

**Short term high quality studies to support activities under the Eastern Partnership
HiQSTEP Project**

**Public Administration Reform at the Local and Regional Level in
the Eastern Partnership Countries: Developments Since 2012 in
the Field of Decentralisation**

STUDY REPORT

First Draft Version 30.11.2015

Final version 28.12.2015

This report has been prepared by the KANTOR Management Consultants Consortium. The findings, conclusions and interpretations expressed in this document are those of the Consortium alone and should in no way be taken to reflect the policies or opinions of the European Commission.

Preface

This final study report on “Public Administration Reform at the Local and Regional Level in the Eastern Partnership Countries: developments since 2012 in the field of decentralisation and recommendations for the future” is part of the Project ‘Short term high quality studies to support activities under the Eastern Partnership – HiQSTEP, EuropeAid/132574/C/SER/Multi’, carried out by an international consortium under the leadership of Kantor Management Consultants. The present study has been carried out to support the activities of Platform 1 – “Democracy, Good Governance and Stability” – of the Eastern Partnership.

In this regard, it is important to note that promoting good governance and decentralisation reform implementation have been identified as a priority area by the EaP Platform 1 “Democracy, Good Governance and Stability” Work Programme for the period of 2014-2017. The DG NEAR and DG Regio are the driving forces in cooperation with EaP Countries on this theme.

The present study has been implemented by the team under the leadership of Dr Vyacheslav Tolkovanov, Study Team Leader, and composed of Dr Juraj Nemec, Senior International Expert and the following national experts: Valentina Gevorgyan (Armenia), Samir Aliyev (Azerbaijan), Miroslav Kobasa (Belarus), Nelly Dolidze (Georgia), Angela Cascaval (Moldova) and Nataliya Kyrychenko (Ukraine).

The overall supervision, quality check and management have been carried out by Przemysław Musiałkowski, Team Leader of the HiQSTEP Project.

Sincere thanks go to the national stakeholders in all six countries who provided information through interviews and responses to questionnaires.

CONTENT

| | | |
|----------|--|------------|
| 1 | BACKGROUND, PURPOSE AND ORGANISATION OF THE STUDY | 5 |
| 1.1 | Description of the assignment, objectives and expected results | 6 |
| 1.2 | Methods | 7 |
| 1.3 | Collection and analysis of the information for the study | 8 |
| 2 | ASSESSING THE PROGRESS IN LSG DEVELOPMENT AND PAR IMPLEMENTATION ON LOCAL LEVEL AFTER 2012: COMPARATIVE ANALYSIS | 13 |
| 2.1 | Compliance with the principles of the ECLSG and development of the LSG system according to the European principles of good governance | 15 |
| 2.2 | Progress made in the EaP Countries since 2012 in the area of improvement of legal and institutional framework for local democracy | 25 |
| 2.3 | Progress made in the EaP Countries since 2012 in the area of the development of the capacities of local authorities in human resources | 29 |
| 2.4 | Progress made in the EaP Countries since 2012 in the area of fiscal decentralisation | 31 |
| 2.5 | Evaluation of the level and the scope of the implementation of public administration reform on local level | 38 |
| 3 | OVERVIEW OF THE SITUATION IN EAP COUNTRIES | 46 |
| 3.1 | Armenia | 46 |
| 3.2 | Azerbaijan | 52 |
| 3.3 | Belarus | 62 |
| 3.4 | Georgia | 70 |
| 3.5 | Moldova | 76 |
| 3.6 | Ukraine | 83 |
| 4 | MAIN CONCLUSIONS AND RECOMMENDATIONS | 96 |
| 4.1 | Main EaP 'regional' issues | 96 |
| 4.2 | EaP countries' specific issues | 99 |
| 5 | REFERENCES AND BIBLIOGRAPHY | 108 |

Abbreviations and acronyms

| | |
|-----------------|--|
| ATU | Administrative Territorial Units |
| CSF | Civil Society Forum |
| CORLEAP | Conference of Regional and Local Authorities for the Eastern Partnership |
| CoE Congress | Congress of Local and Regional Authorities of the Council of Europe |
| CoE | Council of Europe |
| EU | European Union |
| EaP | Eastern Partnership |
| ECLSG | European Charter of Local Self-Government |
| EUD | Delegation of the European Union |
| GG | Good Governance |
| HiQSTEP | High Quality Studies for the Eastern Partnership |
| LA | Local Authorities |
| LSG | Local Self-Government |
| LG | Local Government |
| OECD | Organisation for Economic Cooperation Development |
| PAR | Public Administration Reform |
| RG | Regional Government |
| SIGMA | Joint Initiative of the OECD and the EU, principally financed by the EU |
| STL | Study Team Leader |

Country codes

| | |
|----|------------|
| AM | Armenia |
| AZ | Azerbaijan |
| BY | Belarus |
| GE | Georgia |
| MD | Moldova |
| UA | Ukraine |

1 BACKGROUND, PURPOSE AND ORGANISATION OF THE STUDY

In accordance with the approved Terms of Reference and the Inception Report, this Study is focused on the theme of the public administration reform on local and regional levels in the Eastern Partnership countries (developments after 2012 in the field of decentralisation and recommendations for the future).

Today, all EaP Countries are facing an urgent need to implement large-scale decentralisation reforms. Decentralisation in these countries can be viewed as a part of a wider public administration reform, which requires re-distribution of tasks, competences, and resources at central, regional, and local levels. In particular, this means the transfer of wider responsibilities, competencies, and resources from the state to the local self-government (LSG) authorities, in line with the SIGMA/OECD revised Principles of Public Administration¹, provisions of the European Charter of Local Self-Government² as well as the Council of Europe Strategy for Innovation and Good Governance on Local Level and its 12 Principles for Good Governance on Local Level.

A well-functioning public administration is necessary for democratic governance. It also directly impacts upon governments' ability to provide public services and to foster competitiveness and growth.

Public administration reform should lead to enhanced transparency, accountability and effectiveness and ensure a greater focus on the needs of citizens and business. An adequately managed and professional civil service, better policy planning and co-ordination, sound administrative procedures and improved public financial management are of fundamental importance for the functioning of the state and for implementing the reforms required for integration with the EU. Countries have to increase their efforts to improve their public administrations at all levels on the basis of national strategies. A strong political commitment is needed to steer the reform process, in particular at local and regional levels.

Various legal acts in the area of local self-government which have been adopted at different times since dissolution of the former Soviet Union and the proclamation of Independence of the mentioned countries are based on different ideologies and, as a consequence, are not internally harmonised. In order to resolve these contradictions, there is a necessity for a comprehensive decentralisation strategy and a local government reform, which would include harmonisation of all relevant legislation, in particular constitutional amendments. Impact of decentralisation reform on regional development processes could be also evaluated in those EaP Countries where regional level of government exists.

Undoubtedly, the successful implementation of PAR at local level will facilitate more effective modernisation in EaP Countries, further realisation of other (sector) reforms, and development of co-operation with international and European institutions, especially the European Union.

It is important to note that the territorial-administrative system which was formed mainly during the Soviet period is quite complex. Therefore, the administrative territorial reform (ATR) should create the

¹ It is important to note that SIGMA/OECD is currently adjusting the Principles of Public Administration developed for the Enlargement countries to the Neighbourhood context.

² <http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/122>

necessary institutional and legal basis for improvement of the structure of public administration, creating a more consistent local government system (based on local units with enhanced size and role), and eventually reinforcing decentralisation in EaP countries. The ATR can also resolve the anomalies (of status, territory, role, functions etc) of the administrative and territorial units. This should substantially improve the efficiency of the existing system of public power in terms of resource distribution, accountability and efficiency of services. The decentralisation reform could also contribute to the separation between LSG and State functions, and minimise interference of State bodies in LSG affairs. All these actions are important for ensuring the implementation of the SIGMA/OECD revised Principles of Public Administration.

At the same time, the transfer of new competences to LSG bodies should be supported by the transfer of additional resources (human and financial). A major impediment to the development of LSG in EaP Countries remains its financial weakness. In addition to vertical imbalances in revenue allocation, the level of own resources and especially of local taxation is low and resources are increasingly unequal among local budgets along with increasing regional disparities. There is also a need to provide local self-government units with a stronger financial basis, especially through the granting of new tax powers. In conjunction with the accomplished or ongoing administrative territorial reforms (ATR) and the revision of the allocation of functions between State bodies and local authorities, a review of the present state grants and equalisation system is needed. Fiscal decentralisation represents the core issue for ensuring a sustainable economic and democratic development in all EaP Countries.

1.1 Description of the assignment, objectives and expected results

This study should contribute to deepening of local and regional democracy in the Eastern Partnership Countries, further implementation of public administration reform on local level, ensuring good governance standards, promoting better local and regional economic development in the mentioned countries.

