Hall shall be headed by the Mayor.

The City Hall shall consist of structural units which manage specific areas. A structural unit of a City Hall shall, within the scope of powers determined by the respective statute, ensure the performance of the assignments of the municipality Council and of the Mayor. A structural unit of a City Hall may have sub-divisions that are determined by the statute and the staff list of the respective structural unit of the City Hall.

Officials of the City Hall (Mayor, Deputies of the Mayor and heads of City Halls structural units) are appointed by the Mayor and shall not exceed 13 persons.

Tbilisi City Hall

Considering special status of Tbilisi, City Hall of Tbilisi is arranged in different way.

Tbilisi City Hall is a system of executive bodies, which ensures the exercise of executive and administrative functions in the city. Tbilisi City Hall includes the following executive bodies:

- the Mayor of Tbilisi - The highest executive body and the Head of the Government of Tbilisi. He or she is directly elected for a term of four years and is responsible to the Tbilisi City Hall. The mayor also appoints the heads of the Tbilisi districts (Gamgebeli) with the consent of the Tbilisi Council;
- the Government of Tbilisi - A collegiate executive body that ensures the implementation of decisions taken by the Tbilisi City Hall. The Tbilisi Government is composed of the Mayor of Tbilisi, the first deputy mayor (vice mayor) and deputy mayors, the heads of the structural units of Tbilisi City Hall (with some restrictions), and the heads of the city districts. Deputy Mayors shall be approved by more than 1/3 of Tbilisi City Council members;

- structural units - These ensure the management of the socio-economic fields falling within the powers of the Tbilisi Government and the operation of Tbilisi City Hall. The heads of the structural units are appointed by the mayor, with the consent of the Tbilisi City Council. They are responsible to the Mayor of Tbilisi (who also takes decisions on their removal from office);
- District councils (Gamgeobas) - Tbilisi is divided into 10 administrative units - districts, each of which correspond to a historical neighborhood in the city. According to the Code, an administrative unit of Tbilisi is not a self-governing unit. Each District Council in Tbilisi ensures the management of the district and co-ordinates the implementation of decisions by the Mayor of Tbilisi and the Government of Tbilisi.

Concerning sub-municipal governance, the District Council decides on matters of local (district level) importance. The fact that the Head of District Council (Gamgebeli) is a member of the Government of Tbilisi ensures that District Councils are involved in discussions and decision-making processes at the municipal level. The District Council the body closest to citizens and therefore the most competent body to identify their needs and to disseminate information regarding its work, on decisions taken by the municipality, and other relevant matters.

Citizen Advisory Councils have also been created in the District Councils and these allow citizens to take part in local public governance.

In 2018, a number of structural changes were carried out with a view to improving the overall effectiveness of District Councils. These include a newly created division relating to district development, the goals of which are to foster citizen participation and co-creation, and to develop economic infrastructure in the districts.

Each District Council develops a district development strategy based on the identified needs of the district and the challenges it faces. The strategy sets the priorities for the district and can be used when planning the following year's budget for the municipality.

On average about 20% of the municipal budget are allocated to District Councils. These funds are allocated for operational activities and the implementation of programs assigned by the Government of Tbilisi. The District Councils prepare a report on their activities for the Government of Tbilisi, including details of how they spent the funds allocated to them (intended for the department of finance at Tbilisi City Hall). This report is submitted on a quarterly and an annual basis.

The operation of the bodies of Tbilisi shall be subject to internal audit and inspection according to the Law of Georgia on the Internal State Financial Control, and under the Statute of the Tbilisi City Hall. The Head of the Internal Audit Service of Tbilisi City Hall shall be elected by the Tbilisi Council.

c. Citizens Participation

After July 2015, when the Code introduced new mechanisms for citizen participation in the self-governance process, municipalities began enacting relevant normative documents. The number of citizens using their new rights was low in the second half of 2015, but the process speeded up in 2016 and was augmented by the fact that the Ministry of Regional Development and Infrastructure started drafting relevant guidelines.

Civil society also began getting involved in the awareness-raising process. Furthermore, the heads of several municipalities took the initiative to boost the use of the new mechanisms for citizen participation. This is particularly true for such forms of participation as general assemblies in settlements, and councils of civil advisors.

To ensure the participation of citizens in the exercise of local self-government, municipal bodies and officials of the municipal bodies are obliged to provide organisational and material and technical conditions for receiving and meeting citizens, for ensuring their participation in the activities of the municipal bodies, including sessions of collegiate public institutions, and transparent decision-making.

Any person may, within the scope and in the manner determined by this Law, and by other legislative and subordinate acts of Georgia, and by normative administrative-legal acts of a municipality Council, participate in the exercise of local self-government using, without any limitation, the forms of citizen participation.

To ensure citizen participation in the exercise of local self-government, a municipality is entitled to incorporate relevant programmes in the municipal budget.

The Code defines the following forms of citizen participation in the exercise of local self-government:

- a general Assembly of a settlement;
- a petition;
- the council of civil advisors;
- participation in the sessions of the municipality Council and the sessions of its commission;
- hearing reports on the work performed by the Mayor of the municipality and by a member of the municipality Council.

In addition to the forms of citizen 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-government that do not contravene the legislation of Georgia.

i. Access to information

To ensure citizen participation in the exercise of local self-government, municipal bodies shall be obliged to take measures to inform the population of the municipality of their activities and on the possibility of citizens to participate in the exercise of local self-government.

Issues relating to the publicity of the activities of municipal bodies and institutions, as well as of legal entities under private law financed from the municipal budget, including the publicity of a session of a collegiate body, as well as issues related to the release of public information, are regulated by the Code and other laws.

Municipal bodies are obliged to publish adopted administrative-legal acts, their draft versions and other public information. Municipal bodies are also obliged to publish and/or publicly announce: minutes of the sessions of the municipality Council, its commission and bureau, as well as the minutes of the Government sessions; sessions of a council of civil advisors, minutes of the general Assembly of a settlement, information on the agenda and the date, time and place of holding a general Assembly of a settlement; a report of the execution of a municipal budget for the reporting year, a draft municipal budget; a list of municipal objects that are subject to privatization and a plan for the privatisation of municipal property; reports on the work performed by the Mayor of a municipality and by a Council member, a petition and written initiatives.

