

Administrative Decentralization and Separation/Distribution of Power



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Introduction

Despite years of reforms in Georgia aimed at improving public administration and the administrative system, this area remains sharply problematic and essentially still retains centralised, Soviet-style governance. For the real reform of public administration, which will increase its effectiveness and democracy, the key objective is a clear distribution of powers and responsibilities among different levels of government and administrative bodies, as well as the selection of optimal forms of public service provision.

In the light of the low degree of administrative decentralisation, in Georgia, we mainly come across the Soviet-style operational-economic ministries. Ministries are burdened with daily economic, operational, and routine functions. Therefore, they are narrowed down to operational functions and less time is assigned to the important functions of the modern style ministries, like the development of sectoral strategies, analytical work, definition and establishment of standards, development of indicators, monitoring, etc. At the same time, the processes of merging and breaking up ministries and their structural units frequently happens mechanically, without content and functional analysis, only through considering horizontal (between different bodies of the central government) and not vertical (at the sub-national level of the government) transfer of power.

The purpose of the research is to assess the current situation with regards to separation/distribution of powers and responsibilities among the levels of government based on the study of the international documents, legislation, strategic documents, and practices. And also, to develop relevant analysis-based recommendations for further administrative decentralisation and the formation of an effective system of separation/ distribution of powers.

In the framework of the study large share of own, delegated and voluntary functions of municipalities, as well as competencies of ministries, were analysed.

The study covered desk research. In the framework of the study, the following types of documents were collected and processed: “European Charter of Local Self-Government” and its explanatory methodological materials; Monitoring reports and recommendations of the Congress of Local and Regional Authorities of the Council of Europe; The Local Self-Government Code and dozens of sectoral laws related to the regulation of public authorities; by-laws and structures of the Ministries of Georgia; legal acts of municipalities; “Georgia’s Public Administration Roadmap 2020” (PAR) and Action Plans to the Public Administration Reform (from different years); 2020-2025 Decentralisation Strategy and its action plan, as well as other legal and analytical materials. The study processed information from the websites of ministries and municipalities and their legal entities regarding exercising specific powers.

The analysis-based research report has been elaborated, which includes the analysis of the current state of play, major problems and trends, which exist in the field, as well as offers key findings and a package of specific proposals and recommendations.

Administrative decentralisation and separation/distribution of power in international documents

Association Agreement between the European Union and Georgia dedicates a separate chapter to the regional development "Regional development, cross-border and regional level cooperation" (Chapter 21). This chapter, among other issues, highlights strengthening of multi-level governance in Georgia - „strengthening multi-level governance as it affects both the central level and municipal communities

with special emphasis on ways to enhance the involvement of local stakeholders“¹. The entry in the Association Agreement is a clear reflection of the importance of a successful regional policy for the EU. The implementation of the issues covered by the Association Agreement is based on the documents of the Association and the National Action Plans for the implementation of the Association Agreement and the Agenda.

After signing the Association Agreement, the Association Agenda between Georgia and the EU was agreed, which covered years 2014-2016, and the updated Association Agenda between Georgia and the EU, which covers years 2017-2020.

The 2014-2016 Association Agenda contains an entry: “Pursuing the implementation of the decentralisation strategy in compliance with the Council of Europe’s European Charter of Local Self Governments². Although decentralisation was less reflected in the priorities of the Government of Georgia and such entry is missing from the 2017-2020 Agenda³, it is precisely the European Charter of Local Self-Governments that shall be viewed as a framework for the decentralisation process in Georgia.

Georgia acceded to the European Charter of Local Self-Governments in 2004. The Congress of Local and Regional Authorities of the Council of Europe conducts monitoring of the situation and reforms in the field of local self-government by Georgia every 5 years, in the context of compliance with the principles of this Charter.

The European Charter of Local Self-Governments pays particular attention to the principles related to the competencies of municipalities. One of the key conditions for carrying out the decentralisation process and the development of local self-government is adherence to the principles related to the competencies defined for municipalities. That is, the powers of municipalities shall be separated from powers of other levels of government, which shall be based on the principle of subsidiarity. Own, delegated and voluntary powers shall also be separated, towards which the municipal autonomy, rules of funding, and state oversight are different.

Article 4 of the Charter is dedicated to the powers of municipalities and it lays out standards, competencies of local self-governments should be based on.

„European Charter of Local Self-Government“, Article 4 – Scope of local self-government: ⁴

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 under the law.
2. Local authorities shall, within the limits of the law, have full discretion to exercise their initiative concerning 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 which 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.

¹ Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part <https://matsne.gov.ge/ka/document/view/2496959?publication=0>

² Association Agenda between the European Union and Georgia https://eeas.europa.eu/archives/delegations/georgia/documents/eap_aa/associationagenda_2014_ka.pdf

³ Association Agenda between the European Union and Georgia 2017-2020. The Agenda https://eeas.europa.eu/archives/delegations/georgia/documents/eap_aa/associationagenda_2014_ka.pdf

⁴ The European Charter of Local Self Governments [http://tbilisi.gov.ge/img/original/2016/7/27/EVROPULI_KARTIA\(2\).pdf](http://tbilisi.gov.ge/img/original/2016/7/27/EVROPULI_KARTIA(2).pdf)

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.

Based on the 2013 monitoring report⁵ and the respective recommendations and the 2015 post-monitoring⁶ of the Congress of Local and Regional Authorities of the Council of Europe, both times Georgia was given recommendations with regards to municipal powers concerning the inclusion of the principle of subsidiarity in the Constitution and to ensure a special role of the Organic Law regulating self-governance. In 2017 the changes to the Constitution reflected the principle of subsidiarity. However, during the 2018 monitoring⁷ recommendations touched upon the problem of clarity concerning the separation of powers, including in the field of water supply and delays in aligning sectoral legislation with the Local Self-government Code.

Administrative decentralisation and the separation of powers in the strategies and action plans of the Government of Georgia

In the 2020-2025 Decentralisation Strategy elaborated by the Government of Georgia two objectives are set with regards to the administrative powers. The Strategy defines “objective 1.1: ensure full implementation of powers granted to local self-governments by the law”, which in its turn covers two activities: activity 1.1.1. identify factors hampering full implementation of competencies by self-government units and activity 1.1.2. support of the implementation of competencies granted by law upon self-government units. The second objective defined by the Strategy - „objective 1.2: Increase competences of local self-governments based on the principle of subsidiarity“, which in its turn covers three activities: *Activity 1.2.1.* Define powers to be transferred to municipalities following the principle of subsidiarity; *Activity 1.2.2.* Ensure legal framework for the implementation of additional competencies by self-government bodies; *Activity 1.2.3.* Ensure technical and financial support for the execution of their additional competencies. Action Plan of the Decentralisation Strategy in turn provides terms and indicators for the implementation of these activities.