The approved Inception Report defined the following specific objectives:

- To take stock of the developments in EaP region in the field of PAR at local and regional levels after 2012;
- To identify dimensions which can be analysed and compared in a cross-country perspective (which the Study Team understands as taking into account THE SIGMA/OECD European Principles of Public Administration³, the provisions of the European Charter of Local Self-Government as well as the Council of Europe Strategy for Innovation and Good Governance on Local Level and its 12 Principles for Good Governance on Local Level ad its);
- To present the findings of the analysis in the context of the EU best practices;
- To formulate recommendations for the further work of the EaP Platform 1 “Democracy, Good Governance and Stability” and its Public Administration Reform Panel, the Sub-group on Local Government and Public Administration Reform of the EaP Civil Society Forum, European

³ It is important to note that SIGMA/OECD is currently adjusting the Principles of Public Administration developed for the Enlargement countries to the Neighborhood context.

institutions as well as the relevant authorities of the EaP Countries (based on the results of the analysis).

Taking into account the particular importance of some issues of the LSG development and PAR implementation on local level, the Study also focused on the following specific objectives:

- To diagnose and to analyse the progress made in the EaP Countries since 2012 in the area of the financial decentralisation (in particular, development of inter-budgetary relations, reducing vertical and horizontal imbalances, strengthening LSG budget autonomy, improvement of the budget management etc.). Progress made in the implementation of the recommendations on fiscal decentralisation formulated in 2012 by the Sub-group for Local Government and Public Administration Reform of EaP Civil Society Forum has been used as one of the assessment criteria;
- To diagnose and analyse the progress made in the EaP Countries since 2012 in the area of improvement of legal and institutional framework for local democracy (including optimisation of the administrative and territorial structure, clear division of the competences between different levels of public power etc.), development of the system of decentralised governance consistent with the principles of the European Charter of Local Self-Government;
- To diagnose and to analyse the progress made in the EaP Countries since 2012 in the area of development of the capacities of local authorities in human resources in order to fulfil more effectively their functions/powers and to improve the quality of the services to be delivered to the citizens.

1.2 Methods

The methods used are both qualitative and quantitative. A qualitative analysis served as a basis for three chapters delivering comparative analysis of the progress in all six EaP Countries in the areas of fiscal decentralisation, institutional framework for local democracy and human resources on local level.

A quantitative analysis was used to deliver chapters evaluating (benchmarking) the quality of local governance, reform capacity and the level of implementation of recommendations that countries received in the area of fiscal decentralisation from the Sub-group for Local Government and Public Administration Reform of the Civil Society Forum. The main source for this quantitative analysis was the questionnaires filled by important stakeholders in all six countries. The questionnaire prepared for this study is based on the principles of the ECLSG, the Council of Europe Strategy for Innovation and Good Governance on Local Level and the revised version of the SIGMA/OECD Principles of Public Administration (which was approved in November 2014). The reference documents create legal and institutional framework for European benchmarking in the field of local and regional democracy.

The mentioned questionnaire allows also assessing the scope and the progress of the on-going or planned PAR on local level in EaP Countries. In line with the revised European principles of good governance, PAR should require to the following key pre-conditions:

- the leadership of public administration reform is established and the strategic framework provides the basis for implementing prioritised and sequenced reform activities aligned with the Government's financial circumstances;

- public administration reform management enables guiding and steering reforms, determines the accountability for implementation and ensures the professional administration needed for reform implementation;
- strong public support for PAR implementation.

In order to complete the analysis on fiscal (financial) decentralisation in EaP countries, an additional questionnaire (Annex III) was elaborated in order to assess the level of the implementation of the recommendations on fiscal decentralisation which were provided by Local Government and Public Administration Reform Sub-Group of the Working Group 1 Democracy and Human Rights of the Civil Society Forum for Eastern Partnership in 2012⁴.

The Study Team proposed a set of the indicators (including recommendations of the Council of Europe Congress of Local and Regional Authorities, CORLEAP, OECD, other European and international organisations on decentralisation, PAR on local level in EaP countries) in order to evaluate possible gaps between the SIGMA/OECD Principles of Public Administration, best practices in the field of LSG development and the country situation, existence or not of reforms aimed at introducing/enhancing decentralisation in the reference period.

The mentioned questionnaires (Annexes I and III) are targeted at the assessment of the development of local and regional democracy in the EaP countries, in particular making use of Likert scale. The format of the proposed Likert scale was composed of five following levels: 1) strongly disagree; 2) disagree; 3) neither agree nor disagree; 4) agree; 5) strongly agree.

1.3 Collection and analysis of the information for the study

The Study Team members collected the necessary information through desk review from open sources divided into two groups:

1. Primary sources of information (national statistical Data, decisions and other official documents of national governments, other information which could be received from representatives of national authorities of EaP countries);
2. Secondary sources of information (documents provided by the national associations of local and regional authorities, Country representatives to Council of Europe Congress of Local and Regional Authorities as well as representatives to CORLEAP, Country representatives to EaP Civil Society forum, NGOs, international donor organisations analytical and independent reports, media reports, documents/reports of other international organisations, local and international and "think tanks", NGOs etc).

The study was implemented in the following partly overlapping stages:

- Desk review, based on Annex II, was mostly done by international experts in cooperation with national experts. A detailed fiche on LSG development was prepared for each EaP country;

⁴ Subgroup of WG1 on Local Government and Public Administration Reform, Proposal for CORLEAP of 17.09.2012, Annex: State of Fiscal Decentralisation in Eastern Partnership Countries

- Distribution of questionnaires (Annexes I and III) to key stakeholders, collection of the necessary information and its analysis;
- Identification of the possible gaps and main problems;
- Clarification of the identified problems and gaps, through additional interviews and meetings with key experts and national stakeholders in order to validate the results of the desk review, to precise and to highlight (possible) recommendations;
- Finalisation of the recommendations.

Questionnaires were distributed mainly via email. Information collection in the EaP Countries was facilitated by the local experts who organised some additional meetings and/or interviews with national stakeholders. Moreover, the Study Team Leader travelled to Georgia for a two-day mission (on 21-24 October 2015) in order to participate in the interviews with the main national stakeholders, and to meet with the key experts to validate the results of the desk review and to discuss possible recommendations. Questionnaires were addressed to the following target groups in the EaP Countries:

1. Representatives of the national authorities (Government, Parliament, Administration of the President, key ministries dealing with the decentralisation/ PAR issues, in particular Ministry of Finance, Ministry of Regional Development, Ministry of Economy etc.);
2. Representatives of the national associations of local and regional authorities;
3. At least 3-5 representatives of local and/or regional authorities (mayors, presidents and/or members of local and/or regional councils, others);
4. Country representatives to the Council of Europe Congress of Local and Regional Authorities and to CORLEAP;
5. Country representatives to the Civil Society Forum, NGOs, international donor organisations dealing with the issues of decentralisation, as well as independent experts, members of other European advisory and experts' groups (task forces) on decentralisation and local self-government issues were contacted as secondary sources of information.

In Armenia the Study Team invited 18 officials/institutions to complete the questionnaires and received answers (completed forms) from the following institutions/persons:

- Ministry of Finance, Head of the Budgetary Process Organisation Division, Mr. Armen Manukyan;
- National Assembly Standing Committee on Territorial Administration and Local Self-Government, Member of Parliament and Committee Member, Mr. Artsvik Minasyan;
- CORLEAP member and Mayor of Kapan (Syunik marz), Mr. Ashot Hayrapetyan;
- Mayor of Tumanyan (Lori marz), Mr. Levon Zavaryan;
- Mayor of Dilijan (Tavush marz), Mr. Armen Santrosyan;
- Association of Municipal Councillors of Armenia, Deputy President, Mr. Artak Petrosyan;

- Member of Expert Group on the European Charter on Local Self-Government, Community Finance Officers Association (CFOA) Deputy Chairman, Mr. David Tumanyan;
- Urban Foundation for Sustainable Development Program Director, CoE expert and trainer, Mrs. Armine Tukhikyan;
- International Centre for Human Development (ICHD) Executive Director, Mr. Armen Galstyan.

At the same time, other Armenian stakeholders (in particular, Administration of the President, Ministry of Territorial Administration and Emergency Situations as well as representatives of some local authorities) did not respond to the questionnaires.

In Georgia the Study Team invited 12 institutions (state entities and national association of local authorities) to complete the questionnaires. Due to low response rate of the originally identified interlocutors the following stakeholders have been contacted:

- Mr. Irakli Melashvili, Deputy Head of Department for Relations with Regions and Local Self-Government Units, State Chancellery of Georgia;
- Mr. Giorgi Tsakadze, Head of Local Self-Government and Regional Policy Department, Ministry of Regional Development and Infrastructure of Georgia;
- Mr. David Melua, Executive Director, National Association of Local Authorities in Georgia;
- Mrs. Mariam Davitashvili, Sr. Specialist, the Centre for Effective Governance System & Territorial Arrangement Reform (MRDI);
- Gela Kiladze, Deputy Chairman, Lanchkhuti City Hall;
- George Kopadze, Mayor, Akhaltsikhe City Hall;
- Mr. Paata Jachvliani, Head of Administration, Tbilisi Municipality City Hall;
- Mr. Levan Tevzaia, Head of Financial Department, Tbilisi Municipality City Hall;
- Mr. Davit Tchanturia, Deputy Head of Financial Department, Tbilisi Municipality City Hall;
- Mr. Guja Makalatia, Deputy Head of Legal Department, Tbilisi Municipality City Hall.