A municipality Council may, extend the list of information subject to mandatory publication, and/or public announcement, and/or proactive publication.

ii. General Assembly

A General Assembly is 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 citizens in the discussion and solution of issues relevant to that settlement, and in the process of initiation of the above issues before the municipal bodies. The General Assembly may be convened by at least 5% of the constituents registered in the relevant settlement; or by the Mayor of the municipality – on his/her own initiative or upon the motion of the municipality Council. The General Assembly shall be duly constituted if it is attended by at least 20% of its members.

The General Assembly may:

- discuss issues important to the settlement, and draft relevant proposals for their submission to municipal bodies;
- discuss the projects to be implemented in the settlement before they are included in the municipal budget, discuss the ongoing and implemented projects of the municipality and submit reasonable remarks and proposals to the municipal bodies;
- organise the involvement of the local population in the resolution of issues important for the settlement, in particular, in the cleaning of the territory of the settlement, in charity activities, in the repair and maintenance of local infrastructure, and if necessary, apply for aid to municipal bodies;
- make a decision on filing a petition to the municipality Council;
- upon the recommendation of the relevant municipal body, discuss the question of including the property located in the territory of the settlement in the list of the municipal facilities subject to privatisation, and submit its remarks to the respective municipal body.

A proposal, remark, assignment adopted as a result of discussion of an issue at the General Assembly shall have a form of a decision of the General Assembly and shall be recorded in its minutes. Municipal bodies shall be obliged to discuss a decision of the General Assembly and provide a reasoned response on the outcomes of the discussion to the relevant members or the Chairperson of the General Assembly within the time limits prescribed by this Law and by the General Administrative Code of Georgia.

iii. Petition

General Assembly and/or at least 1% of the citizens of a municipality may file a petition to the attention of the chairperson of the municipality Council.

Petition may provide basic principles or specific proposals of a draft normative administrative-legal act that is to be prepared, or request for the examination, discussion and solution of respective issues at a session of the municipality Council.

Council ensures that the petition is published. Council shall discuss a petition and make a respective decision. Petition may be submitted for examination to the respective commission or working group of the municipality Council.

iv. Council of Civil Advisors

Council of civil advisors is a deliberative body of a municipal council and is composed of representatives of private sector, non-governmental organisations and representatives of the municipal population. The Mayor of a municipality shall be obliged to submit for discussion to the council of civil advisors, [a body] approved by him/her, a draft municipal budget, documents relating to the municipality spatial planning, as well as other significant draft administrative-legal acts, and infrastructural and social projects. Other powers of the council of civil advisors approved by the Gamgebeli/Mayor and the rules of its operation shall be determined by the

statute of the council of civil advisors, which shall be approved by the municipality Gamgebeli/ Mayor.

v. City Council and commissions sessions

The sessions of a municipality Council and of a commission of the Council, as well as the sessions of the Government are public, providing access to anyone without any prior notification and/or prior permission. Persons wishing to attend the open sessions of a municipality Council and of its commission, may, without a prior permission, but only in the case of the consent of the chairperson of the session, put questions to the speaker and co-speaker, make clarifications, statements and provide information in the manner prescribed by the rules of procedure of the municipality Council.

vi. Reports of the Mayor and City Council member

At least once a year the Mayor of a municipality and a member of a municipality Council shall hold public meetings with citizens, deliver a report on the work performed and answer citizens' questions. Municipal bodies shall be obliged to ensure the publication of reports.

Though Georgian legislation includes provisions on citizens' participation, which originated in the Additional Protocol to the European Charter on the right to participate in the affairs of a local authority, but the level of participation dropped since the forms of participation are of consultative power. Further improvements are being considered under the new Decentralisation Strategy 2020-2025. There is also a new online governmental portal through which citizens can register petitions to central and/or local governments.

4. Article 4 – Scope of local self-government

1. The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority.
3. Public responsibilities shall generally be exercised, in preference, by those authorities who are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.
4. Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.
5. Where powers are delegated to them by a central or regional authority, local authorities shall, insofar as possible, be allowed discretion in adapting their exercise to local conditions.
6. Local authorities shall be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision-making processes for all matters which concern them directly.

Organic Law of Georgia Local Self-Government Code, which defined the legal grounds for exercising local self-governance, powers of local authorities, rules for their establishment and operation, regulates their finances and property, their relations with citizens, with public authorities and with entities under public or private law, and sets forth the rules for carrying out state supervision and direct state administration of the activities of local authorities.

The Code defines:

- own powers of the municipalities, which the municipality exercises independently and under its own responsibility;
- delegated powers - powers of the state authorities that have been delegated to the municipality in accordance with the law or an agreement concluded under the legislation of Georgia, together with appropriate material and financial resources.

a. Own Powers

A municipality's own powers shall be:

- drafting, discussion, approval, amendment of the municipal budget; hearing and evaluation of a budget report; disposal of budgetary funds, and performance of treasury financial operations and banking transactions according to the legislation of Georgia;
- management and disposal of property owned by the municipality in accordance with laws of Georgia;
- management of local natural resources, including water and forest resources, and land resources owned by the municipality, in accordance with the law;
- imposition and abolition of local taxes and fees in accordance with the law, determination of their rates within the marginal limits stipulated by law; collection of local fees;
- preparation and approval of spatial planning schemes, master plans and development plans/detailed development plans of a municipality under the procedure established by the legislation of Georgia;
- improvement of the municipal territory and development of the appropriate engineering infrastructure; cleaning of streets, parks, public gardens and other public areas in the territory of the municipality, landscaping, and provision of external lighting;
- municipal waste management;
- water supply (including technical water supply) and provision of a sewerage system; development of the local melioration system;
- establishment of early learning, and preschool and educational institutions under the control of a municipality, and ensuring of their operation under the procedure established by the legislation of Georgia; ensuring of the authorization of early learning, and preschool and educational institutions located in the territory of a municipality;
- management of local motor ways and regulation of traffic on local roads; provision of parking lots for vehicles and regulation of parking/stopping rules;
- issuance of permits for regular carriage of passengers within the municipality's administrative boundaries; organisation of municipal transport services for the population;
- regulation of street trades, exhibitions, markets and fairs;
- issuance of a construction permit, carrying out of public supervision of the construction, granting of the status of plot of land and/or building or structure inappropriate for construction development purposes to a plot of land, establishment of the necessary road and easement on a plot of land, implementation of urban construction measures, and

foundation of legal persons for this purpose in the territory of a municipality under the procedure and within the scope determined by the legislative acts of Georgia;