When we assess objectives and plans approved by the Government of Georgia through the Decentralisation Strategy, it is reasonable to analyse how well did the government accomplish previous obligations in this direction. In this regard, it is interesting to look at the Government’s obligations towards these powers laid out in the transitional provisions of the Local Self-government Code, which was approved in 2014. For example, transitional provisions defined the following:

1. The legal act, regulating the terms of legal relations between a municipality, the Georgian National Energy and Water Supply Regulatory Commission, and providers represented by entities under private law shall be prepared before the 1st of July 2015 by the Ministry of Regional Development and Infrastructure and presented to the Parliament of Georgia by the Government of Georgia. In the middle of 2016, the Ministry of Regional Development and Infrastructure, in consultation with the Georgian National Energy and Water Supply Regulatory Commission, water supply companies, Municipal Development Fund, other ministries, and donors, prepared a draft law “On Water Supply

⁵ Local and regional democracy in Georgia, Recommendation #334 (2013), Strasbourg 19-20 March 2013.

⁶ Georgia, Post-monitoring Georgia - final roadmap”. 15 April 2015. Congress of Local and Regional Authorities.

⁷ Local and regional democracy in Georgia, Report CG35(2018)18final 7 November 2018, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016808e551a>

and Sewerage", however, due to the 2016 parliamentary elections, it was not discussed at the Government session and thus, did not reach the Parliament. With the newly elected Parliament, the Ministry and respectively the Government did not proceed with the draft law.

2. Before the 1st of January 2016, the Government of Georgia should have prepared and presented the Parliament of Georgia with the draft law to define natural resources of local importance, among them water and land resources. No significant changes have been carried out. Natural resources remain fully centralised.
3. Before the 1st of July 2015, the Government of Georgia should have prepared the respective legislative changes for the complete separation of the State and municipal powers. Also, to delegate powers to the municipality, the relevant areas should have been identified and a draft legislative act submitted to the Parliament of Georgia. To fulfill this obligation, the Ministry of Regional Development and Infrastructure prepared draft laws, which envisaged changes to the existing 174 laws. This package was presented to the Parliament by the Government of Georgia, which was passed by the Parliament in the first reading in July 2016. In 2016, though, the newly elected Parliament did not proceed with the discussion on the package and later in 2017 the Government of Georgia technically withdrew it without any justification. Then in 2020, the Government re-submitted a similar package, and only in July 2020, it was finally adopted.

The 2020-2025 Decentralisation Strategy of the Government of Georgia reflects objectives, which were supposed to be implemented before the approval of this document, but were not implemented, or were suspended in the course of implementation. This, clearly, creates the grounds for skepticism towards the execution of the Strategy and its Action Plan.

Conceptual and legal basis with regards to powers

In terms of powers, the theory broadly distinguishes between deconcentration and decentralisation.

Deconcentration is the distribution of the central government power, transfer of control mechanisms to representatives of the central government, or own units (branches) in territorial units. In Georgia, we have examples of this: territorial information-consultation services of the Ministry of Agriculture; Educational resource centers of the Ministry of Education, Science, Culture and Sport; territorial units of the Ministry of Internal Affairs, etc. These issues are regulated by respective sectoral laws, as well as by the by-laws of the respective state agencies.

Decentralisation means giving locally elected government bodies the right, to resolve matters of local interest, and doing this in the framework of rights attributed to them, independent from the center and under its supervision.

It is possible to discuss devolution, in the context of decentralisation, the delegation of powers, and voluntary powers of municipalities.

Devolution – the transfer of powers or responsibilities from the central government to sub-national governance (local self-governance). Devolution and its scale is a feature of the degree and quality of decentralisation. In Georgia devolution is expressed in the transfer of own powers to municipalities on the basis of the Constitution and the law.

According to the Constitution of Georgia “The separation of the powers of state authority and self-governing units is based on the principle of subsidiarity” (Article 7, paragraph 4). According to the principle of subsidiarity, public powers should be exercised at the level of government closest to the citizens by the body closest to the population and which has the appropriate economic capacity.

Distribution of duties to other authorities shall happen according to the volume and nature of objectives, as well as the requirements of the economy and efficiency.

In Georgia, municipalities possess "own" powers. According to paragraph 3 of Article 75 of the Constitution of Georgia "A self-governing unit shall exercise its powers independently and be responsible for doing so within the ambit of the legislation of Georgia. A self-governing unit's powers, as defined by the organic law, shall be full and exclusive". According to the "Local Self-Government Code", a municipality's own power is the established power, which is exercised independently and with its own responsibility. Article 16 of the same Code provides a complete list of these powers. According to this law, the extent (scope) of a municipality's own powers and the procedure for exercising those powers under this Law, shall be determined only based on a legislative act, except when this Law directly refers to the possibility to regulate the exercise of its own powers in accordance with the legislation of Georgia⁸. Only legislative oversight is carried out over the exercise of own powers. Legislative oversight is exercised to ensure the compliance of the normative-administrative legal acts of the Municipal Council with the legislation of Georgia.

Delegation – powers of the state or of the autonomous republic, which has been transferred to a municipality based on a law or an agreement with appropriate financial and material resources.⁹ Different articles of the Organic Law clearly provide the principles of delegation – 1. Delegation of powers to a municipality happens through law or on the basis of an agreement; 2. Delegation of powers shall take place with the provision of appropriate financial and material resources to a municipality. In the budgetary system, a tool for providing appropriate budgetary resources is allocation of a targeted transfer; 3. A municipality is entitled to exercise delegated powers within the scope prescribed by the Georgian legislation, as adjusted to local conditions; 4. Not only legislative, but sectoral oversight of delegated powers shall take place. Sectoral oversight ensures the lawful and adequate exercise of powers delegated to a municipality. When delegating powers, the same act shall define the ministry/state authority with a special purpose of carrying out the state sectoral oversight of exercising delegated powers.

Voluntary powers- a municipality is authorized to resolve on its own initiative any issue, the resolution of which is not within the competence of another government body under the legislation of Georgia and is not prohibited by law.

Systemic analysis of powers

To see an overall picture of power decentralisation it is reasonable to analyse current powers of the state authority and municipalities according to their types, specifics, and problems and to assess the respective practice. With this purpose, it is possible to identify the following groups and sub-groups of powers.