Individual meetings of the Study Team members were also conducted with Mr. Irakli Melashvili, Mrs. Mariam Davitashvili, Mr. Paata Jachvliani, Mr. Levan Tevzaia, Mr. Davit Tchanturia, and Mr. Guja Makalatia.

In Moldova the Study Team invited 14 national officials/representatives of the main stakeholders, experts dealing with the issues of decentralisation and public administration reform to answer to the questionnaire. 11 replies were received from:

- Mr. Curie Tap, Deputy Chairman of the Parliamentary Commission "Committee for public administration and regional development";
- Mr. Sergio Claus, Deputy General Secretary of the Government ;
- Mr. Iconic Ion Vaile, Head of the Direction of administrative territorial units budgets within of General Direction of Budget Synthesis, Ministry of Finance;

- Mrs. Maria Sundial, Deputy Chief of the Directorate for Public Property Management, the Agency for Public Property, Ministry of Economy;
- Mr. Darin Andros, Head of Directorate for policy and regional cooperation, Ministry of Construction and Regional Development;
- Mr. Viorel Furdui, Executive Director of the National Congress of Local Authorities;
- Mrs. Liliana Tincu, City hall of Ungheni city;
- Mr. Grigore Policinschi, President of the Dubasari district;
- Mrs. Tatiana Badan, Mayor of village Selemet, Cimislia district;
- Mr. Ghenadie Ivascenco, Joint Integrated Local Development Programme, UNDP;
- Mr. Viorel Soltan, Director, Center for Health Policies and Studies.

In Ukraine the questionnaires were sent to 16 officials/institutions (state bodies, LSG bodies, national associations of local and regional authorities), Ukrainian members to CoE Congress, CORLEAP and other persons dealing with the issues of decentralisation and public administration). Five stakeholders refrained from responding (Ministry of Regional Development, Construction, Housing and Municipal Economy of Ukraine; Ukrainian Association of Oblast and Rayon Councils as well as three representatives of local/regional authorities) while the following eleven stakeholders sent their replies:

- Administration of the President of Ukraine (Department on LSG and Decentralisation Issues);
- Parliament of Ukraine (Parliamentary Committee on State Building, Regional Development and Local Self-Government Issues);
- Ministry of Finance of Ukraine (only Annex I);
- State Centre for Adaptation of Ukrainian Civil Service to EU Standards (in charge of coordination of the activities within EaP Platform I);
- Institute on Public Administration and Local Self-Government Issues of the National Academy of Public Administration under the President of Ukraine;
- Mrs. Nataliya Romanova, Vice-President of the Council of Europe Congress of Local and Regional Authorities, member of the Ukrainian delegation to CORLEAP, member of Chernigiv rayon council;
- Mr. Volodymyr Udovychenko, President of Ukrainian Club of Mayors, member of the Council of Europe Congress of Local and Regional Authorities, Head of Kyiv Region Reforms' Office;
- Ukrainian Association of Cities and Communities (only Annex I);
- City of Ukrainka and Association of Small Cities of Ukraine responded by one letter (Annexes I and III) which was signed by Mr Pavlo Kozyrev, President of this Association and Mayor of the city of Ukrainka;
- Mr. Serhiy Mazur, Mayor of the city of Balta;

- The Ukrainian Association of Village and Settlement Councils provided 3 different answers (completed Annexes I and III) from its 3 members - Mr Hrygoriy Rudiuk, Mayor of the settlement of Novoboriv, Mr Leonid Kucheriaviy, and Mayor of the settlement of Demyriv and Mr. Yuriy Shylo, Mayor of the village of Davydiv.

Taking into account the fact that the national Belarus and Azerbaijan provided very limited information in response to the questionnaire⁵, a group of independent experts and professionals have been mobilised by the Study Team in order to collect the information and to contribute to the preparation of the final report.

⁵ Only the civil service agency of Azerbaijan responded to the questionnaire within the limits of their competence. In Belarus the Ministry of Foreign Affairs was very cooperative however the responses they managed to receive from other state authorities were rather general and not very informative.

2 ASSESSING THE PROGRESS IN LSG DEVELOPMENT AND PAR IMPLEMENTATION ON LOCAL LEVEL AFTER 2012: COMPARATIVE ANALYSIS

The development of local democracy in EaP Countries is closely monitored by many international institutions, in particular by the European Union, the Council of Europe and its Congress of Local and Regional Authorities. Thus, the CoE Congress carried out monitoring visits to all EaP Countries (except Belarus which is not a member of the Council of Europe) and provided them with important recommendations just before or at the very beginning of our reference period 2012-2015. The European Union supports democratic changes in the region by several EaP activities, with focus on promoting implementation of the SIGMA/OECD revised Principles of Public Administration (reliability and predictability openness and transparency, accountability, efficiency and effectiveness), including through Conference of Regional and Local Authorities for the Eastern Partnership (CORLEAP) which is the EU platform that offers an opportunity to discuss the contribution by cities and regions in the development of the Eastern Partnership. The World Bank is mainly involved in public finance reforms (for example implementation of medium term performance based budgeting). Initiative on Fiscal Decentralisation was formulated in 2012 by the Sub-group for Local Government and Public Administration Reform of the Civil Society Forum which drafted a short assessment of fiscal decentralisation efforts in EaP Countries (as of 2012) and a set of policy recommendations.

Analytical materials of above mentioned (and other) bodies clearly indicate that the self-government situation significantly differs across the EaP Countries and that Belarus represents a special case, as it has not signed the ECLSG.

The first major difference is the fact that two-level (regional and local) self-government systems exist in Belarus, Moldova and Ukraine (in Belarus and Ukraine the regional bodies do not have real responsibilities and resources) and one-level systems are in place in Armenia, Azerbaijan and Georgia. Due to this, the core focus of our analysis is the local self-government.

The differences in the progress of local democracy in the EaP region can be documented by main recommendations addressed to the EaP Countries by different international organisations at the beginning of our evaluation period. However, the fact that Armenia, Azerbaijan, Georgia, Moldova, Ukraine signed and ratified the ECLSG represents significant formal and legal stimulus (the Charter is the source of domestic law) for important changes in the LSG systems and for the application of the European Principles of Good Governance on local level.

Progress made in the implementation of the recommendations formulated in 2012 can summarised as follows:

Armenia is still in an early phase of developing its local democracy. The Country was encouraged to better implement the principle of subsidiarity; to allow the local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population; to amalgamate LSG structure; to mitigate the over-centralisation of public administration; to ensure that local authorities enjoy full and exclusive powers; to clarify mandatory and delegated powers and to establish a fully-fledged local finance system.

Up to now **Azerbaijan** is even some steps behind. The country was urged to recognise municipalities as decentralised institutions exercising part of the overall functions of the State; reconsider substantially and clarify the division of tasks and powers between parallel structures of local public administration; transferring the most important local public competences to democratically and politically accountable municipalities and to establish local public finance system, especially by allocating sustainable financial resources to municipalities; commensurate with their competences.

Belarus started to establish the new local self-government system already in 1991, i.e. when it still formed part of the USSR. According to the Law "On the Basic of the Local Self-government and Local Economic Management in BSSR", the authority at local level was delegated from the Communist Party bodies and executive committees to the Councils, which created real prerequisites for the local government development. However, since 1994 the process of real local self-government formation and development in Belarus stopped. Elected councils have - to a large extent - only "representative" function. Most of local services are still financed and delivered via state structures – regional and local executive committees. In 2012 Civil Society Forum for Eastern Partnership (see footnote 1 above) formulated a number of the recommendations to Belarus regarding fiscal decentralisation and introduction of three-level budgetary system instead of the existing four-level budgetary system. Unfortunately, these recommendations were mostly disregarded by the Belarus authorities and did not lead to any reform.

Georgia was expected to undertake additional institutional and legislative changes to improve local autonomy and accountability and to progress in the area of fiscal decentralisation, especially via enhancing the financial capacity of local governments and improving the financial equalisation procedure.

Moldova was the most progressive EaP country in 2012 from the point of view of legal and institutional base for local democracy. The main issue for the country was further progress of fiscal decentralisation and removing overlaps of powers and responsibilities between different levels of self-governments but also between central government and local authorities.

Ukraine slowed down the decentralisation during V. Yanukovich's period (February 2010 – February 2014) and was requested to equip local authorities with real competence in the substantial share of public affairs; to address a too high territorial fragmentation and to reinforce the financial autonomy of local authorities. After "Euromaidan" and V. Yanukovich's departure the new Ukrainian Government and the democratic parliamentary coalition in the Verkhovna Rada proclaimed the decentralisation reform as a key priority of their political agenda.

The fact that in 2012 the six EaP Countries were at very different levels of the development of local and regional democracy means that the scale and contents of reforms undertaken between 2012 and 2015 should differ. The main issues for Georgia, Moldova and Ukraine are connected with improving legal environment and developing of fiscal decentralisation, while Armenia is expected to focus on effective implementation of the existing legislation (local government system in Armenia highly depends on central government) and Azerbaijan and Belarus are very much only at the start.