- restoration, improvement, planting, maintenance, protection and oversight of the windbreakers in the property of the municipality; transfer of the municipal land and windbreaker for the temporary use; issuance of permits for cutting the trees in windbreaker, approval of the plan of the windbreakers management, and establishment of legal entities for the above purposes;
- giving names, in accordance with the law, to the geographical features located within the municipality's administrative boundaries, in particular: historically formed districts, the self-governing city's administrative unit, certain areas, micro districts, springs, squares, avenues, highways, streets, lanes, dead ends, drives, embankments, esplanades, boulevards, alleys, public gardens, gardens, parks, forest parks, local forests, cemeteries, pantheons, structures, transport facilities;
- regulation of the placement of external advertising;
- determination of the rules for keeping pets, and solution of the issues relating to stray animals;
- arrangement and maintenance of cemeteries;
- protection and development of local originality, creative activities and cultural heritage; maintenance, reconstruction and rehabilitation of local cultural monuments; ensuring the functioning of libraries, club-type institutions, cinemas, museums, theatres, exhibition halls and sports and recreation facilities, and the construction of new facilities;
- development of appropriate infrastructure in local facilities for disabled persons, children and the elderly, including, proper adaptation and equipment of public areas and of municipal transport;
- provision of a shelter for and registration of the homeless;
- exercise of powers under the Law of Georgia on Public and Private Cooperation, within its competence;
- exercise of preventive and appropriate response measures under the Code of Rights for Children for the purpose of protecting a child in a public space, observing the rules for the transportation of a group of children for participation in a public event, and fulfilling the obligations by a person carrying out surveillance of a child (an event organizer), permitting a child to communicate with printed media, to attend a public screening and to enter a mass entertainment dancing center (a night club), and observing the legal restrictions for the accessibility of a film recorded for children, and observing the rules for the prohibition of free and paid supply of alcoholic, narcotic, psychotropic, toxic and other means of intoxication, of products and capsules containing an alcoholic drink, tobacco or nicotine to a child.

A municipality may, on its own initiative, solve any issue that, under the legislation of Georgia, does not fall within the powers of any other public authority and that is not prohibited by law. A municipality may carry out activities for facilitation of employment, supporting of agriculture (including agricultural cooperation), and development of tourism, social assistance, and in coordination with a state policy implementing body – for the purpose of healthcare, also for promotion of the development of the youth policy at a local level, promotion of mass sports, for environmental protection, public education, promotion of

gender equality, prevention of violence against women and/or domestic violence, protection and support of victims of violence against women and/or domestic violence, maintenance of the archives of local importance, for cultivation of a healthy life style, creation of safe environment for human health, attraction of investments to a municipality's territory, for supporting innovative development, and other purposes.

b. Delegated Powers

A central government body may delegate to a municipality those powers that could be more efficiently exercised at the local level supported with transfer of appropriate material and financial resources.

A municipality shall be entitled to exercise the delegated powers within the scope prescribed by the legislation of Georgia, as adjusted to local conditions.

Powers may be delegated on the basis of the Law, and in this case delegation of the power refers to all municipalities.

Delegation of powers may be done on the basis of the agreement with individual or multiple municipalities. Such decision shall be made by the Government of Georgia. A relevant agreement shall be concluded between the municipality and the ministry concerned/the special-purpose state institution, shall be signed by the Mayor of the municipality, and shall be approved by the municipality Council, by a majority of the total number of Council members.

Municipalities have been given competences in military recruitment, sanitation and public health care, care and asylum of internally displaced persons (IDPs), development of highland areas and ambulance services.

5. Article 5 – Protection of local authority boundaries

Changes in local authority boundaries shall not be made without prior consultation of the local communities concerned, possibly by means of a referendum where this is permitted by statute.

The Georgian Code of Local Self-Government includes special provisions for consultation with municipalities and the local population in cases of territorial reform. In addition, the constitution provides that “decisions on the establishment and abolition of a self-governing unit, or the changing of its boundaries, shall be made by Parliament in consultation with the respective self-governing unit and on the recommendation of the Government”.

6. Article 6 – Appropriate administrative structures and resources

- Without prejudice to more general statutory provisions, local authorities shall be able to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management.
- The conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence; to this end adequate training opportunities, remuneration and career prospects shall be provided.

According to the Code, Georgian municipalities have the right to determine their internal administrative structure in accordance with Georgian legislation. In general, the basic internal structure of a local government unit is defined by the Code, but municipalities are able to form administrative units and structural divisions. Statutes and rules of procedure for internal departments and services are adopted by the municipal councils.

The Code of Local Self-Government indicates the specific formula for calculation of the number of employees per municipality – a formula based mainly on the size of the population. However, since it is quite difficult to use one formula for all municipalities in view of the very big differences between them and the specific needs of municipalities in mountainous or other areas, several changes have been made in order to give more discretion to municipalities and to achieve a more flexible formula.

Staff of the Gamgeoba (city hall) are appointed by the Gamgebeli/mayor on the basis of open competition. Staff of the Council is appointed by the Head of the Council. Appointment and dismissal of municipal staff are regulated by the Law of Georgia on Public Service. Contracting is easily possible within the reasonable procedures stipulated in Georgian law. The procedures (competitions) for selection are prescribed by the law and enforced by the Civil Service Bureau.