1. Municipalities' own powers

- Which cannot be exercised, or are partially exercised by a municipality due to legislative shortcomings and centralisation of institutional tools, or due to inappropriate actions by the central government, or in part due to established practices of international donor-supported projects;
- Transfer of additional own (exclusive) powers to municipalities;
- Powers, which are appropriate to be exercised through inter-municipal cooperation, among them by a joint legal entity.

⁸ Local Self-government code. Article 16

⁹ Local Self-government code. Article 16

2. Powers delegated to municipalities through different sectoral laws and issues related to them
 - The problem of absent standards;
 - Absence of standards for calculating appropriate targeted transfers to municipalities and allocation of insufficient resources;
 - Problem of sectoral oversight;
 - Expenses stemming from delegated powers, which are paid by municipalities from their own revenues.
3. The powers defined in many current sectoral laws, which provide reference to local self-government
 - Powers which shall be attributed to the category of delegated powers according to the law;
 - Powers which can be attributed to the own powers of municipalities.
4. Voluntary powers of municipalities
 - Failure to comply with the principle of the Code of Local Self-Government, according to which such powers should not be the powers of other authorities.
5. Powers related to legal entities subordinated to ministries and municipalities
 - Which operate in the field attributed to municipality's own or delegated powers, shall be transferred to municipalities according to the principle of the separation of power;
 - Legal entities under ministries, which can be subject to privatisation;
 - Legal entities under ministries, which may be transferred from one ministry to another in accordance with functional changes;
 - Legal entities under municipalities, which can be subject to privatisation, when the service is provided by a private company selected through tender;
 - Reorganisation and other institutional changes in legal entities under ministries and municipalities.

The current situation and opinions according to the proposed groups can be presented through characterisation and analysis based on their examples.

Own powers of municipalities

A complete list of the municipalities' own powers are provided in paragraph 2 of Article 16 of the Organic Law "Local Self-government Code". No responsibilities "assigned" to municipalities through any other law can represent own powers of a municipality. At the same time, own powers shall be complete and exclusive. Sectoral legislation should create specific legal framework and instruments for exercising own powers defined by the Organic Law. There are instances when the Georgian legislation doesn't ensure this.

One of the clearest examples of systemic and institutional failure is water supply. As a result of changes enacted in 2000s in the field of water supply, in 2014 prior to adopting the Local Self-government Code, there was a complete legislative vacuum in the field of water supply. No law defined which level of authority was responsible for water supply. Only several paragraphs in the law on "Electrical Energy

and Natural Gas” provided regulations for the issuance of licenses to companies supplying water by the Georgian National Energy and Water Supply Regulatory Commission and the power of establishing tariffs. In fact, the issue of water supply was completely disconnected from the scope of public authority and was entirely limited to the regulation of private and state water supply companies. It should be noted that in the Council of Europe countries, in fact, without exception, the competence in water supply belongs to the municipality, irrespective of who directly provides the service (private company, management company, municipal company, joint venture, etc.).

Under Article 16, Paragraph 2, Subparagraph "h" of the Local Self-Government Code adopted on the 5th of February 2014, “Provision of water supply (including technical water supply) and sewerage; Development of Amelioration System of Local Importance” was defined as a municipality's own authority. Article 163 of the Transitional Provisions of the Code defined the "conditions for the exercise of powers by the municipality to supply drinking water and provide services of sewerage". This implied the duty of the Government of Georgia by the 1st of July 2015 to prepare and present the Parliament of Georgia the legislative act, which would regulate the terms of legal relations between a municipality, the Georgian National Energy and Water Supply Regulatory Commission, and providers represented by entities under private law. This obligation wasn't fulfilled by the Government of Georgia. Hence, even though water supply has been own (exclusive) power of municipalities since 2014, there is no legislative base for exercising this power. Moreover, on the 20th of December 2019, the Parliament of Georgia replaced the old law “On Electrical Energy and Natural Gas” with the new law “On Energy and Water Supply”. This new law only twice mentions municipality and only in the territorial aspect. For example, only the Regulatory Commission defines what are tariffs according to municipalities. Legislative situations in this sphere create problems in practice. Only a few companies possess a license in the field of water supply and the biggest of them is the private company Georgian Water and Power LLC., which provides water to Tbilisi and the state company United Water Supply Company of Georgia LLC., which is a large water supply company across Georgia (covering 366 settlements – 49 cities, 15 towns, and 302 villages). Besides this several municipal companies are also licensed. Moreover, individual municipalities have their own non-commercial legal entities, which cannot have a license, as according to the law water supply license is only issued to commercial legal entities. As a result, in more than 3000 out of 3700 settlements, there is no licensed water supply company and municipalities have no legal ties with the state water supply company. For example, Kutaisi’s own (exclusive) power is water supply, while it has no rights and duty-based relations with the state water supply company. Some of the donor-funded water supply infrastructure projects are implemented by the United Water Supply Company of Georgia LLC., some by the Municipal Development Fund, although this competence has been granted exclusively to municipalities. A similar situation is in the amelioration system, as the law “On Land Amelioration” does not define either the amelioration systems of local importance or any role of the municipality in this sphere, which limits the role of municipalities in resolving specific daily problems.

According to subparagraph “c” of paragraph 2 of Article 16 of the “Local Self-government Code”, own powers of a municipality include “management of local natural resources, including water and forest resources and land resources owned by the municipality, under the law”. The law defines certain mechanisms of transferring land to a municipality and despite the existing problems in this sphere, certain legislative regulation exists. Also, the "Forest Code of Georgia" adopted on the 20th of May 2020 stipulates that a municipality can be a forest owner. Concerning numerous other types of natural resources, there is no legal definition of what constitutes natural resources of local importance. It is possible to say, that irrespective of the importance of natural resources, whether it is a gold mine or a relatively small-scale in terms of operations (forest fungi, cones, inert materials, small lakes, etc.), it is managed in a fully centralised manner in Georgia. Although forests and land (especially agricultural land as well as a major part of urban land) are practically centralised in practice, there is still a legal mechanism to transfer some of their ownership to municipalities and therefore to their jurisdiction, with regards to other natural resources, even a legal basis does not exist. It should also be noted that the

obligation outlined in Article 162 of the Transitional Provisions of the Local Self-Government Code has not been fulfilled – “the Ministry of Justice of Georgia, the Ministry of Regional Development and Infrastructure of Georgia, the Ministry of Economy and Sustainable Development of Georgia and the Ministry of Finance of Georgia shall, before the 1st January of 2017, draft and submit for approval to the government of Georgia relevant schedules and procedures for the time frames over the transfer of agricultural land to municipalities”.