2.1 Compliance with the principles of the ECLSG and development of the LSG system according to the European principles of good governance

The Article 2 of the European Charter of Local Self-Government stipulates that the principle of local self-government shall be recognised in the domestic legislation, and where practicable in the constitution. In this regard, the ECLSG creates itself an excellent benchmark for measuring the level and the scope of the decentralisation in the countries that have already signed and ratified this main European legal instrument in the field of LSG.

In this context, it has to be noted that Azerbaijan signed the European Charter of Local Self-Government in December 2001, and ratified it by a law that entered into force on 1st August 2002. Azerbaijan declared itself not bound by Article 4(3), 7(2), 9(5), 9(6) and 10(3) of the Charter. However, Azerbaijan has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS № 207).

In its Recommendation 126 (2003)⁶ and 326 (2012) the Council of Europe Congress of Local and Regional Authorities stated that “the powers and responsibilities of Azerbaijan’s municipalities are very limited, failing to account for any substantial share of public affairs as stipulated in the European Charter of Local Self-Government”, but since then no change has occurred in the legislation. Moreover, the powers of municipalities were further minimised by the Decree of the President of Azerbaijan of 6 June 2012.

We have to remind that Armenia signed the European Charter of Local Self-Government (hereinafter “the Charter”) on 11 May 2001 and ratified it on 25 January 2002; it entered into force in respect of Armenia on 1 May 2002. At the same time, Armenia stated that it does not consider itself bound by Articles 5, 6, 7(2) and 10(3) of the Charter. Armenia also ratified the Additional Protocol to the ECLSG on the right to participate in the affairs of a local authority (CETS № 207) on 13 May 2013 with entry into force on 1 September 2013.

Moldova signed the European Charter of Local Self-Government on 2 May 1996 and ratified it on 2 October 1997 (without any reservations or declarations). The Charter came into force in the territory of the Republic of Moldova on 1st February 1998. On the other hand, Moldova did not yet sign the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

Georgia signed the European Charter of Local Self-Government on 26 October 2004 and ratified it on 8 December 2004 with entry into force on 1st April 2005 (with “reservations” on Article 4 paragraph 6, Article 5, Article 6 paragraph 2, Article 9 paragraph 6 and Article 10 paragraphs 2 and 3). When ratifying the ECLSG Georgia declared that “till the restoration of full jurisdiction of Georgia on the territories of Abkhazia and Tskhinvali Region, Georgia declines its responsibility for performing obligations under the paragraphs of the European Charter of Local Self-Government listed [in its

⁶ Recommendation 126 (2003)¹ the Council of Europe Congress of Local and Regional Authorities // <https://wcd.coe.int/ViewDoc.jsp?id=1982467>

declaration regarding Article 12] in such territories”. However Georgia has not yet signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

Ukraine signed the European Charter of Local Self-Government on 6 November 1996 and ratified it in 1997, without any reservations, with entry into force on 1st January 1998. Ukraine signed in 2011 and ratified in 2014 the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority.

At the same time, it is important to note that Belarus is the only EaP Country that did not sign or ratify the European Charter of Local Self-Government. Besides, certain provisions of the Belarusian Constitution and the national legislation contradict to the provisions of the ECLSG and the European Principles of Good Governance. Neither Belarus’ public authorities nor international experts have carried out any official judicial analysis of Belarusian constitutional and legislative norms for the purpose of evaluating their compliance with the principles of the European Charter of Local Self-Government.

However, unofficial analysis of the provisions of the current legislation in force in Belarus was conducted by the NGO “Lev Sapieha Foundation”. According to this analysis, 30% of cases (10 Charter principles) show non-compliance of the norms of the Belarusian legislation with the standards and provisions of the European Charter of Local Self-Government. This non-compliance with the provisions of the ECLSG, in particular, relates to the concept of local self-government (Article 3), the scope of its competence (PP.2, 4 and 5 of Article 4), compliance of administrative structures and resources with the tasks of LSG bodies (paragraph 1 of Article 6), administrative supervision over their activities (paragraph 3 of Article 8), sources for financing the LSG bodies activity (pp. 2, 5 and 7, Article 9) as well as the right of the local authorities to the association (p.2 Article 10).

As it has been already mentioned, the ECLSG creates a solid legal framework for functioning of local self-government systems in all European countries. It represents an excellent tool for assessment and comparison of the current situation of the functioning of LG/ RG in EaP Countries. In this context, the set of indicators was proposed (Annex 1) in order to assess – benchmark the progress of all EaP Countries in developing good local governance after 2012. As already described, the results are based on opinions of the main stakeholders, responding to the project questionnaires (see introduction) – the maximum possible value is 5⁷.

The general overview of the perception of progress by respondents is provided in Table 1 and Figure 1 (the data should be used mainly for checking the progress, from the point of view of inter-country comparison they might be biased by different expectations of respondents - especially responses from Moldova are much less optimistic for some sub-areas compared to Ukraine, marks for Armenia seem to be relatively too high). The data indicate stagnation in Armenia, Azerbaijan and Belarus, limited

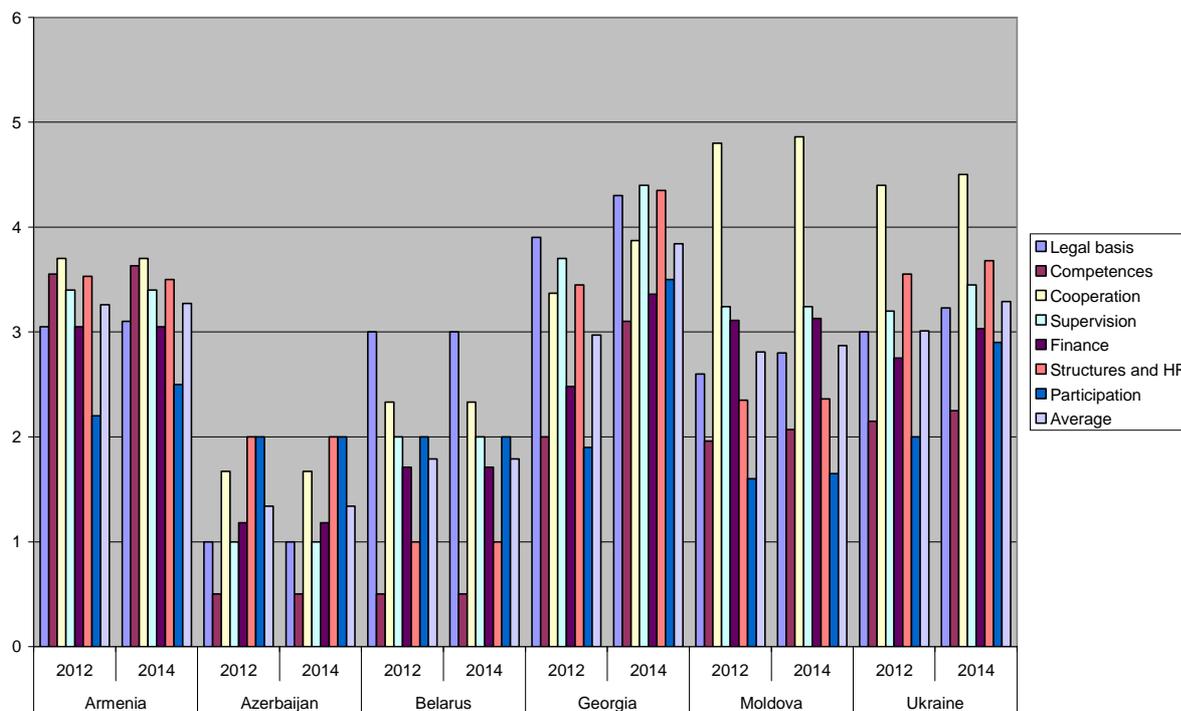
⁷ If data are not available, or the question non-relevant, “n.a.” is used. Azerbaijan has one autonomous region (Nakhichevan), but we do not count it as regional self-government. Georgia has the office of governors as “semi-regional” institution and we also do not include this level in the analysis, the same concerns the Republic of Adjara. In Moldova, under law, “rayons” have the status of the second tier of local authorities. But in fact, based on their structures, real functions and competencies carried out - they are deconcentrated branches of central administration. However, we do include this level in our analysis.

progress in Moldova and Ukraine (however in both countries many aspects improved very recently – most reforms are in force from 2015) and large improvements for Georgia, as the result of implementation of new LSG Code.