The scale and limits of remuneration are set by the Law of Georgia on the Remuneration in Public Institution as referred to in the Law of Georgia on Public Service, but municipalities have the power to decide on the amount of remuneration within these limits in line with special coefficients for to calculate the salary of each category of municipal employee. Municipalities cannot increase their budget for employee salaries without the consent of the Ministry of Finance of Georgia.

In general, municipalities have the power to recruit and select the required staff, evaluate their performance and offer training and re-training opportunities. Aiming at raising the level of qualifications of civil servants, the Code now obliges municipalities to spend at least 1% of the total amount of budgetary allocations intended for remuneration on professional development of their civil servants.

Municipalities have the right to establish non-commercial (non-profit) and commercial enterprises for the provision of municipal and social services. These legal entities may organise joint activities within the powers of the municipality, take part, on behalf of the municipality, in preliminary discussions and consultations concerning draft laws relating to local self-government, cooperate with public authorities and international unions (associations) of self-governing units, also establish relations with foreign unions (associations) and international organisations operating in the field of local self-government.

Tbilisi is entitled to establish also legal entities of public law, which, under the supervision of the Tbilisi Government, independently carries out socio-economic, educational, cultural and/or any other activities. The Tbilisi Council shall be authorised to establish, upon recommendation of the Government, a legal entity under public law for the purpose of issuing a construction permit, elaborating a concept for the urban development of the city and conducting an appropriate study and preparing recommendations with regard to spatial planning, master plans and development plans/detailed development plans of Tbilisi city, ensuring the privatisation of property and the process of transferring the property with the right to use, or for another purpose. The Tbilisi Council may, upon the Government's proposal, set for a legal entity under public law the amount of fees for the performance of activities stipulated under its charter (statute), including the provision of services and/or expedited services, as well as services relating to the expedited issuance of construction permits.

This right to establish legal entity of public law for the purpose providing administrative services in the touristic settlements was provided to the limited number of municipalities defined by the Government.

Municipalities are also entitled to outsource and procure some of the services from commercial/non-commercial service providers.

7. Article 7 – Conditions under which responsibilities at local level are exercised

1. The conditions of office of local elected representatives shall provide for free exercise of their functions.
2. They shall allow for appropriate financial compensation for expenses incurred in the exercise of the office in question as well as, where appropriate, compensation for loss of earnings or remuneration for work done and corresponding social welfare protection.
3. Any functions and activities which are deemed incompatible with the holding of local elective office shall be determined by statute or fundamental legal principles.

Local elected representatives have the right and the possibility to exercise their mandate freely and unconditionally. Members of the Councils (councils) have the right to monitor the activities of municipalities and to organize hearings on reports provided by the mayor and heads of departments. Local elected representatives are entitled to discuss, adopt and monitor local budgets; they also have the right to request any information on the spending of public funds by local executive bodies and entities subordinated to the municipal administration.

In municipalities, city councils are empowered to remove majors by a two-thirds vote of no confidence. The Code entitles a city council to initiate a vote of no confidence against mayors if more than half of the members of the city council, or at least 20% of the total number of constituents registered in the territory of the municipality, are in favour of the proposal. A vote of no confidence cannot, however, be taken in the first six months following the election of a mayor, or during the last year of his or her term of office. If a city council does not pass a vote of no confidence against mayor, another vote of no confidence may not be taken within the next six months.

The Code of Local Self-Government clearly defines the mandate, role and responsibility of local elected representatives and provides specific legal measures to guarantee free and full execution of the mandates of local elected representatives.

The head of Council and his or her deputies, as well as the heads of committees and fractions enjoy the status of local elected public officials and as such they receive allowances for the execution of their mandates. Those members of local councils who do not hold official administrative positions receive compensation for the execution of their mandate, the amount varying between municipalities and being dependent on the size of local budgets; it is higher in big cities and lower in small municipalities with limited own revenues.

The mayors hold a full executive mandate, while the city councils have the power to raise taxes and to manage and monitor budgets. In this system, the mayors have the unilateral power to nominate the heads of administrative/territorial divisions and directors of municipal services. The city council has the right to monitor the activity of these divisions and to hold mayor accountable for their effective operation. Mayors should provide reports to the city council on the operation and implementation of local budgets every six months. A slightly different model exists in the capital city of Tbilisi; here, members of the municipal cabinet (vice-mayors and heads of municipal services) are nominated by the mayor and approved by the city council.

Both mayors and the city council can establish commissions, although those commissions are different in nature. The commissions in the City Hall established by the majors are structural units and directed towards services (infrastructure, procurement, etc.) to manage the concrete direction of the activities of a municipality. Their areas of interest vary across the different municipalities, the most common commissions in City Halls relating to land use regulation, construction and architectural licensing, social care, and action programmes, etc. The City Council in its turn can also establish up to five commissions, such as those on legal matters and credentials, local finance and budgeting, local economy and municipal services,

education, culture and sport, and social issues. These commissions are established by decision of the City Councils and are made up of its members; different fractions of the City Councils are proportionally represented, according to the number of seats each fraction holds in the municipal council. City Councils can also create ad hoc working groups.

8. Article 8 – Administrative supervision of local authorities' activities

1. Any administrative supervision of local authorities may only be exercised according to such procedures and in such cases as are provided for by the constitution or by statute.
2. Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles. Administrative supervision may however be exercised with regard to expediency by higher-level authorities in respect of tasks the execution of which is delegated to local authorities.
3. Administrative supervision of local authorities shall be exercised in such a way as to ensure that the intervention of the controlling authority is kept in proportion to the importance of the interests which it is intended to protect.

According to the Constitution, “the State authorities shall exercise legal supervision over the activities of self-governing bodies. The activities of self-governing units may be supervised in order to ensure the appropriateness of decisions only with respect to decisions made on the basis of delegated powers. State supervision shall be exercised in accordance with procedures established by the organic law, in compliance with the principle of proportionality”.