According to subparagraph “e” of paragraph 2 of Article 16 of the “Local Self-government Code”, own powers of municipalities include "spatial and territorial planning of the municipality and determination of related norms and rules of procedure; approval of urban construction documents, including land use master plans, plans for regulation of development, the rules of procedure for the use and development of the settlement territories". This is the case, when a municipality’s own power is backed and detailed by a special law “the Code of Spatial Planning, Architectural and Construction Activities of Georgia”. Though first paragraph of Article 36 of the same law defines that "with the legal act of the Government of Georgia a settlement can be the given status of specially regulated territory (recreational, resort, self-defence, etc.), while a municipality or a part of its territory, due to high public, economic, ecological, humanitarian, self-defence, sports and recreational, cultural and / or other factors –status of a specially regulated zone”. Pursuant to paragraph 2 of the same article, the Government of Georgia approves the relevant urban development plan for this area, i.e. the government defines, for example, recreational zones: Gudauri, Bakuriani Abastumani, Bakhmaro, etc., and deprives and implements the primary right of the municipality in this area to implement the urban development plan.

Sub-paragraph "s" of paragraph 2 of Article 16 of the "Local Self-government Code" defines "maintenance, reconstruction, and rehabilitation of local cultural monuments" as the municipality's own power. The law "on Cultural Heritage" does not define the category of a cultural monument of local originality. Currently, the list of immovable monuments of cultural heritage contains 7867 monuments, out of which 1012 have been attributed the status of “national importance category”. The special law defines own power provided in this article of the code as follows:

„Article 7¹. Authority of local self-government bodies in the field of cultural heritage protection

1. According to sub-paragraph "s" of paragraph 2 of article 16 of the organic law of Georgia "Local Self-government Code", for the purposes of cultural heritage protection, the municipality ensures maintenance, reconstruction, and rehabilitation of cultural heritage monuments defined in paragraph 2 of this article, which is located on the territory of a municipality.

2. Municipal bodies in the framework of exercising their authority shall submit information on the discovery and recovery of cultural heritage and the state of cultural heritage to the Ministry.

That is, according to the law instead of defining monuments of local importance, if a municipality discovers something (irrespective of its importance), it has to maintain it.

According to sub-paragraph “g” of paragraph 2 of article 16 of the “Local Self-government Code”, “municipal waste management” is a municipality's own authority. According to the “Waste Management Code”, waste management is defined as “the collection, temporary storage, pre-treatment, transportation, recovery and disposal of waste, and the supervision of such activities, measures, operations and the after-care of waste disposal facilities”. According to the same Code (Article 6, paragraphs 7, 8), the competence of the Ministry of Regional Development and Infrastructure of Georgia shall be to ensure the construction, management, and closure of non-hazardous waste landfills, the construction, and management of waste transfer stations. Municipality carries out only a part of solid waste management authority, that is the part that does not fall under the competence of the Ministry of Regional Development and Infrastructure. That is, collection and transportation of solid waste is a municipality's function, while their placement, processing, and placement of processed waste

- is the Ministry's function. Tbilisi and the Autonomous Republic of Adjara possess full authority in solid waste management.

Overall, municipalities already have problems with regard to the existing own power. At the same time, their own power does not include important local functions from the European experience: agriculture, specific tools for the development of local economy, certain components of employment, logistical part of general educational institutions, tourism, etc.

Voluntary powers of municipalities

Paragraph 3 of article 16 of the "Local Self-government Code" defines a municipality's voluntary powers – "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". At the same time, paragraph 4 of the same Article provides a certain list of what is considered as their voluntary power:

„a municipality may carry out activities under the procedure defined in paragraph three of this article for facilitation of employment, supporting of agriculture (including agricultural cooperation), and development of tourism, social assistance, and in coordination with the state policy implementing body - for the purpose of healthcare, also for the 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 the cultivation of a healthy lifestyle, creation of a safe environment for human health, attraction of investments to municipality's territory, for supporting innovative development, and other purposes”.

This paragraph of the law contains two systemic problems:

1. Almost none of the powers provided in the list satisfy the condition - „an issue, which does not fall within the powers of any other public authority”, which creates problems in practice.
2. An entry provided in the paragraph – “in coordination with the state policy implementing body”, contradicts the principle of own powers, which is defined in the European Charter of Local Self-Government, the principle of power separation between state and local self-government provided in the Constitution of Georgia and the existing principles of the "Local Self-government Code", according to which only legislative oversight is allowed on own powers and any type of coordination is systemically contradictory.

Delegated powers of municipalities

Article 17 of the “Local Self-government Code” defines the rules and conditions for delegating powers. Delegated powers are defined in various sectoral laws and at the same time, there are instances of delegating through contracts. For years only a few powers were given the status of delegated powers at the legislative level (conscriptation, public health, etc.). Dozens of laws from the 1990s and beyond contained entries, which imposed various obligations on municipalities. This contradicts the "Local Self-government Code”, as a power shall be provided in the list of own powers defined by the Code or shall be delegated. In laws there is an abundance of examples, where power was not own power, and

neither it was indicated that this power was delegated, with all the necessary conditions for the delegation (financial resources, a sectoral oversight body, etc.). In July 2020 changes were enacted in dozens of laws, through which some shortcomings were improved, and such "undefined" powers were defined as delegated powers. With these legislative changes, it is possible to present the list of powers that are delegated to municipalities by law.

Delegated powers of a municipality follow:

1. Organising conscription for compulsory military service;
2. Management of mobilising reservists;
3. Emergency management;
4. Identifying and responding to cases of domestic violence;
5. Identifying persons facing a social threat, defining and assessing their needs, problem identification, and providing information to relevant sectoral bodies;
6. Identification of land plots for the purposes of their registration;
7. Confirming actual ownership of the land plot by the household members;
8. For the purposes of controlling tuberculosis, identifying persons, locating those persons who have been in close contact with the patient for mandatory tuberculosis examination, deciding on the expediency of using involuntary isolation against the person;
9. Issuing a certificate concerning the birth of a child outside a medical institution;
10. Addressing the civil acts' registration body on registering the death of a person;
11. Preparing a report on the death of a person;
12. Recognising the land ownership rights;
13. Taking measures against the spread of communicable diseases with regards to animals that pose a threat to public health, including vaccination against rabies;
14. Supervising the observance of sanitary and hygienic norms in educational, childcare, and childcare-educational institutions;
15. Organising deratization, disinsection, and disinfection measures to prevent the spread of diseases in the territory of the municipality;
16. Supporting preventive measures at educational, childcare, and childcare-educational institutions;
17. Supervision of the observance of sanitary norms in the institutions of public importance located on the territory of the municipality, including control over the fulfillment of the obligations provided by law by the persons performing aesthetic and cosmetic procedures in the institutions of public importance;
18. Ensuring the receipt, storage and distribution of materials provided by the Ministry to health care providers concerning immunoprophylaxis as defined by the National Vaccination Schedule;
19. Carrying out preventive and epidemiological control measures in case of epidemic threat;
20. Streamlining primary epidemiological study on the territory of a municipality;
21. Regulating the number of wild animals during the attack and/or damage caused to the population and its property within the administrative boundaries of the municipality (elimination of wild animals from the environment);
22. Making a decision on granting, terminating, suspending, or restoring the status of a person permanently residing in a highland settlement;
23. Issuing a certificate confirming residence and/or the fact of being on the territory of a municipality on a specific day;
24. Issuing immigration visas to aliens with a lawful stay in Georgia;
25. Acquisition of goods, services, and work to improve public school infrastructure;
26. Providing transportation for pupils;
27. Implementing the program supporting inclusive education for a child and ensuring the use of the high standard of healthcare by a child;
28. Ensuring the child's right to social protection, promoting the child's social activity, and social inclusion.

Besides, there are powers delegated through agreements. For example, the issues of protection of cultural heritage delegated to Tbilisi, delegated powers related to the maintenance of public schools in certain municipalities.

Since delegated powers are scattered in dozens of legislative acts, to see the full picture it is reasonable to gather them in one location. When only a few had the status of delegated power, the annual Budget Law provided an entry, indicating according to which laws they were delegated. Despite the number of such laws increasing severalfold since July 2020, an entry in the 2021 State Budget Law still contains the old entry: “delegated powers include the financing of measures in "Public Health", "Military Duty and Military Service", "Defense Reserve and Military Reserve Service", "Internally Displaced Persons from the Occupied Territories of Georgia", "Deaths of War and Post-War Victims", Laws of Georgia on the Development of Mountainous Regions, the Powers of the Code of the Rights of the Child and other laws of Georgia".

This is not only a technical problem but rather demonstrates a bigger systemic problem, which is related to the funding of delegated powers. Pursuant to the law, when the state carries out delegation, it shall provide respective material and financial resources. This implies that a municipality shall not use any of its own revenues for delegated powers and each such delegated power shall receive a targeted transfer from the state budget, which will be reflected in the municipal budget.

In the 2021 budget, 16.5 million GEL is set as a targeted transfer for all municipalities, while this figure was 15.4 million GEL in 2020. That is, the list of several (no more than 5) delegated authorities increased to 28, and the targeted transfer, which will be transferred to all municipalities, increased by a total of 1.1 million GEL. At the same time, the state budget does not provide details, and, presumably, the targeted transfer is not calculated according to individual powers and only the total volume is given, which gradually increases from year to year, following the increase of the general budget parameters.

Clearly, this issue is related to the absence of standards and formula for calculating required resources for the delegated powers. Standards of financing should be based on service standards, the absence of which also poses a problem. These powers do not become the municipality's own powers because they are national in nature and must be exercised in all municipalities to a certain minimum standard, per local conditions. Delegation covers administration of the power and exercise of delegation is made directly to the administration of these powers and the provision of public services. Hence, the central government should have a standard for each individual power, respective methodology, and guidelines, within which the sectoral oversight body designated for this power - a specific ministry - will exercise oversight. This system does not work in practice. Also, there is no unified registry, with reference to the relevant standards of powers delegated by law and contract, the target transfer calculation formula, the sectoral oversight body, and other data.

These substantial shortfalls related to the delegated powers, on the one hand, poses a challenge to exercising the existing list of such powers and on the other hand, do not allow for delegation of more powers. To date still, many powers are exercised in a centralised or deconcentrated manner, which implies the provision of services to citizens and business entities and can effectively become a delegated power.

Main findings

Despite a certain years-long process of separation/distribution of public powers and administrative decentralisation in Georgia, the degree of centralisation in public administration essentially remains high. The ministries are still overburdened by day-to-day operations and routine functions, which is consequently reflected in the sectoral policy, regulatory and standards functions. At the same time, centralisation has a direct impact on adequate reflection of the needs and specificity of the local

population during delivery of public services, as well as on the degree of democracy of governance and the population's involvement. The formation of a healthy European Style public administration will be impossible without clear further steps towards administrative decentralisation. Only after transferring powers and responsibilities to the sub-national level can the number of ministries and their entities be optimised and transformed into healthy, modern institutions with effective structures, where functions are correctly distributed.

In Georgia separation of power between the State and municipalities is legally based on the "European Charter of Local Self-Government", the Constitution of Georgia, the organic law "Local Self-government Code". at the same time Association Agreement signed between Georgia and the European Union lays out the principles of multi-level governance development. The Decentralisation Strategy and Action Plans for Decentralization 2020-2025, approved within the framework of the Public Administration Reform Roadmap (2020), set out further tasks and activities related to the separation of powers and administrative decentralisation.

According to the legislation municipalities possess own powers, which shall be complete and exclusive, and the full list of which is provided in the "Local Self-government Code". Municipalities are independent in exercising their own power and only legislative oversight takes place (compliance of the adopted normative acts with the law).

Municipalities are unable to exercise certain parts of the listed powers due to legislative shortcomings, gaps, and existing practices. In particular, a relevant sectoral law (water supply) has not been adopted; the categories used in the Code (natural resources of local importance, cultural monuments of local importance, amelioration systems of local importance, etc.) are not defined in the sectoral legislation, and in some instances, the issues relating to the municipality's own powers are dealt by a state-owned legal entity (United Water Supply Company LLC.). Under the law, a municipality is restricted to exercise its own powers in certain areas (e.g., in recreational areas urban planning documents are managed by the State authorities). Before transferring additional powers to municipalities, it is important to ensure that already existing powers are exercised independently, in full, and exclusively in line with the sectoral legislation.

In Georgia, the municipalities' own powers do not include the classic municipal functions as is the case in the European experience, such as the local economic development issues, including agriculture, tourism, employment, small and medium-size business, etc. Public and unregistered agricultural land is almost entirely centralised; the larger part of public urban land and real estate is also centralised. Therefore, municipalities are deprived of the chance to include this public property in the economic turnover through privatisation, lease, or any other form.

