

The European Perspective of Local Self-Government in Georgia (Political Economy Aspects)

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This paper addresses one of the key aspects of post-communist transformation - decentralization of governance. Georgia did not inherit local self-government from the Soviet system hence, local self-governance was inceptioned from the scratch targeting at the European model of local governance from the very beginning. Worthwhile to mention that Georgia had its own model of local self-governance and its unique characteristic was a mismatch between the legal framework and actual administrative practice causing severe problems to the Soviet system of public administration and even today, this mismatch serves as a heavy barrier for Georgia in realization of its European perspective. This paper provides recommendations for overcoming this barrier by making corrections to the policy of decentralization. The first and foremost, it applies to delimitation of rural areas, definition of legal status of rural settlements, resuming tax experiments in the field of local budgets' revenues, assignment status of local tax to Personal Income Tax, transfer of property and natural resources to local self-government units as provided by the legal acts of Georgia. © 2023 Bull. Georg. Natl. Acad. Sci.

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The system of local self-government in Georgia is a result of decentralisation policy and reforms started immediately after restoration of Georgian statehood (1991). During the transition period from the Soviet system towards market economy, local self-government has not inherited any basis from the Soviet system. During the Soviet Union Georgia did not have any decentralised form of self-governance at any level of territorial and administrative units. Immediately after the restoration of statehood the existing system also collapsed, so at the beginning of the transformation

there were no elements of self-government at the locals and no practical basis for establishing them. Consequently, reform involving decentralisation of governance could be carried out only “from above” by the authorities, as there was no demand “from below” for it and there was no historic memory or collective experience of local self-government in the society. As self-government was being introduced “from above”, legal normative acts were created first followed by introduction of corresponding practice at the locals, hence legal system of self-government developed faster than

corresponding administrative and implementation practices. In general, legal system of self-governance was created more for harmonisation with European political system rather than according to social demands. Now Constitution of Georgia recognizes basic principles of the European Charter of Local Self-Government, such as subsidiarity of authority and compliance of finances of local self-governing unit with its powers (article 7., paragraph 4.) [1]. This version of the Constitution of Georgia is one of the best for its compliance with the European Charter of Local Self-Government and of introduction of strong constitutional guarantees for local democracy. the Constitution of Georgia declares obligation for the Georgian state institutions to “ensure full integration of Georgia” into the European Union and the North Atlantic Treaty Organization (article 78) [1] and this provision of the constitution is a cornerstone for all policy documents adopted by the Government[2].

Currently the main problem faced by the local self-government reform in Georgia is its incompleteness and disbalance among elements of decentralisation policy. This inconsistency is reciprocal: there are legal normative acts that have not been introduced in practice and in parallel there are practices not yet introduced in the legislation. Instead of systematic approach to the reform and assertion of heredity principle, contradictory decisions have been made, reforms were often reversed in attempt to “start everything from the beginning”. The typical illustration of the above mentioned is financial decentralisation. The central government is doing everything to restrict revenues for local budgets, that contradicts to the spirit of constitution that enshrines principle of equal social, economic and demographic development for entire territory of the country (article 5., paragraph 3.)[1]. Since 2008 local budgets were receiving equalization transfers to ensure equal public services in all self-government units [3]. Instead of further improvement of this system it was abolished

in 2019 by initiative from the Ministry of Finance and new model has established that uses 19% of value added tax (VAT) for balancing local budgets. This experiment has not solved any issues – neither financial inequality between the municipalities, nor weakness of budgets of self-governing units, it contrary it worthen dependence of local governments on the state budget [4]. In fact, it destroyed of almost thirty years practice of financial equalization and stopped the process of fiscal decentralization, including transferr of Personal income tax to municipalities. Weakness of this experiment became apparent during the COVID – 19 crises as slow down of economy caused budget cuts in all municipalities [5]. Thus, the above-mentioned experiment on VAT not only damaged municipalities financially, but also hindered realization of constitutional requirement of equal social economic and demographic development of self-governing units. It also slowed down implementation of financial equalization policy consistent to the European Charter of Local Self-Government [6].

Share of local budgets revenues does not exceed MAX 5% of GDP. As a rule, 60-70% of the local budget income comes from VAT redistribution. Although efficiency of this new model of financing of local budgets is highly doubtful, the Ministry of Finance of Georgia continues to call the VAT as “shared tax” and requests municipalities to mark this money as own tax revenue derived from VAT. This is obvious violation of the Tax Code of Georgia [7] that imperatively provides that VAT is a state tax and its 100% is revenue of state budget of Georgia (article 6. paragraph 5.) [8].