The Code of Local Self-Government refers to two types of supervision: legal supervision and sectoral supervision. According to this article, “State supervision is an activity carried out by executive authorities that is intended to ensure the lawfulness of the activities of municipal bodies, and proper exercise of delegated powers.”

In order to examine the expediency of activities carried out by local self-governing bodies (officials) within the sphere of their delegated competences, the State supervisory authority is entitled to request from the respective local self-governing body (official) submission of any official documents, including legal acts promulgated by the local self-governing body/official, minutes of meetings and sittings, materials relating to administrative proceedings and financial documents, etc.

A municipality may appeal the legality of a decision by the State supervising authority on annulment of an individual normative act due to its inappropriateness. The supervising authority may, after consulting with and notifying the officials of the appropriate self-governing bodies, decide to implement appropriate measures to suspend and/or annul the normative acts concerned. Such a decision on the implementation of measures to remove and prevent damage may be appealed to a court as prescribed by law.

In order to ensure maximum protection for self-governing units, the Code of Local Self-Government has introduced a legal consultation mechanism: each self-governing body may, on its own initiative, submit a request for legal consultation on a draft normative act to the supervisory authority if it is not sure whether this act fully complies with Georgian law. The supervisory authority is obliged to provide a legal opinion, which is only recommendatory, on the submitted draft. Thus, local authorities and officials can adopt their legal acts independently and on their own responsibility.

With the new Code of Local Self-Government, the office of Prime Minister is acting as a supervising authority of municipal bodies. However, in most countries, the function of State supervision over local authorities is vested in a government ministry with responsibility for local self-government policy.

With introduction of the new system of local self-governance, Georgia implemented a reform of regional government in 2014. Regional governors, who were previously responsible to the president, now have a trustee relationship with the Government of Georgia and are appointed by the Government. This move has changed the role of governors from overseers of local government to being a functional level of central government - the former legislation stipulated that the State Trustee had to exercise legal supervision of municipal bodies, but according to the new Local Self-Governance Code supervision is now exercised by the Prime Minister of Georgia.

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The function of State Trustee and their administration is to coordinate communication between several municipalities (with the exception of the municipalities of Autonomous Republic of Adjara and that of capital city Tbilisi) and the central government. Moreover, the Code Local Self-Government has established Regional Advisory Councils (RACs), which operate under the authority of regional State trustees and act as an advisory body for municipalities.

The purpose of the RACs is to ensure that the interests of the municipality are represented and considered during the planning and implementation of development of the territory falling within the powers of the State trustee – Governor. An RAC is composed of the State Trustee, the Mayors of all relevant municipalities, and the chairperson and deputy chairperson of the Councils of the relevant municipalities. The first session of the RAC must be held within 60 days following the official declaration of the results of local elections. Sessions should take place at least once every three months and are convened and chaired by the State trustee. The RAC discusses projects and programmes to be carried out by the State in the relevant territory upon the recommendation of the State trustee, along with an estimate of the costs involved. It also elaborates the socio-economic development strategy for the territory falling within the powers of the State trustee – Governor.

Financial control and audit of local authorities is undertaken by the State Audit Office (SAO), which conducts audits of municipalities according to annual plans and publishes audit reports to inform the public. The SAO organizes training for its staff and develops new methodologies for auditing of local authorities in co-operation with international partners. Audits at the local level are performed by both internal and external auditors. External audits are carried out by the SAO (notably the local self-government entities audit department), and independent auditors. More specifically, audit reform in Georgia included: i) the Law of Georgia on Public Internal Financial Control; ii) standards on internal audits; and iii) the central harmonization unit (CHU) that was established by the Ministry of Finance to co-ordinate and harmonize the creation of internal audit and financial management and control systems in the public sector, including development of and updates to relevant standards and methodologies. According to the legislation, internal audit departments have been set up in municipalities as separate independent units.

Finally, it should be mentioned that the Public Defender of Georgia is also mandated to monitor local self-governing authorities and also to examine the statements and appeals of both Georgian and foreign citizens and stateless persons, legal entities under private law, and political and religious associations regarding actions or acts of local self-governing authorities that violate the rights and freedoms defined in the laws and Constitution of

Georgia, and in treaties and international agreements to which Georgia is a party.

In principle, the Georgian central government has no substitutive power over local government, but it can introduce direct State rule in cases where the territorial integrity of the country is concerned, if a local council ceases to function due to the permanent absence of 50% of its members and if the local budget for the current financial year is not adopted during the first three months of the fiscal year. Moreover, according to the Code, a sectoral supervision authority may substitute the local self-government when performing state supervision over the exercise of delegated powers. The conditions for the exercise of substitutive power and other means and measures of supervision are described in law and local authorities also have the possibility to appeal decisions of the State supervisory authority to a court.

9. Article 9 – Financial resources of Local Authorities

1. Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.
2. Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.
3. Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.
4. The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.
5. The protection of financially weaker local authorities calls for the institution of financial equalization procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.
6. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.
7. As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.
8. For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

a. Municipal Finance

Fiscal decentralisation remains one of the most important concerns in relation to the local self-governance system in Georgia. The share of municipal budget revenues (except for Tbilisi) in relation to Georgia's GDP is still low, amounting to 3% on average. According to a new Decentralization Strategy 2020-2015 local budgets should amount to at least 7% of gross domestic product (GDP), which is considered to be a minimum threshold based on practice in other European countries.

i. Budget

The budgetary system in Georgia is based on the principle of independence. Municipalities enjoy independence in formulating their budgets and in redistributing and allocating resources. According to Georgia's Budgetary Code, local authorities should have been drawing up their budgets using the "programme budgeting" format since 2012. The Budget Code provides for a centralized PFM system built around a Treasury Single Account and a PFMIS which incorporates salary and other expenses as well as commitment controls. This

covers both central and local government. There are no earmarked revenues or extrabudgetary units in Georgia.

Budget performance is managed through electronic public finance management systems. All accounts relating to the municipalities' budgets appear in the State treasury system of accounts, and central government has real-time information on the status of local authorities' budgets. Procurements are also managed through a centralized e-procurement system.