Table 1: Perception of 2012-2014 developments in the main areas

| | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|-------------------|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| Legal basis | 3 | 3.1 | 1 | 1 | 3 | 3 | 3.9 | 4.3 | 2.6 | 2.8 | 3 | 3.23 |
| Competences | 3.5 | 3.6 | 0.5 | 0.5 | 0.5 | 0.5 | 2.0 | 3.1 | 1.96 | 2.07 | 2.15 | 2.25 |
| Cooperation | 3.7 | 3.7 | 1.7 | 1.67 | 2.33 | 2.33 | 3.37 | 3.87 | 4.8 | 4.86 | 4.4 | 4.5 |
| Supervision | 3.4 | 3.4 | 1 | 1 | 2 | 2 | 3.7 | 4.4 | 3.24 | 3.24 | 3.2 | 3.45 |
| Finance | 3 | 3 | 1.2 | 1.18 | 1.71 | 1.71 | 2.48 | 3.36 | 3.11 | 3.13 | 2.75 | 3.03 |
| Structures and HR | 3.5 | 3.5 | 2 | 2 | 1 | 1 | 3.45 | 4.35 | 2.35 | 2.36 | 3.55 | 3.68 |
| Participation | 2.2 | 2.5 | 2 | 2 | 2 | 2 | 1.9 | 3.5 | 1.6 | 1.65 | 2 | 2.9 |
| Average | 3.2 | 3.8 | 1.34 | 1.34 | 1.79 | 1.79 | 2.97 | 3.84 | 2.81 | 2.87 | 3.01 | 3.29 |

Figure 1: Perception of 2012-2014 developments in the main areas



In the following text we provide data per eight selected areas as the situation is perceived by the selected respondents. We have to stress that in many countries especially government representatives tended to be more positive than the real situation (this fact can be confirmed by detailed examination of answers) and it is also visible that some respondents were not able to understand some detailed questions. Despite of this, we feel that the data collected provide interesting picture of developments.

Table 2 benchmarks the situation with regard to quality of the legal basis for self-governments. It indicates, in particular, that several contradictions exist in legal systems of EaP Countries, which make it difficult for local and regional to fully assume and fulfil their responsibilities.

Questions:

1. Are the basic powers and responsibilities of LSG are defined by the Constitution?
2. Are the basic powers and responsibilities of RSG are defined by the Constitution?
3. Are the basic powers and responsibilities of LSG are “well” described by the national legislation?
4. Are the basic powers and responsibilities of RSG are “well” described by the national legislation?
5. Are you aware of the cases of contradiction between any provisions of different legal (normative) acts regulating LSG activities?
6. Are you aware of the cases of contradiction between any provisions of different legal (normative) acts regulating RSG activities?

Table 2: Legal basis for LSG

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|-------|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | 3.1 | 3.2 | 1 | 1 | 3 | 3 | 3.9 | 4.3 | 2.6 | 2.8 | 3 | 3.3 |
| 2 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 2.2 | 2.2 | 2.7 | 3 |
| 3 | 3 | 3 | 1 | 1 | 2 | 2 | 3.3 | 3.4 | 3.3 | 3.4 | 3.2 | 3.4 |
| 4 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 2.55 | 2.55 | 3.1 | 3.2 |
| 5 | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes | yes |
| 6 | n.a. | n.a. | n.a. | n.a. | yes | yes | n.a. | n.a. | yes | yes | yes | yes |
| Aver. | 3.05 | 3.1 | 1 | 1 | 2.25 | 2.25 | 3.6 | 3.85 | 2.66 | 2.74 | 3.0 | 3.23 |

Table 3 benchmarks the situation with regard to the competences of self-governments. The Study Team feels that the answers to Question 4 are too positive for Ukraine – formally the law does not provide the LG/RG with full discretion in the execution of their responsibilities. Responses also indicate that there are several important practical barriers limiting the right of SGs to execute their full responsibility for local development with full discretion.

Questions:

1. Can LSGs formally execute their full responsibility for local development with full discretion?

2. Can RSGs formally execute their full responsibility for local (regional) development with full discretion (what is not prohibited is allowed principle)?

3. Are there any important practical barriers limiting the right of LSGs to execute their full responsibility for local development with full discretion?

4. Are there any important practical barriers limiting the right of RSGs to execute their full responsibility for local development with full discretion?

Table 3: The scope of competences of LSG/ RSG

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|-------|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | 3.1 | 3.25 | 1 | 1 | 1 | 1 | 2.0 | 3.6 | 2.6 | 2.7 | 3.1 | 3.3 |
| 2 | n.a. | n.a. | n.a. | n.a. | 1 | 1 | n.a. | n.a. | 2.12 | 2.25 | 2.6 | 2.7 |
| 3 | 4 | 4 | 0 | 0 | 0 | 0 | 2.0 | 2.6 | 1.55 | 1.66 | 1.5 | 1.6 |
| 4 | n.a. | n.a. | n.a. | n.a. | 0 | 0 | n.a. | n.a. | 1.55 | 1.66 | 1.4 | 1.4 |
| Aver. | 3.55 | 3.63 | 0.5 | 0.5 | 0.5 | 0.5 | 2.0 | 3.1 | 1.96 | 2.07 | 2.15 | 2.25 |

Table 4 benchmarks the freedom of entering into various forms of co-operation and association. Data indicate that, except for Belarus and Azerbaijan, the situation is relatively positive.

Questions:

1. Can LSGs freely associate with other local authorities within the country?
2. Can RSGs freely associate with other local authorities within the country?
3. Can LSGs be members of international associations of local authorities?
4. Can RSGs be members of international associations of local and regional authorities?
5. Can LSGs freely cooperate with other local authorities outside the country?
6. Can RSGs freely cooperate with other local authorities outside the country?

Table 4: The level of freedom of LSG/ RSG for cooperation (associating) with other LSG/ RSG

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|---|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | 2.8 | 2.8 | 2 | 2 | 3 | 3 | 3.3 | 4.4 | 4.2 | 4.6 | 4.5 | 4.7 |
| 2 | n.a. | n.a. | n.a. | n.a. | 3 | 3 | n.a. | n.a. | 4.77 | 4.77 | 4.5 | 4.7 |
| 3 | 4 | 4 | 1 | 1 | 2 | 2 | 3.7 | 4.3 | 5 | 5 | 4.4 | 4.5 |
| 4 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 5 | 5 | 4.3 | 4.4 |
| 5 | 4.3 | 4.3 | 2 | 2 | 2 | 2 | 3.1 | 3.9 | 4.8 | 4.8 | 4.3 | 4.4 |

| | | | | | | | | | | | | |
|-------|------|------|------|------|------|------|------|------|-----|------|-----|-----|
| 6 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 5 | 5 | 4.3 | 4.4 |
| Aver. | 3.7 | 3.7 | 1.67 | 1.67 | 2.33 | 2.33 | 3.37 | 3.87 | 4.8 | 4.86 | 4.4 | 4.5 |

Table 5 benchmarks the situation with regard to appropriateness of supervision of SGs from the central level. Georgia seems to be the only country where some issues persist but after adoption of the new LSG code they are marginal.

Questions:

1. Is the system of administrative supervision of LSGs in compliance with the principles of the European Charter of Local Self-Government?
2. Is the system of administrative supervision of RSGs in compliance with the principles of European Charter of Local Self-Government?
3. Do LSGs have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for the principles of local self-government which are fixed in the constitution or domestic legislation?
4. Do RSGs have the right of recourse to a judicial remedy in order to secure free exercise of their powers and respect for the principles of local self-government which are fixed in the constitution or domestic legislation?

Table 5: Control (supervision) over the activity of local and regional authorities

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|-------|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | 2.8 | 2.8 | 1 | 1 | 2 | 2 | 3.3 | 4.1 | 3.22 | 3.22 | 3.3 | 3.5 |
| 2 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 3.37 | 3.37 | 3.3 | 3.5 |
| 3 | 4 | 4 | 1 | 1 | 2 | 2 | 4.1 | 4.7 | 3.5 | 3.5 | 3.1 | 3.4 |
| 4 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 2.87 | 2.87 | 3.1 | 3.4 |
| Aver. | 3.4 | 3.4 | 1 | 1 | 2 | 2 | 3.7 | 4.4 | 3.24 | 3.24 | 3.2 | 3.45 |

Table 6 describes the most difficult area – the achieved level of fiscal decentralisation. It is clearly visible that for most criteria the marks are rather low. SGs also in most decentralized countries in the EaP region suffer from lack of own finance and limited financial freedom to operate.

Questions:

1. Can LSGs freely use their own financial resources?
2. Can RSGs freely use their own financial resources?
3. Are LSGs financial resources adequate (well related) to the list of their responsibilities provided by the national legislation?
4. Are RSGs financial resources adequate (well related) to the list of their responsibilities provided by the national legislation?
5. Please, assess the scope of the financial resources of local authorities, which derive from local taxes and charges.
6. Can LSGs independently set the rate of local taxes?
7. Can RSGs independently set the rate of local (regional) taxes?
8. Can LSGs independently set the rate of local fees and charges?
9. Can RSGs independently set the rate of local (regional) fees and charges?

10. Can LSGs freely manage their financial resources?
11. Can RSGs freely manage their financial resources?
12. Does the equalisation system on local level effectively react to the needs of horizontal and vertical equalisation?
13. Does the equalisation system on regional level effectively react to the needs of horizontal and vertical equalisation?
14. Is equalisation system (LSG level) transparent and understandable?
15. Is equalisation system (RSG level) transparent and understandable?
16. Do LSGs have full and free access to national capital markets?
17. Do RSGs have full and free access to national capital markets?
18. Do LSGs have full and free competence to realize capital expenditures?
19. Do RSGs have full and free competence to realize capital expenditures?
20. Is there the system of regular benchmarking for processes and results on LSG level?
21. Is there the system of regular benchmarking for processes and results on RSG level?