Alongside their own powers, municipalities also exercise delegated powers that are vested by the state authorities and, in the case of Adjara, by the authorities of the autonomous republic. A municipality is delegated with powers under the law or based on the agreement, through the transfer of relevant material and financial resources. A targeted transfer is a form of transfer of financial resources. In the case of delegation of powers, both the legal and sectoral supervision is carried out (legislative and due exercise of powers). Therefore, a sectoral supervisory body shall be clearly defined.

Throughout years, only a handful of powers were defined as delegated powers by law, while with regards to other dozens of powers municipalities were indicated in various laws, however, the power didn't have the status of a delegated power, which contradicted the "Local Self-government Code". By 2016 a lengthy legislative package to remedy these shortcomings was adopted by the parliament in the first hearing. From 2017 the process didn't continue - the government recalled the package without providing further justification. Only in July 2020 were new draft laws adopted on this topic and defined delegated power, replacing the "undefined" category of power. At the same time, with regards to the delegated powers, the absence of a standard of these delegated powers remains a problem; in the absence

of formal mechanisms for the exercise of oversight by sectoral oversight bodies, a wide area of subjective "oversight" remains; the problem also remains in terms of absence of formula for calculating targeted transfer to be provided to municipalities for financing delegated powers and under such circumstances total conditional targeted transfer for these powers are defined for municipalities.

The State authorities' powers and the European practice have revealed certain powers that could be exercised more effectively if delegated to municipalities. First of all, it concerns the state-run programs involving interaction and communication with a wide circle of beneficiaries. For example, 'front desks' for serving citizens, businesses, and farmers, 'one-stop-shop principle' services, individual social services, etc.

Municipalities may also voluntarily perform the functions that are not within the scope of the government's other level powers. Although a municipality decides to perform those functions independently, at its sole discretion, the Local Self-Government Code provides a list of powers, which is expanding year by year. This legislative detail brings into practice a form of turning 'voluntary' into somewhat 'mandatory'. However, the condition that those powers shall not fall under the responsibility of another government body is not met concerning the vast majority of the listed powers.

Recommendations

As a result of analyzing legal bases and practice of the separation/distribution of powers in Georgia, taking into consideration principles laid out in international and national legislative documents, among them the principle of subsidiarity, it is possible to provide recommendations for the medium-term:

- Legal and systemic failures in the water supply and sewerage field should be eliminated, which, first of all, shall be manifested in the adoption of a special law in this sector, clearly outlining the municipality's key role, rights, and responsibilities in the water supply and sewerage field. Its relationship with the National Energy and Water Supply Regulatory Commission, water supply licensed companies, and other entities, will be also regulated. The same law shall envisage several mechanisms of water supply: a private company with the water supply license which is accountable to a municipality, as an entity having the respective own (exclusive) power; a company with the respective license established by a municipality; a license to water supply company jointly established by several municipalities. In this situation, the issue of reorganizing-liquidating of the United Georgian Water Supply Company LLC., under the Ministry of Regional Development and Infrastructure shall appear on the agenda along with transferring its assets to municipal water supply companies. The new law shall also ensure that all settlements of Georgia are covered by a licensed water supply company. The full concentration of all water supply and sewerage infrastructure works, carried out by the United Water Supply Company of Georgia LLC., Municipal Development Fund, municipalities in the license holder companies, which are carried out with own or donor resources.
- Solid waste management issues that nowadays only partially (waste collection) are within the scope of the municipality's powers, should be fully transferred to municipalities (including waste disposal and recycling). Solid waste management with its nature, is a sub-national component. However, it is reasonable to implement individual components in this field (placement, processing, utilization) in a bigger geographic territory, than covered by current municipalities (particularly municipalities require further optimization in the direction of reducing their size). Georgia does not currently have an intermediate regional government between the center and the municipality. Thus, in the transitional stage, before its prospective formation, a practice can be established, where municipalities jointly exercise the power,

according to the regional principle (this is also needed in other fields, as provided below). Hence, it is reasonable to liquidate Solid Waste Management Company of Georgia LLC under the Ministry of Regional Development and Infrastructure and distribute its assets and duties to municipalities. At the same time, it is possible for municipalities to autonomously exercise separate components of this power, while others are implemented jointly with other municipalities. It is advisable to provide the legal framework for the responsibility of the municipality in this area, however, operation in all components, as a rule, should be carried out by private companies.

- LEPL “Municipal Development Fund” (MDF) is under the Ministry of Regional Development and Infrastructure, which instead of being an institute supporting municipalities with a variety of tools, has over the years of practice turned into an institution conducting construction works in different fields. With budget and donor resources, MDF carries out procurement and handover of infrastructural projects, which are within municipalities’ own powers; giving loans to municipalities and procuring and handing over construction work envisaged with these loans; conducting non-municipal, central government-related infrastructure construction works through procurement. It is recommended that MDF undergoes essential reorganisation, following which it will transform into an institution financially supporting municipalities, instead of being an organisation conducting construction projects. MDF could have a variety of support tools – capital grants, long-term loans issued to municipalities for infrastructural projects, etc. Moreover, today the budget contains "the fund for implementing projects in regions"; it is reasonable that the system of distributing this fund to municipalities becomes the competence of MDF. This way MDF will have budgetary resources for the financial support, including the fund for capital grants and resources from donors. Today it is a ministry-scale organisation, while in the case of reorganisation it will substantially shrink and turn into a flexible, goal-oriented organisation. At the same time, in the long run, it should become a major conduit for the regional development support grants from the EU for municipalities.
- State Construction Company Ltd. under the Ministry of Regional Development and Infrastructure carries out specific construction work at the order of the Government of Georgia, similar to which, as a rule, are implemented by private companies selected through tenders. Hence, this company should be subject to privatisation and be dropped from the structure of the Ministry.
- Roads Department of Georgia is within the structure of the Ministry of Regional Development and Infrastructure. According to the law of Georgia on Roads, there are 3 categories of roads in Georgia: international, intrastate and local importance roads. Roads Department of Georgia operates (planning of roads, construction, modernization, rehabilitation, maintenance, and scientific-research work) international roads (13 roads) and intrastate roads (205 roads), and in certain cases, in violation of the separation of powers defined by the law, also has the practice of carrying out works related to roads of local importance. It shall be noted that out of 205 intrastate roads not more than 20 are those, which surpass the geographic area of a single region. The "intra-regional roads" category should be added to the types of roads, based on which the Central Government's responsibility will dramatically change and the number of international and roads with the State importance will be 30-35 in total, instead of currently existing more than 200. In the presence of the regional level government, the regional government would be responsible for up 180 intra-state roads, which would be assigned the status of intra-regional roads. Hence, before the formation of regional governments, the model of transferring the operation of this road to the sub-national level shall be discussed. This would ensure efficient multi-level governance and the principle of subsidiarity with regards to separation/distribution of powers related to roads. In case of reducing the number of roads to be operated and

outsourcing certain activities, the currently existing "ministry within the ministry" would substantially shrink. Moreover, the Roads Department of Georgia should be transferred from the Ministry of Regional Development and Infrastructure to the Ministry of Economy and Sustainable Development, responsible for the road policy. It is unjustified to separate these two functions. Hence, it is preferable that the LEPL "Eurasian Transport Corridor Investment Center" (the LEPL with the small number of staff, the work of which is directly related to the Roads Department of Georgia) is also transferred to the Ministry of Economy and Sustainable Development.