The procedure for drafting, submitting, discussing, adopting, amending, executing, reporting and monitoring a municipal budget shall be determined by this Law, the Budget Code of Georgia and other normative acts. A municipality Council provides publishing of the draft budget and its public discussion. During the discussion of a draft budget by the municipality Council, the draft budget may be amended only in agreement with the Mayor of the municipality.

If the municipality Council does not approve the revised version of the draft budget submitted by the Mayor of the municipality, or the original version of a draft budget, in the case where the Mayor does not approve the comments of the Council, the Municipality Council may, with three fifths of the members on the current list, approve the draft budget initiated by a faction of the municipality Council or by at least one third of the members on the current list of the municipality Council.

If a draft municipal budget is not approved before the beginning of the planning year, the Mayor of the municipality may allocate sums every month for each priority in an amount that does not exceed one twelfth of the amount of allocations of the previous budget year. If a draft municipal budget is not approved within 3 months after the beginning of a new budget year, the Government of Georgia shall, in the manner prescribed by this Law, prematurely terminate the powers of the Council and of the Mayor of the municipality.

A reserve fund shall be created to finance any payables unforeseen in a municipal budget. The volume of the reserve fund shall not exceed 2% of the total volume of allocations provided for by the annual budget.

Funds from the reserve fund of a municipal budget shall be allocated by the respective structural unit of the City Hall based on the decision of the Mayor of the municipality, which contains information on the amount and purpose of the funds.

According to the legislation, local government revenue includes own receipts and transferred funds.

ii. Own Receipts

Own receipts include local taxes and fees, the amount of which are determined by the municipality Council in the manner prescribed by law, grants and other revenues provided to the local self-governing unit. A municipality may, within its powers, use its own receipts at its discretion.

Collection of taxes are performed by the Revenue Service of the Government of Georgia, which is sharing some parts of income tax between central and local government. The collection of funds receivable from other revenues established by the legislation of Georgia or from transactions performed with non-financial assets shall be performed by the relevant agencies, unless otherwise provided for by the legislation of Georgia. Municipalities collect fees and charges for services.

Municipal fees are paid by individuals and legal entities to the municipal bodies for provision of municipal services, granting permits or usage rights. According to the Law on the System of

the Fees, the municipalities collect 5 types of fees:

- Building permit fee;
- Waste management fee;
- Gambling fee;
- Cultural monument rehabilitation area infrastructural fee.

Fees expedite commissioning of the buildings and issuance certificate of putting the building into operation.

Introduction and abolishment of fees, defining fees amount, providing reductions and concessions for the payment of the fees are decided by the City Councils with the application from the municipal executive bodies.

Municipal fees on average amount to 8% of the municipal revenues and about 0.5% of GDP, though data significantly differ between the municipalities starting from 0.1% to 24% with heavy concentration in the biggest cities.

The importance of own revenues is related to size of a municipality – small municipalities collect about 25% of their total funds with the rest (75%) being provided in grants from the center. For large municipalities some 65% is from own revenue and 35% from grants.

According to the constitution, delegation of powers by the state to a self-governing unit shall be carried out on the basis of a legislative act or agreement by transferring appropriate material and financial resources. Furthermore, the State ensures the correspondence of financial resources of self-governing units with its competences determined by organic law. Therefore, when delegating powers to local authorities, the central government provides concomitant financial support through targeted transfers.

iii. Transfers

The transferred funds include capital transfers, special transfers and targeted transfers, loans and the grants obtained according to the Law of Georgia on Grants.

Budgetary Code regulates the amount of equalization transfer, which should serve the purpose of achieving a more or less equal level of development across the country, and principle of its distribution between the municipalities.

In 2019 the formulae of equalization transfer were changed. The total amount of equalization transfer available to the municipalities was defined as 19% of VAT. This decision provided direct and proportional link of the equalization transfer amount to the economic growth of the country.

The total equalization transfer amount then is distributed between the municipalities also based on predictable and clear parameters in the following way:

- 60% is allocated based on the population of the municipality
- 15% is allocated based on the number of children under 6 years old;
- 10% is allocated between the municipalities considering the number of children between 6 and 18 years;
- 5% distribution depends of the size of the municipality territory;
- 10% is allocated based on the number of citizens holding the status of residents of the high-mountains areas.

Introduction of the new formulae increased the amount of transfer available to the municipalities in the first year of its application. In comparison with the old equalization

formulae which compensated just the misbalance between municipalities own revenues and its forecasted spending, the new formulae is not linked with the performance of the municipalities and is not “punishing” the municipalities which are successful in increasing their own municipal revenues.

Moreover, linkage of transfer amount to the VAT amount and introduction of clear parameters of distribution of the total transfer between municipalities, enabled municipalities to easily calculate the amounts which will be available from the state budget in the mid-term and therefore plan their own budgets ahead.

Capital Transfers

A capital transfer shall be allocated for the implementation of capital projects. A capital transfer is financial aid rendered between the state budget and the budget of self-governing units that is related to the growth of non-financial assets of the recipient of the transfer.

Criteria and procedures for selecting the capital projects are defined by the decree of the Government of Georgia. Decision on allocation of fund to the municipalities is made by the Government Commission on Regional Development which reviews the proposals made by municipalities. Commission among others includes Deputy Minister of Finance, Budget Department representative of the MOF, Deputy Minister of Regional Development and representatives of respective departments from the Ministry of Regional Development and Infrastructure. Municipalities submit proposal of different capital projects to the commission the criteria of which are defined by the Government decree. Municipalities are obliged to co-finance the projects at least by 5%. Commission allocates available funds per specific projects and money is transferred to the municipality according to the contract amount and actual performance.

The allocation of capital grants between municipalities since 2019 is regulated by the special formulae which is defined by the Government Decree.

First half of the total amount of capital transfer is distributed between the municipalities based on their 3-year average capital grants performance rate (percentage of actually spended capital grants versus allocated grants).