Table 6: Level of financial (fiscal) autonomy of LSG/ RSG

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|----|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | 3.6 | 3.6 | 1 | 1 | 1 | 1 | 3.1 | 4.1 | 3.5 | 3.7 | 2.5 | 2.9 |
| 2 | n.a. | n.a. | n.a. | n.a. | 1 | 1 | n.a. | n.a. | 3.14 | 3.42 | 2.5 | 2.9 |
| 3 | 2.6 | 2.6 | 1 | 1 | 1 | 1 | 2.0 | 3.1 | 1.3 | 1.6 | 2.7 | 3.1 |
| 4 | n.a. | n.a. | n.a. | n.a. | 1 | 1 | n.a. | n.a. | 1.8 | 2.1 | 2.8 | 3.2 |
| 5 | 2 | 2 | 2 | 2 | 1 | 1 | 1.9 | 2.9 | 1.88 | 2.0 | 1.8 | 2 |
| 6 | 4.3 | 4.3 | 1 | 1 | 3 | 3 | 2.8 | 3.3 | 4 | 4.5 | 3.7 | 3.9 |
| 7 | n.a. | n.a. | n.a. | n.a. | 3 | 3 | n.a. | n.a. | 2.57 | 4 | 0 | 0 |
| 8 | 3.7 | 3.7 | 1 | 1 | 3 | 3 | 3.1 | 3.9 | 4.4 | 4.4 | 3.9 | 4 |
| 9 | n.a. | n.a. | n.a. | n.a. | 3 | 3 | n.a. | n.a. | 3 | 3 | 0 | 0 |
| 10 | 4.3 | 4.3 | 2 | 2 | 1 | 1 | 3.0 | 4.1 | 3.4 | 3.4 | 3.7 | 3.8 |
| 11 | n.a. | n.a. | n.a. | n.a. | 1 | 1 | n.a. | n.a. | 3 | 3 | 3.6 | 3.6 |
| 12 | 2 | 2 | 1 | 1 | 2 | 2 | 2.1 | 3.0 | 3.2 | 3.2 | 2.7 | 3 |
| 13 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 3 | 3 | 2.9 | 3 |
| 14 | 3.5 | 3.5 | 2 | 2 | 2 | 2 | 2.9 | 3.6 | 3.3 | 3.3 | 3.1 | 3.2 |
| 15 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 3.1 | 3.1 | 3.1 | 3.3 |

| | | | | | | | | | | | | |
|-------|------|------|------|------|------|------|------|------|------|------|------|------|
| 16 | 2 | 2 | 1 | 1 | 2 | 2 | 2.6 | 3.3 | 2.8 | 2.8 | 2.8 | 2.8 |
| 17 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 3 | 3 | 2.3 | 2.3 |
| 18 | 3.6 | 3.6 | 1 | 1 | 1 | 1 | 2.3 | 3.4 | 3 | 3 | 3.0 | 3.2 |
| 19 | n.a. | n.a. | n.a. | n.a. | 1 | 1 | n.a. | n.a. | 3.3 | 3.3 | 2.9 | 3.0 |
| 20 | 2 | 2 | 0 | 0 | 1 | 1 | 1.5 | 2.3 | 2.9 | 2.9 | 3.5 | 3.7 |
| 21 | n.a. | n.a. | 0 | 0 | 1 | 1 | n.a. | n.a. | 3 | 3 | 3.3 | 3.9 |
| Aver. | 3.05 | 3.05 | 1.18 | 1.18 | 1.71 | 1.71 | 2.48 | 3.36 | 3.11 | 3.13 | 2.75 | 3.03 |

Table 7 benchmarks the situation with regard to the freedom to set own administrative structures and to manage human resources.

Questions:

1. Do local communities have elected regional councils/ their executive bodies?
2. Do regions have elected local councils/ their executive bodies?
3. Do LSGs have full freedom to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management?
4. Do RSGs have full freedom to determine their own internal administrative structures in order to adapt them to local needs and ensure effective management?
5. Are human resources of LSGs sufficient for fulfilment of their competences, which are defined by the national legislation?
6. Are human resources of RSGs sufficient for fulfilment of their competences, which are defined by the national legislation?
7. Do LSGs have full freedom for recruitment and management of their personnel?
8. Do RSGs have full freedom for recruitment and management of their personnel?
9. Do LSGs have full freedom for rewarding of their personnel and compensating elected representatives for their work?
10. Do RSGs have full freedom for rewarding of their personnel and compensating elected representatives for their work?

Table 7: Administrative structures and the human resources

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|---|---------|------|------------|--------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | yes | yes | partly | partly | yes | yes | yes | yes | yes | Yes | yes | yes |
| 2 | n.a. | n.a. | n.a. | n.a. | yes | yes | n.a. | n.a. | yes | Yes | no | no |
| 3 | n.a. | n.a. | 1 | 1 | 0 | 0 | 4 | 4.8 | 1.2 | 1.2 | 3.4 | 3.6 |
| 4 | n.a. | n.a. | n.a. | n.a. | 0 | 0 | n.a. | n.a. | 1.2 | 1.2 | 2.7 | 2.8 |
| 5 | 3.8 | 3.8 | 2 | 2 | 2 | 2 | 2.3 | 3.3 | 1 | 1 | 3.3 | 3.4 |
| 6 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 1.7 | 1.7 | 3.5 | 3.7 |

| | | | | | | | | | | | | |
|-------|------|------|------|------|---|---|------|------|------|------|------|------|
| 7 | 4 | 4 | 3 | 3 | 0 | 0 | 4 | 4.7 | 4.4 | 4.4 | 4.4 | 4.5 |
| 8 | n.a. | n.a. | n.a. | n.a. | 0 | 0 | n.a. | n.a. | 4 | 4 | 4.1 | 4.4 |
| 9 | 3.8 | 3.7 | 2 | 2 | 2 | 2 | 3.5 | 4.7 | 3.3 | 3.4 | 3.5 | 3.5 |
| 10 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 2 | 2 | 3.5 | 3.5 |
| Aver. | 3.53 | 3.5 | 2 | 2 | 1 | 1 | 3.45 | 4.35 | 2.35 | 2.36 | 3.55 | 3.68 |

Table 8 indicates that in most countries the central level can change self-government borders and this also happens in reality.

Questions:

1. Are there the cases of LSGs boundaries changes without proper consultations with relevant local authorities and/ or citizens?
2. Are there the cases of RSGs boundaries changes without proper consultations with relevant local authorities and/ or citizens?

Table 8: Level of protection of local authorities' boundaries

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|---|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 |
| 1 | no | yes | yes | yes | yes | yes | no | no | yes | No | no | no |
| 2 | n.a. | n.a. | n.a. | n.a. | yes | yes | n.a. | n.a. | no | No | no | no |

Table 9 clearly documents one of region specific issues – rather limited citizen participation on local and regional self-government level. Its positive message is that – also because of the new LSG code – the situation in Georgia started to improve.

Questions (average is calculated only from Q 5 and 6):

1. Please, indicate the percentage of citizens' participation in last local (regional elections)? Please, indicate the date of the organisation of last local/ regional elections.
2. Please, provide the information about the number of local and regional referenda which were organized.
3. Are you aware of other forms of citizens' participation in local public life?
4. Please, provide (estimate) the information about number on consultations with the citizens which were organized by local authorities.
5. Please, provide (estimate) the information about number on consultations with the citizens which were organized by regional authorities.
6. According to your opinion, what is the level of the citizen participation in local public life?
7. According to your opinion, what is the level of the citizen participation in regional public life?

Table 9: Level of citizens' participation in decision-making process

| Q | Armenia | | Azerbaijan | | Belarus | | Georgia | | Moldova | | Ukraine | |
|---|---------|------|------------|------|---------|------|---------|------|---------|------|---------|------|
| | 2012 | 2015 | 2012 | 2014 | 2012 | 2014 | 2012 | 2014 | 2012 | 2015 | 2010 | 2014 |
| | | | | | | | | | | | | |

| | | | | | | | | | | | | |
|------|------|----------|------|-------|------|------|------|------|------|-------|-------|------|
| 1 | n.a. | 298 -599 | n.a. | 38.93 | n.a. | n.a. | n.a. | 42 | n.a. | 48.95 | 49.71 | x |
| 2 | 0 | 0 | 0 | 0 | n.a. | n.a. | 0 | 0 | 2 | 1 | n.a. | n.a. |
| 3 | yes | yes | yes | yes | n.a. | n.a. | yes | yes | Yes | yes | yes | yes |
| 4 | n.a. | n.a. | 0 | 5000 | n.a. | n.a. | 300 | 400 | n.a. | n.a. | n.a. | n.a. |
| 5 | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. | n.a. |
| 6 | 2..2 | 2.5 | 2 | 2 | 2 | 2 | 1.9 | 3.5 | 1.8 | 1.9 | 2.3 | 3.3 |
| 7 | n.a. | n.a. | n.a. | n.a. | 2 | 2 | n.a. | n.a. | 1.4 | 1.4 | 1.7 | 2.5 |
| Aver | 2.2 | 2.5 | 2 | 2 | 2 | 2 | 1.9 | 3.5 | 1.6 | 1.65 | 2 | 2.9 |

⁸ Council elections in Aghavnadzor municipality

⁹ Mayors elections in 15 municipalities

2.2 Progress made in the EaP Countries since 2012 in the area of improvement of legal and institutional framework for local democracy

Based on internal plans and international advices and recommendations, all EaP Countries were expected to undertake important legislative changes during the reference period. In some Countries such changes were expected to represent major fundamental steps forward (**Armenia, Azerbaijan, Belarus**), while in other Countries they referred to graduate improvements to the existing situation, where most important principles of local democracy were already respected.