- It is advisable that the LEPL Enterprise Georgia, which is under the jurisdiction of the Ministry of Economy and Sustainable Development of Georgia, is transferred to the Ministry of Regional Development and Infrastructure. At present, the municipality competencies are strictly limited in terms of supporting the local economic development and business, including small and medium-sized businesses. The European experience shows that it is the municipality that plays a key role in the implementation of such support programs. It is also important to address the issues of overcoming peripherality and increasing the level of urbanization in the regions of Georgia, which requires such programs to have a geographical focus on small settlements. Hence, certain components (for example dealing with beneficiaries – front-office) of LEPL Enterprise Georgia should be delegated to municipalities, which will increase the engagement of municipalities in matters related to the development of the local economy. At the same time, these programs shall be viewed as important tools for regional development. It is advisable that in the first stage these powers are delegated and at the later stage – the municipality's own powers are expanded in the direction of supporting the development of the local economy and supporting small and medium-sized enterprises. Specifically, due to these objectives, it is recommended that this function is located within the ministry responsible for the regional development.
- The LEPL "Georgian National Tourism Administration" within the Ministry of Economy and Sustainable Development of Georgia should be abolished and be included in the Ministry's central administrative body as a smaller department. Tourism has two main components: 1. general policy, regulations, legislation, and the international aspect of tourism; 2. operational tourism information, standards, and sector support policies. Concerning the first component, there is no necessity of a separate Legal Entity of Public Law and this can be carried out in the framework of the apparatus of the Ministry. At the same time, according to the European experience, this function is under the ministry of regional development; in our case transferring this Department to the Ministry of Regional Development and Infrastructure can also be considered. The second component has a sub-national context. Tourists' destinations, information centers, promotion of touristic sites, activities supporting tourism, strategies, etc. should be managed at regional and municipal levels. With the existing system, Georgian National Tourism Administration is trying to attain these objectives through its territorial units and the network of information centers in a centralised manner. In practice, there are frequent instances of duplication. Hence, it is advisable, that these functions are transferred to municipalities as their own powers. Later, in case the regional governments are formed, part of functions can be implemented at the regional level. Until that, formats of inter-municipal cooperation can be applied.
- LEPL National Agency of State Property is an important legal entity within the Economy and Sustainable Development system, operating various types of state-owned property. Some significant changes are to be implemented in this field: non-privately owned agricultural land is almost entirely managed by this Agency. Agricultural lands should be fully transferred to municipalities, which will be one component of transferring competence related to agriculture

(today municipalities virtually have no contact with agriculture) to them. Also, urban land on the territory of municipalities, a big part of which shall be under the municipality's ownership, remains under the management/ownership of the central government; the process of registering this land and their immovable property shall take place. Hence, by transferring agricultural, non-agricultural land, and immovable property to municipalities will free the National Agency of State Property from thousands of properties (for example, there are thousands of properties with the size of up to 20 sq.m.) and this property will move under the ownership and operation of municipalities. It is possible to introduce additional regulations by law, which will ensure an effective privatisation process by municipalities and engagement of this property in economic activities. Besides, the National Agency of State Property manages enterprises, where the State has a stake. The Agency shall privatise shares in a part of these enterprises. There are up to 100 large enterprises, shares of which shall be privatized by the State (for example, it is unclear why the State has a 12% share in JSC Elmavalmshenbeli (Georgian locomotives manufacturer factory), 24% share in Khashuri Glass Tare LLC., etc.). Out of these 100 enterprises, the State's shares in over 80 enterprises should be privatised. Only a few enterprises can remain under State ownership (for example, in the electric energy sector). There is a practice, when part of enterprises, in which the State holds shares, is under the management of the Partnership Fund. It is fully possible to transfer several additional enterprises to the Partnership Fund, thus freeing the National Agency of State Property from these functions. Separately, the issue of transferring the management of the partnership fund to a private company, including an international one, may be considered. As a result, the agency will remain in control of mainly assets that have been withdrawn from economic turnover, including the assets of government agencies that are not characterized by dynamic transactions. Under these circumstances, the existence of a separate LEPL may no longer be relevant and this function may be transferred to the central apparatus of the Ministry.

- The concept of natural resources of local importance (including entrails) shall be defined in the legislation, a list shall be drawn up and transferred to the municipalities. This process will result in additional structural changes in the Ministry of Economy and Sustainable Development.
- It is unnatural that in Georgia municipalities do not have any powers in the field of agriculture. Gradually the competence of municipalities in this field shall increase, keeping the balance so that the modernisation tasks in the agricultural sector, which are facing the country, are also implemented efficiently. The Ministry of Environmental Protection and Agriculture has territorial information-consultation centers in municipalities. These units should be transferred to municipalities in a delegated manner, where scientific-technological materials and methodological guidances, and sectoral oversight are insured by the Ministry.
- Agricultural Logistics and Services Company LLC, which is the successor of the Mechanization LLC is under the Ministry of Environmental Protection and Agriculture. The company owns a large number of agricultural machinery service centers and expanded during the "free plowing" process in 2013-2014. As a result, we have a company with large geographic coverage and its management faces problems. The assets of this company should be split geographically and are privatised. Until privatisation, it is possible to review splitting it into separate companies and transferring them to municipalities and their unions.
- LEPL Rural Development Agency, a significant legal entity, is also within the system of the Ministry of Environment Protection and Agriculture. It has been implementing 16 large-scale programs. The analysis of its functions allows to possibly consider delegation of its individual programs to the municipalities, among them: stimulation of the owners of agricultural land, "Plant the Future", subsidised agricultural loans, agricultural insurance, program supporting the

development of agricultural cooperatives, agricultural development program, harvesting agricultural machinery co-financing program, the State program for the modernisation of the dairy sector and market access. In the conditions when the municipalities are handed over the Territorial Agricultural Information-Consultation Centers, administration of the "front desks" related to the mentioned programs and the relations with the beneficiaries can be fully delegated to the municipalities, and for some programs - also the full program administration component.