Weak local economy also negatively impacts financial viability of municipal budgets in Georgia. The reason for this is that self-governing units do not own necessary property and resources for financial sustainability. Large part of the property and resources still belongs to the state. The state owns agricultural land, forest and water resources. Although Georgian legislation acknowledges

concepts of local water and forest resources, they have not been really separated and this law has not been enforced. There is no land code, so legislation on natural resources is still entangled in the net of Soviet legal norms.

The government of Georgia approved new decentralisation strategy for 2020–2025 on December 31, 2019. Whereas the strategy has widely been recognized as a good document, its implementation has been procrastinated and focus have been made on secondary issues rather than on key objectives. The primary orienteer to make share of local budgets in GDP not less than 7% (goal 2.1) [9] is far from realization. The situation concerning transferring property and resources to self-governing units has not changed too. Only small part of the property (administrative buildings and 300 m² of non-agricultural land) has been passed to self-government, while all important resources and natural resources belong to the central government. Sectorial legislation delegates powers directly to executive branch of local self-government, thus preserving past century tendency, when central authorities declared decentralisation their priority, while at the same time, they strengthen administrative vertical. This centralised system interferes with completion of “de-sovietisation” process and with transformation from Soviet branch-oriented governance system to the modern territorial one.

Apart from financial weakness and lack of property, municipalities also have problems with efficiency of communal sector and provision of quality services for the population. Municipalities formally are responsible for solid waste management, though in reality they are responsible for collection and transportation, Placement and processing belong to the Solid Waste Management Company of Georgia under the Ministry for Regional Development and Infrastructure. The same picture can be seen concerning water supply and sewerage system. In most of the municipalities this service is provided by the centralized company

– the United Water Supply company of Georgia [10]. Providing communal service by such centralized company means interference into municipality affairs and substitution of self-governance that is forbidden by to the European Charter of Local Self-Government [11].

Despite many waves of decentralisation municipalities remain weak segment of public administration chain. they do not have power to localise development policies [12]. The Organic Law of Georgia Local Self-Government Code (article 16, paragraph 4) [13] gives municipalities mandate for supporting economic initiatives only. To enter on capital markets self-governing units must face complicated legal barrier, so there has been no such example in Georgia yet.

Notwithstanding the priorities of administrative decentralisation policy institutional arrangement of self-governance is still far from complete. The model of municipal administration is still faulty, management of large self-governing units is not equally distributed on the whole territory of municipalities. Community municipalities in average comprise 60 urban and rural settlements, several villages are united into one territorial unit but no territorial unit in the municipalities has a administrative body, there is only a representative of the mayor, who is not civil servant but a worker hired on a temporary service contract [14]. Such unitary governance of a large municipality is alien to European system of local self-government..

Undergoing the process of harmonisation of legislation with the European Union Georgia has at the same time to carry out systematisation of legislation, because weak harmonisation of some of sectorial laws with the Constitution and the Organic Law of Georgia Local Self-Government Code is a serious problem. In 2019-2020 in the framework of various legislation the Government of Georgia carried out harmonization of more than 160 special laws with the Organic Law of Georgia Local Self-Government Code [15]. Nevertheless, there are still number of sectorial laws where powers of local

self-government and state governance bodies are not clearly separated, in particular, this concerns use of natural resources.

Implementation of decentralisation policy in Georgia is greatly obstructed by its inconsistency. In order to really make local self-government bodies and principles of their financing function, in 2006 the two-level local self-government system has been transformed into one-level municipal governance. This has partly increased financial capabilities of self-governing units, but this reform has not been improved further. Another problem is incomplete delimitation of urban and rural settlements in Georgia. Regional policy of the government of Georgia does not recognize the EU nomenclature for definition of types of settlements that is based on the index of remoteness and population density and therefore, we lack important instruments for territorial development planning such as: landscape morphology of settlements and special nomenclature delimitation of urban and rural areas. Absence of these instruments makes policy on decentralization and territorial development rather superficial.

As a result rural settlements have disappeared from the administrative map and from Georgian legal vocabulary. This creates not favorable conditions for any territorial policy as implementation of “rural development strategy” is impossible when rural settlements are not delimited. As a result efficiency of policy documents such as strategies on Agricultural Development [16] as well as joint strategy for Agriculture and Rural Development 2021-2027 [17] have very low efficiency. Hence, imitation of policy implementation is wasted time, as policy documents cannot bring results without existing enforcement mechanisms. According to the Association Agreement with the EU Georgia must not only bring legislation close to European, but also provide development of agriculture and rural areas in accordance with the EU regulations and best practices (Chapter VI, article 10, 333, paragraph “b”) [18] One of the reasons for the lack

of success is absence of unified, integrated state development policy.