Armenia was expected to review the legislation in order to better implement the principle of subsidiarity and to allow the local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population.

Azerbaijan's main task was to review the law on the status of municipalities with the aim of recognising municipalities as decentralised institutions exercising part of the overall functions of the State.

For **Belarus** real steps towards decentralisation were and still are expected, in particular the establishment of functional local self-governments, equipped with real competences and resources to execute all local responsibilities.

Possible improvements in **Georgia** were linked to better incorporation of the principle of subsidiarity into the Georgian Constitution; another crucial task was enhancing the financial capacity of local governments.

For **Moldova** the core expected tasks were connected mainly with improvement of the fiscal decentralisation parameters.

Concerning **Ukraine**, the issues were: granting local authorities a competence over a substantial share of public affairs and increasing the capacity of local authorities to act by addressing the issues of fragmentation and also by transferring the competences of the administrations in districts (rayons) and regions (oblasts) to elected representatives in order to establish an administration under their responsibility.

Some of the expected changes materialised, some are still pending. In the following text we first start with two countries that undertook massive legislative changes between 2012 and the end of 2015 with the aim to improve the legal and institutional framework for local democracy – **Georgia** and **Ukraine**.

Concerning other countries, very important progressive developments are also visible in **Armenia** and in **Moldova. Azerbaijan** and **Belarus** – which need major changes – did not change much.

After several years of “stagnation” the current Ukrainian Government re-started the process of improving the local democracy and the functioning of self-governments. On 1 April 2014 the Government of Ukraine approved (by its Regulation № 333-p) the new concept of the reform of LSG and territorial organisation of the authorities in Ukraine. Significant efforts are connected with changes to the Constitution in regard of decentralisation. The proposed changes passed the first reading in the Parliament in August 2015.

At the same time, the Parliament of Ukraine adopted in June 2014 the Law on Inter-municipal Cooperation and in February 2015 – the Law on Voluntary Merger of the Territorial Communities (hromadas). The process of voluntary merges was promoted by very strong financial incentives (close to cancelling of all transfers to very small municipalities, if they do not decide to merge). In such environment the voluntary amalgamation process started quite actively. As a result 159 merged municipalities representing 794 cities, settlement and village councils participated in municipal elections in October 2015. Changes implemented since the end of 2014 also mean that most of competences that were transferred to central government in the past, now returned or are in the process of returning to the LSG level. There is an intention to transfer some other functions of the central government to municipalities, for example in the area of construction permits.

In the end of 2015 the Parliament of Ukraine adopted the new Law on Civil Service. This law will influence the functioning of the central government level, but is expected to have positive impact also on local level. This law is also expected to help depoliticise the civil service - there will be a difference between political and administrative positions.

Important changes are connected also with fiscal decentralisation – described in details in the following part. With this the most important unaddressed legislative issue is the situation on district and regional level - there exist elected district and regional councils which, being in theory bodies of local self-government, do not possess any real power neither financially nor organisationally (they do not have any executive bodies responsible for them).

In **Georgia**, in the fall of 2012, the Ministry of Regional Development and Infrastructure (MRDI) received a request to elaborate measures for the self-governance reform. The Government of Georgia considered decentralisation to be a key prerequisite for establishing democratic institutions in the country.

A working group had been established under the MRDI to start developing appropriate legal acts (Council of Advisors for Development of Self-governance and Regional Policy consisting of over 70 experts and representatives of the civil society organisations, lawyers and economists). In 2013, the Government of Georgia also adopted a document on “Key Principles of the Strategy for Decentralisation and Development of Self-governance of the Government of Georgia for 2013-2014” which was developed with the support of the Council of Europe.

In autumn of 2013, the draft Organic Law containing the Local Self-Government Code of Georgia was consulted with major local and international stakeholders. After incorporating most of suggestions the law was submitted to the Parliament and was approved on 5 February 2014. It represents obvious progress and a step towards decentralisation. The approval of new LSG Code leads to important changes in many specific laws which are still in the process of finalisation. The country also started to prepare the new Constitution, however this process seems to be too far from its end – LSG are represented in the committee responsible for the preparation of constitutional changes.

Overall, in 2013-2014, the Government of Georgia developed and introduced a number of legal acts aimed at improving local self-governance milieu. In March 2014, the government issues a decree (Decree № 515) on Separation of Municipalities and Establishment of Self-Governing Communities – Municipalities. In May 2014, the MRDI introduced the Resolution № 363 on Rules for Redistribution of Property and Responsibilities between the Municipalities. In June 2014, the Government of Georgia

approved the Resolution № 384 on Approving Interim Rules for Redistribution of Budgets, Budget Incomes and Payments to the End of 2014 for New Municipalities Created in accordance with Article 152 of the Organic Law of Georgia on the Local Self-Government Code.

In **Armenia** the LSG law has been amended in line with the signed Additional Protocol to the ECLSG on the right to participate in the affairs of a local authority (changes entered into force in September 2013). These amendments are aimed at strengthening citizen participation in local self-government and enhancing the transparency of the work of LSG bodies. The amended law also introduces a new provision for citizen participation in local affairs, which allows members of the local community to initiate the inclusion of issues in the agenda of the local community bodies, as of age sixteen. The law defines the obligations of members of the municipal council with respect to interaction, public meetings and discussions with population, as well as the procedures for citizen participation in LSG.

Since 2013 the Ministry of Territorial Administration initiated Community Enlargement process in Armenia. In 2014 this Ministry was merged with the Ministry of Emergency Situations, which resulted in a delay in the implementation of decentralisation reform, with a specific focus on community consolidation process. As this report is being written (2015) the Community Enlargement Process has been in process of implementation in three regions (marzes).

The public authorities are going to implement the Constitutional reform, aimed to turn Armenia into a parliamentary republic. The draft amendments to the Constitution include also some provisions on powers and responsibilities of local authorities. The Government foresees organising a referendum in early December 2015, to initiate this reform.

In **Moldova** the recent governments explicitly acknowledged that decentralisation represents a key topic for the country reform agenda. The Prime Minister leads the reform through the "Parity Commission on Decentralisation" and its working groups. A Special Parliamentary Commission on Decentralisation has also been created.

Thanks to such high level commitment and intensive reform agenda many changes happened. In 2013 the following amendments have been performed in the LSG Law № 436:

- on the organisation of the working sessions of local councils (Art. 13);
- on the introduction (in the list of the "basic competences of local councils") of the new competence to creation of a position of the Community mediator in the Roma populated localities (Art. 14, point "y");
- on early termination of the counsellor's mandate in the cases of the absence without good reason during three consecutive meetings of the council (Art. 24);
- on introduction of the new competence of the mayors concerning the registration of the trolleybuses, cyclo-motors, other machines used for construction or agriculture works, which are not subject of the registration (Art. 29, point I).

In the period of 2012-2015, the local public authorities of the second level received the additional competence on the maintenance of primary schools and primary-kindergartens schools, gymnasiums and high schools, institutions of secondary vocational education, boarding schools and boarding

school with special regime, other institutions in the field of education which serve the people of the district.

On 5 April 2012, after an extensive consultation progress, the Parliament adopted the Law № 68 on the National Decentralisation Strategy for 2012-2015. This Strategy is the main policy document in the domain of local public administration, which determines the national mechanisms in the field of decentralisation and assurance of an authentic local autonomy for the local public administration authorities. The Strategy establishes concrete objectives and tasks connected with further improvement of local democracy in the country to be achieved by different bodies (no major legislative changes are necessary). Following the adoption of the Strategy, working groups for decentralisation were established in all ministries in order to manage different issues connected with the intended reform.

The National Decentralisation Strategy also provides for three main building blocks of financial decentralisation: strengthening of the revenues of local authorities; reforming the system of transfers and shared taxes; and strengthening the autonomy and financial management at local level. By consequence, the Law № 267 of 1 November 2013 introduced the amendments in the Law № 397-XV of 16 October 2003 «On Local Public Finances» and the Tax Code dated from 24 April 1997.

In **Azerbaijan**, according to the development concept “Azerbaijan 2020: a Vision to the Future”, the national government has no intention of strengthening the institutions of local self-government by 2020; let alone implementing major decentralisation reforms. However, during the evaluated period the issue of fragmentation was addressed. The Law on Establishment of New Municipalities through Merging Municipalities in the Republic of Azerbaijan was adopted on 30 May 2014. According to the new law 204 municipalities are merged into 94 new municipalities, thus reducing the total number by 110 municipalities. This process of the municipal consolidated is planned to be further continued in the next period.