Remaining capital grant amount is allocated between the municipalities as follows:

- 40% is allocated based on the population of the municipality;
- 20% is allocated based on the size of the municipal territory;
- 20% is allocated based on the number of touristic settlements;
- 20% is allocated based on the coefficient of population to the number of the settlements in the municipalities.

Introduction of the formulae same as in the case of equalization transfer, made principle of distributions of state transfers clear and transparent and enabled municipalities to plan their infrastructural projects in the mid-term perspective based on forecasted own revenues and amount of expected capital transfers. In practice it enabled municipalities to start large scale infrastructural projects with completion in 2-3 years, start planning infrastructural projects ahead that improved overall management of capital investments and budget performance rates.

Targeted Transfers

A targeted transfer shall be transferred from the state budget of Georgia to a municipal budget for the financial support of the delegated power.

Special Transfers

A special transfer shall be allocated to eliminate the consequences (damage) of natural calamities, of ecological and other disasters, of wars, outbreaks and other contingencies, as well as to carry out other activities. A special transfer is financial aid rendered between the state budget, the republican budget of the autonomous republic and the budget of self-governing units. This transfer is allocated only if the reserve fund of the respective municipality budget is not enough for financing the measures envisaged to eliminate the above-mentioned events.

iv. Loans and Grants

Municipalities are allowed to borrow only with the consent of the government and they can only borrow for investment purposes.

Since the government is in a better position to negotiate with the donor community, in practice the central government signs the loan agreements and then lends the borrowed funds to local authorities for investment projects. Generally, local self-governing bodies in Georgia do not possess large amounts of borrowed funds.

Municipal debt management is regulated by the fiscal rules (macroeconomic parameters) laid down in the Organic Law of Georgia on Economic Freedom: the so-called “debt rule” – 60% of GDP; “expenditure rule” – 30% of GDP, and “balance rule” – 3% of GDP.

The government is allowed to set certain overall restrictions in order to keep general government parameters in line with these limits, but municipalities are fully independent to define their priorities in terms of spending within the resources available to them.

The total amount of the loan borrowed by a municipality shall not exceed 10% of the average annual own revenues of the municipality for the previous 3 budget years. If Tbilisi borrows a loan, the loan servicing amount (principal and interest) to be covered annually shall not exceed 5% of its own revenues of the annual budget of Tbilisi. The property owned by the municipality may not be used as a means to secure the claim. A municipality may borrow funds in an amount that exceeds this amount only from public authorities and from a legal entity under public law that is controlled by public authorities. Property owned by the municipalities cannot be used as collateral for a loan.

The decision of a municipality to stand as a surety or to provide any other guarantees in favour of another person shall also require the permission of the Government of Georgia.

To exercise its own powers, a municipality may, with the permission of the Government of Georgia, receive a grant. A permission of the Government of Georgia shall not be required if a grant is received based on a treaty of Georgia ratified by the Parliament of Georgia, is allocated by a ministry of Georgia or the relevant legal entity under public law and if the recipient of the grant is Tbilisi.

v. Municipal Property

Municipal property also constitutes an important asset for the financial autonomy of municipalities.

The Code defines categories of municipal property, the procedure for its creation, and property rights (except for natural resources the use, ownership and disposal of which are regulated under the legislation of Georgia), as well as legal, economic and organisational grounds and basic terms for the privatisation and transfer of municipal property with the right to use.

The Municipalities have two types of property: core property – which may be used only for carrying out public functions and for the exercise of the powers of a municipality and additional property – any legal property that is under the municipal ownership.

However, there are quite a number of physical infrastructures inherited from the soviet period that are frozen or are on the balance of the former agricultural collectives, which have been transferred in the ownership of concerned municipalities. Central authorities have not yet fully implemented the decentralisation of land, water, forest and natural resources, although according to the Code, such property existing in the territory of a municipality shall be assigned to the municipality.

It shall be prohibited to alienate the core (undisposed) assets of a municipality, except for cases stipulated by the Code. Additional property may be alienated in the manner prescribed by the Code and by other legislative and subordinate normative acts of Georgia.

A municipality may, exclusively within the scope of its powers, establish or become a partner of a joint stock company, a limited liability company, and a non-entrepreneurial (non-commercial) legal entity under the legislation of Georgia. Such decision shall be taken by the executive body of the municipality with the consent of the municipality Council. A municipality Council may include in its rules of procedure a procedure for submitting a report on the work performed by a person authorised to manage a legal entity under private law of the municipality.

A municipality shall be independent in exercising its property rights.

10. Article 10 – Local authorities' right to associate

1. Local authorities shall be entitled, in exercising their powers, to co-operate and, within the framework of the law, to form consortia with other local authorities in order to carry out tasks of common interest.
2. The entitlement of local authorities to belong to an association for the protection and promotion of their common interests and to belong to an international association of local authorities shall be recognized in each State.
3. Local authorities shall be entitled, under such conditions as may be provided for by the law, to co-operate with their counterparts in other States.

The Constitution provides that a self-governing unit shall be entitled to co-operate with other self-governing units to exercise its powers according to rule prescribed by the organic law. The Code provides municipalities with the right to implement joint activities and to establish joint entities.

Intermunicipal co-operation is gradually emerging in Georgia. In July 2015, the Code empowered municipalities to establish joint enterprises for the provision of services and implementation of projects. However, a number of changes are considered in sectoral legislation in order to allow municipalities to allocate financial resources for joint projects and shared infrastructure. Local authorities have started to come forward with initiatives for such collaboration. Some municipalities have been successful in continuing a joint waste management enterprise, other self-governing units have established regional development agencies and joining municipal service development centers.

The right of local self-governing units to associate is guaranteed by the Constitutional and the Code of Local Self-Government. The constitution provides that a self-governing unit shall be entitled to join unions of self-governing units in accordance with the organic law, that allows local self-governing units to establish a union (association) in the form of a non-commercial legal entity for the purpose of co-ordinating their own activities. Such unions are authorised to participate in the decision-making process and conduct consultations with the State

Authorities, and also to review draft laws and other projects. They are also entitled to join international associations of self-governing units.