Georgia illustrates that separate reforms do not guarantee autonomy if local authorities are not given proper resources to play effective role in development [19]. Despite legislative (constitutional) changes the system of local self-governance does not improve and contains risks of disintegration. It should be categorically stated that possible failure of decentralisation will lose prospects for local self-government development. It will also obstruct development of the entire country and delay its European perspective. To face this challenge, it is necessary to carry out complex correction of decentralisation policy and start using systematic complex approaches instead of fragmented and inconsistent measures. Introduction of real local self-government is related to many issues. The fundamental one is providing economic basis and financial independence of self-governing units. It is not only the process of solving the problem of “central – regional” relations, but much wider one, which comprises social and economic transformation of entire country, generation of autonomous segments of policy, where local problems can be solved.

It is obvious that the decentralisation strategy needs to be focused not on general principles only, but on solving of specific issues of local self-governance, such as strengthening economical, property and institutional functions of local self-government, delegating to municipalities powers concerning economic development, spatial arrangement, budget and finances, communal economy etc., overcoming the gap with opportunities defined by legislation. This must not be restricted only to evaluation and correction of the “VAT experiment” but on bigger stake, starting from fiscal decentralization ending with delimitation urban and rural territories for better concentration of a development policy. Georgia needs Organised and effective system of equalisation of municipal financial capabilities, a

system that is based on objective criteria and efficient formula. Decentralization policy must address issue of localization Personal Income tax in a reasonable period of time.

The process of transferring state property on the territory of municipalities to their jurisdiction must be completed in the nearest future. It also means increase of role of municipalities in management of local forest and water resources, agricultural land and pastures. This will give municipalities more weight in local economic development.

As a conclusion it should be said that compliance of decentralisation policy to the European perspective it is necessary to overcome as lack of relevant policy instruments financial weakness of Georgian municipalities, insufficient

property and limited power in the communal sector. It is necessary to rethink decentralisation policy by setting systemis and complex objectives for financial, budgetary and tax reforms. We need to improve administrative-territorial management and provide localisation development polices. All this will have positive impact on European perspective of local self-government system of Georgia. Nevertheless, compliance to the European standard is not end in itself but the way to achieve effective state governance and high level of economic development, which will bring multiple benefits, including reduction of migration from those rural areas that are under the threat or depopulation.

ეკონომიკა

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ნაშრომი ეძღვნება პოსტკომუნისტური ტრანსფორმაციის ერთ-ერთ უმნიშვნელოვანეს მიმართულებას – მმართველობის დეცენტრალიზაციას. საქართველოს საბჭოთა სისტემიდან მემკვიდრეობით არ მიუღია ადგილობრივი თვითმმართველობა, ის თავიდან შეიქმნა. ადგილობრივი თვითმმართველობის სისტემის შერჩევასა აქცენტი ევროპულ გამოცდილებაზე გაკეთდა. აუცილებელია აღინიშნოს, რომ პოსტკომუნისტურ პერიოდში საქართველოს ჰქონდა საკუთარი სპეციფიკის და მახასიათებლების მქონე ადგილობრივი ხელისუფლების მოდელი, რომლის მთავარი ნიშანი იყო შეუსაბამობა კანონსა და პრაქტიკას შორის, საბჭოთა კავშირის დაშლის შემდეგ ეს დეცენტრალიზაციის რეფორმის პრობლემა გახდა, დღეს კი ის ქვეყნის ევროპული პერსპექტივის მთავარი ბარიერია. წარმოდგენილ ნაშრომში მოცემულია რეკომენდაციები დეცენტრალიზების პოლიტიკის კორექტირებისათვის. პირველ რიგში, ეს ეხება სასოფლო სივრცეების დელიმიტაციას, სოფლის იურიდიული სტატუსის განსაზღვრას, ადგილობრივი თვითმმართველობის საგადასახადო ექსპერიმენტების დასრულებას, საშემოსავლო გადასახადის ადგილობრივ გადასახადების კატეგორიაში გადატანას და ადგილობრივი თვითმმართველი ერთეულისთვის კანონით დადგენილი ქონებისა და ბუნებრივი რესურსების გადაცემას.

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