- Georgian Amelioration LLC is under the Ministry of Environmental Protection and Agriculture. First of all, the “amelioration systems of local importance” defined by the “Local Self-Government Code” as municipalities’ own powers shall be separated and these assets, along with relevant management competencies should be transferred to the municipalities. It is also recommended to discuss the formation of joint municipal amelioration companies applying the pooling-regional principle and handing over large amelioration assets (for example main amelioration networks) to them. This process can be implemented gradually, as large amelioration plants still require construction-rehabilitation. Hence, a separation shall take place and the central government shall only implement large-scale projects and transfer them to municipalities or their unions, while medium and small-scale projects can be transferred to municipalities for implementation.
- Taking into account the European experience and the Georgian practice (where even small repair works at schools are planned and implemented in a centralised manner), transfer of certain competence is in the field of general education to municipalities appears on the agenda. The certain process in this direction has already commenced through agreements of delegation, however, a more systemic approach is required. At this stage, it is advisable to gradually (during 3-4 years in a row) delegate the power for student transportation, public school maintenance, logistics, rehabilitation/repair, and construction/reconstruction of public schools to municipalities, and finally determine them as their own power. Hence, logistical aspects in the field of general education will completely become the power of municipalities. In addition, the transfer of the property of general education institutions to the municipalities and the determination of the legal status of these institutions and their relations with the municipalities will be regulated by law and practice. Under these conditions, the LEPL "Educational and Scientific Infrastructure Development Agency" in the education, science, culture, and sports system will be liquidated, as a result of which the Ministry will be relieved of this routine function.
- The vocational education decentralisation process should be implemented in large cities and the unions of municipalities. This field includes 18 authorised State public/vocational colleges, 7 colleges founded with the State's share ownership, and 41 authorised private vocational colleges. It is possible to transfer all these institutions to municipalities and their unions as their own power. In the future, this field can turn into regional competence. After implementing this reform the Ministry of Education will no longer have dozens of LEPLs.

Professional theaters in the form of Legal Entities of Public Law are present in this system of the Ministry of Education, Science Culture, and Sport. For many years these theaters were financed from the municipal budgets, which contradicts the law, as the law prohibits funding of legal entities under the central government by municipalities. This problem has been improved, however can still be reviewed in the context of systemic reform of this issue. The centralised management of theaters across the country should be changed. Specifically, it is recommended that several professional theaters of national importance are defined, and all other theaters are transferred to municipalities, particularly as municipalities already have the practice of financing them. A similar approach can be used towards other legal entities under

the Ministry, and they are transferred to municipalities, including the LEPLs - music centers, Chamber Orchestra, female chamber choir, folk ensembles, Folklore Center, non-commercial (non-profit) legal entity Contemporary Theatrical Arts Development Center, LEPL Out-of-school Arts Education Institutions, LEPL S. Tsintsadze Music Community College of Gori, LEPL Georgian State Public College of Physical Education and Sports. It is also recommended that Sportshenservice LLC, which currently is under the ministry, is subject to privatisation.

- Ensuring realisation of powers under the Local Self-Government Code - "Maintenance of Cultural Monuments of Local Importance" shall be viewed within the context of the Ministry of Education, Science, Culture, and Sports. To this end, a definition of a monument of local importance shall be determined for cultural heritage sites and a register of such monuments shall be established and transferred to municipalities. This process will play its role in lightening up the Ministry's structure.
- The Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Affairs of Georgia is one of the largest ministries. In the direction of significant health care reform, it is advisable to transform the existing universal health care program into a model of universal mandatory health insurance based on private insurance companies. Advantages and cost-effectiveness of such a model can be separately discussed, while in the institutional direction it will relieve the Ministry from the routine operational part in the healthcare sector and it will be implemented by private insurance companies.
- LEPL Social Service Agency under the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, carries out the administration of a wide range of social services and delivery of benefits. The Agency has a network of territorial offices. It is advisable to delegate the type of competencies that relate to the beneficiaries of the various programs to the municipalities in the form of delegated powers, subject to appropriate sectoral oversight and methodological standards. The list of those spheres defined by the by-law of the Agency, which can partially or completely be delegated follow: identifying beneficiaries, determining their status, keeping record, scheduling assistance and organising its delivery; managing and coordinating the process of guardianship, custody, support, adoption and foster care, issues related to children to be adopted and placed into foster care, and foster parents; guardianship and custody issues; issues of child protection, detection of violence against children; cooperation with individual employers, employers' associations and private employment agencies to ensure effective mediation services in the labor market; providing information and consultation services to job seekers; organising, implementing and / or participating in the implementation of vocational training activities for job seekers; implementation of state employment promotion programs; organising and/or participating in the organisation of job fairs; issues related to veteran status seekers and to veterans; organising emergency assistance and temporary accommodation for IDPs.
- The Ministry of Internal Affairs in Georgia in essence is a police body. It is symbolic that the Ministry's official website is also police.ge. According to the European experience, Ministries of Interior are mainly civilian type ministries and carry out many civilian competencies, including civil acts, public administration, electronic governance, registries, self-governments, elections, etc. It is advisable that in Georgia also the Soviet inherited police type of ministry is reformed. Taking into consideration Georgia's peculiarities, the transfer of some functions to this Ministry is problematic (for example elections, self-government). However, in the presence of the political will, it is possible to move certain powers and the respective legal entities, which are currently under the Ministry of Justice, to the Ministry of Internal Affairs; for example Public Service Development Agency, Public Service Hall, etc. At the same time, there is a

possibility of delegating some components of providing beneficiary services to municipalities. At the first stage, this can potentially be "Community Centers" establishing various municipalities, while at the further stages, delegation may be deepened, which, together with other "services" delegated to the municipality, will form municipalities as a key link in dealing with citizens.

The stage of detailed analysis of powers and elaboration of recommendations has shown that in the process of transfer of powers at the sub-national level, there is a need for an intermediate level of government between the central and municipal levels. That is, the powers were identified, implementation of which is ineffective by the Central government and at the same time, taking into consideration the scale of municipalities or the peculiarity of the field, their implementation is advisable at a regional level. In Georgia in the absence of the regional level government and before its formation, inter-municipal cooperation formats can be applied.