NALAG is recognized as the national association of Georgian local self-governing units. It has a multiparty executive board and its membership is formed on the basis of regional representation and is actively involved in discussions on any matter that has direct influence on local government.

Georgian municipalities are allowed to co-operate with foreign municipalities without a need of national government's approval. Approval from the Government is needed only if this cooperation involves reception of a grant and if this grant is not part of an intergovernmental agreement between the Georgian State and a foreign State (or an international organisation).

11. Article 11 – Legal protection of local self-government

Local authorities shall have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for such principles of local self-government as are enshrined in the constitution or domestic legislation.

According to the Code, the relationship of state and municipal bodies shall be based on the principle of mutual cooperation. Separation of powers of the public authorities and municipalities shall be based on the principle of subsidiarity.

To ensure the exercise of powers of a municipality, public authorities shall provide appropriate legal, financial, economic and organisational conditions. Before deciding issues relating to the powers of a municipality determined by this Law, public authorities shall hold preliminary consultations with those non-entrepreneurial (non-commercial) legal entities that comprise more than half of the municipalities of the country.

A major guarantee for the legal protection of each local self-governing unit is provided by the constitution, which entitles a local authority to have access to judicial remedy, namely to apply to the Constitutional Court if a decision by a State agency has infringed on the powers and competencies prescribed to local authorities by law.

The Code, too, provides that a municipal Council (council) may, in accordance with Georgian legislation, file an appeal with the Constitutional Court of Georgia requesting a review of the constitutionality of normative acts. Furthermore, a municipality may appeal to a court in respect of those administrative-legal normative acts and actions that restrict the exercise of local self-government powers provided for by law. Finally, according to the Code, any decision on the legal compliance of any normative act adopted by a self-governing body within its exclusive competences shall be taken by judicial authority, and such decisions may be appealed to a court of higher instance. Within the area of its delegated competences, every self-governing authority is entitled to challenge a decision of the State supervisory body before a court.

12. Decentralization Reform 2020-2025

The analysis of the stages of the local self-government reform and the introduction of high standards of self-government by Constitutional reform, has revealed new challenges affecting the consistent implementation of the decentralization process.

As a result of complex analysis of the drawbacks and problems of the development of local self-government, following main challenges have been identified:

Past stages of the reform reveal that they were primarily connected to the political changes in State government. The implemented reform, which was mainly manifested by legal

amendments prior to the elections, did not envisage the further development of the process in the medium-term perspective. Therefore, the decentralization strategy should be based on a med-term vision, foresee main directions for the improvement, while the strategic action plan should define all activities to be implemented annually, in order to ensure the sustainability, consistency and goal-oriented nature of the decentralization process, key preconditions for the successful implementation.

A question as to what role local authorities can play in deciding on public matters and what their place might be in organization of the state power begs for answers. Pursuant to the European Charter, local self-government should be in charge of regulating and managing “a substantial share of public affairs”. Rather limited powers of local self-governing units have prevented local authorities from playing an important role in public life. The principle of separation of power between the state and local self-governments based on the principle of subsidiarity enshrined in the Constitution of Georgia lays the legal groundwork for the ultimate transformation of centralized governance inherited from the Soviet Union and progressive devolution of power from the center to the local level, that shall allow for more effective and timely responses to local issues and due consideration of local context.

Exercise of authority prescribed by the law the self-governing unit requires the transfer of respective financial and material resources to municipal authorities. Limited financial and material resources available to self-governments is among critical factors which hamper effective implementation of self-governance. In many cases, some powers of local self-government cannot be implemented due to the lack of adequate resources. Thus, ensuring that municipalities have access to resources adequate to their existing and increasing powers is perceived one of the key priorities of the decentralization reform. The constitutional obligation of the State to ensure the compliance of financial resources with the powers of self-government granted by law is exactly the very same constitutional guarantee and foundation, on the basis to which financial-economic foundation of self-government units must be strengthened.

Necessary preconditions for self-governments to effectively execute their responsibilities include an autonomous nature of the decision-making, compliance of the adopted decision with the interests of the local population, transparent operation of the self-government organs, participation of a wider public, introduction of effective and viable mechanisms for public supervision, evaluation and accountability, expertise of local civil servants, measures for continuous improvement of management systems and administrative structures of self-government units, implementation of effective and innovative systems of public services, and introduction of mid-term, consistent and goal oriented strategic planning system for the development and operation of self-governments. At this stage, a series of gaps and weaknesses have been identified with respect to the preconditions outlined above to be addressed under one of the directions of the decentralization reform.

It has been recognized that the level of women’s participation in deliberations around matters of local importance remains low. Measures to support equal participation of men and women will be stipulated by the decentralization reform.

This is a set of measures which should ensure the development of reliable, transparent, accountable, goal-oriented self-government committed to serve the interests of local communities.

Main Priorities of the Decentralization Strategy 2020-2025 are:

- Increasing powers of the municipalities;
- Strengthening material and financial resources of the municipalities;
- Building reliable, accountable, transparent and result-oriented local self-governance.

About the Author

Ms. Maya Tskitishvili has over 24 years of professional experience, with 9 years spent working for the Georgian government. She held senior positions, including Head of Administration of the Government of Georgia/PM's Office and Vice Prime Minister and Minister of Regional Development and Infrastructure. Ms. Tskitishvili worked extensively with international organizations and financing institutions, focusing on policy development and implementation, crisis management, public infrastructure projects, and cross-sectoral reforms to achieve strong development outcomes.

As a Minister of Regional Development and Infrastructure, she led the development of policies aimed at socio-economic revitalization of regions, reduced disparities, and improved living standards. Ms. Tskitishvili oversaw a group of 4000 staff and \$3 billion operations, mainly financed by IFIs, to manage strategic infrastructural projects. She implemented change-management initiatives resulting in increased efficiency of projects implementation and introduced cross-governmental policy dialogue for middle- to long-term planning of infrastructure development.

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