Minor changes were also introduced in the area of local finance – see 2.3 below. Thus, the “core” local government bodies are Azerbaijan’s local executive bodies, which are directly subordinated to the central authorities – local self government structures have only minor functions (they are to large extend only representative bodies).

Historically, Belarus was the first one in the region to create real prerequisites for the local government development back in the Soviet times: the Law on the Basis of the Local Self-government and Local Economic Management in Belarusian Soviet Socialistic Republic was adopted in 1991. However, since 1994 the process of real local self-government formation and development in Belarus stopped. The current Law on Local Governance and Self-governance in the Republic of Belarus entered into force on 4 January 2010. It allocates the most important local powers and authorities to (state) executive committees and the role of local, district and regional elected bodies is rather limited. No visible changes during the period 2012-2015 can be reported.

2.3 Progress made in the EaP Countries since 2012 in the area of the development of the capacities of local authorities in human resources

The issue of capacities of local authorities in human resources has several dimensions. In this report we try to focus on following issues – quality and quantity of LSG administrative staff, the freedom of elected LSG bodies to organise and manage their human resources and the level of compliance of human resources management on local level with the core principles of the civil /public service (main civil service principles should be in appropriate way adapted and effective also on LSG level)¹⁰. The main characteristics of the changes in the area of human resources capacities of self-governments in the EaP region are presented herein on a country-by-country basis. The collected data reveal many open problems that exist¹¹.

In **Armenia**, all existing data show that the key problem which was not addressed during the evaluated period is the very low availability of qualified professionals at the local level resulting from very unattractive salaries offered to them. The freedom of municipalities to establish their own proper administrative structures is provided by the law (see below), but effectively blocked by the financial constraints, which translate to very low salary levels. Thus, many open vacancies for qualified positions in municipalities remain vacant. The Law on Local Self-Government determines the basic organisational structures of the communities. The Chief of the Community exercises local executive power through a staff consisting of a deputy chief, heads of divisions and public servants of the local community. Since the Chief of the Community implements human resources policies, appoints the staff, and exercises his/her powers through municipal staff – including that of the community's budgetary, administrative and commercial and non-commercial entities - it is the Chief, rather than the local council, who manages and directs the entire organisational structure of the local community. The Law on Municipal Civil Service was adopted in 2004 (with further amendments in 2008 and in 2013). It established the legislative basis for the legal status of public servants working for local authorities. A recent legislative development to strengthen capacity of local servants is that according to the amendment to the Law on LSG (2013) it was made possible for community servants to put a subject on the agenda of the council session. The national Government, assisted by several international organisations and NGOs, supports the organisation of training activities for public servants of communities.

To summarise, one may argue that the framework is very much appropriate, but Armenia still needs improvement in the staffing of local communities. The efficiency of local government personnel is

¹⁰ Civil service development as part of programmes for the reform of the public administration, existence of a legal basis for the civil service order to promote the principles of legal certainty, legal accountability and legal predictability of the civil service, existence of central structures for the management, co-ordination and control of civil service, system of open competition for civil service positions, system of standardized examinations and candidate selection, system for the protection of employment in the civil service, system for the training of civil servants, system for the evaluation of civil servants, system for the remuneration and general reward of civil servants, system of rights and obligations (like restriction of political and economic/professional rights of civil servants, application of codes of ethics, systems of wealth declaration, and system of internal discipline).

¹¹ This part does not deal with the situation of elected officials on local level – this issue is covered by other report, prepared by the Council of Europe simultaneously with this report – the study Roles and responsibilities of mayors and local councillors in the Eastern Partnerships Countries.

sharply criticised by NGO representatives and other stakeholders. It is a widespread opinion that a number of local communities do not operate under appropriate working conditions. In particular, rural communities lack effective administrative structures and professional staff. The development of the capacities of local authorities in human resources aimed at improving the quality of municipal services remains the area yet to be put into the central focus.

In 2015 there were 1607 municipalities in **Azerbaijan** with 15,682 elected persons and 16,000 municipality servants. The local councils have the formal right to hire staff and to establish LSG office. However, this is effectively blocked by the insufficient local financial resources - the law defines the maximum proportion of salary costs to total LSG costs and in reality most municipalities do not even have enough resources to cover prescribed salaries to elected representatives (see page 61 for more details) This difficult situation remained stable for the entire evaluated period.

Formally, the legislation establishing and regulating the State civil service system (for civil servants at central level) and the municipal civil service system (for municipal staff) comply with a large extend with the general principles. A few minor legislative changes were introduced in this area, i.e.:

- the requirements on municipal staff in terms of public accountability were enshrined within the law on 'Status of Municipalities' dated 28 October 2014,
- admission procedures to the municipal civil service improved following the amendment to the law on 'Municipal Service' dated 13 February 2015. Municipality employees are now hired based on competitive aptitude tests rather than by the chairman of the council (as it was the case before),
- the law on Ethical Rules of Municipality Servants was adopted on 28 April, 2015.

In **Belarus** elected LSGs – because of limited competences - do not have resources to establish real municipal offices, linked to self-government structures. The LSG paid staff consists of three persons (chairperson of the council, main specialist and a driver) on regional and district level and there is no paid staff on the lowest level. In 2015 the local councils had only 270 civil servants (1.4 % from the total number of the civil servants working in public authorities on local/ regional level) and 398 other employees (1.6 % from the total number of the employees working in public authorities on local/ regional level). This situation did not change during 2012-2015.

In **Georgia** a mayor has a formal right to establish the necessary local administrative structures and to manage local staff; however this right is partly limited by some central regulations and fiscal constraints. The fact that working as permanent staff on LSG level is relatively popular in the country indicates that salaries (at senior-level positions) and status of local civil servants is not a major problem (Georgia is one of the top ranking countries in the world with the highest number of students enrolled in public administration programmes compared to the number of inhabitants).

The Law on Civil Service (Article 16) stipulates basic principles and requirements of the civil service, which also apply to local self-government servants. However, the fact that many local employees have the status of civil servant did not prevent cases of massive dismissals that took place in 2012 and 2014 at the local level. Many new staff was subsequently hired as interim civil servants, in order to dodge on competition. It is obvious that the lack of financial incentives and instability (rapid changes in

the structures, complete dependence on the immediate supervisor, and the absence of knowledge transfer system) impedes the establishment of highly qualified service on a local level.

The legal changes in this area during the evaluated period are mainly connected with approval of the new LSG Code and consequent development of fiscal decentralisation. The small specific issue regarding financial autonomy is that, acknowledging moderate qualification of local servants, the government of Georgia legally obliged all municipalities to allocate at least 1 percent of their salary funds for training and capacity building actions.

In **Moldova** the level of freedom of LSGs to determine their own internal administrative structures in order to adapt them to local needs and to ensure effective management did not see any improvement during the 2012-2014 period. The right of mayors to establish the necessary administrative structures is not fully respected both in the legislation and in practice. Although mayors can form executive bodies, the staff and the number of public servants are endorsed by the State Chancellery and by the District Finance Department of the Ministry of Finance. In such conditions local authorities can hire any extra personnel that may be necessary only if they have sufficient financial resources to pay an additional salary – which however only happens in large cities. The conditions for human resources management on self-government level did not change during 2012-2014. However, the fiscal decentralisation measures undertaken in 2015 seem to positively affect human resources – mainly because they provide extra resources and by this more freedom in hiring and managing local staff.

The Civil Service Law of Moldova of 2008 (158/2008) regulates the civil service and sets out its vertical and horizontal scope – and applies also to self-government level. Article 37 of the Civil Service Law obliges civil servants to update their skills, setting a threshold of 40 training hours per year. Public authorities have to commit 2% of their payroll to training.

In **Ukraine** the total number of servants of local self-governance bodies in 2014 was 84,548 (without information on AR Crimea, city of Sevastopol and occupied territories of Luhansk and Donetsk oblasts). In 2012 there were 98,117 servants of local self-governance bodies. More than 75% of the total numbers of servants in LSG bodies are women. Local elected bodies possess the necessary freedom in human resources management on LSG level; however it should be noted that the salary level for public servants is quite low and not competitive. The level of staff turn-over has been quite high - around 10% in the last couple of years.

The Law on the Service in Local Self-Governments (2001) regulates legal, financial and social conditions of citizens during the performance of their service (in positions that are not elected) in local self-government (especially the procedure of appointment, ranks and categories, general salary and retirement benefit conditions). This legal base did not change during 2012-2015.

2.4 Progress made in the EaP Countries since 2012 in the area of fiscal decentralisation

Fiscal decentralisation is often quoted as one of the main problems hampering not only economic and democratic development at local and regional level but also the economic development of entire countries. In particular, the Initiative on Fiscal Decentralisation was formulated in 2012 by the Sub-group for Local Government and Public Administration Reform of the Civil Society Forum which

stated: “Fiscal decentralisation remains a difficult political issue, which might be perceived as a long-term objective”¹². It was accompanied by a short assessment of fiscal decentralisation efforts in EaP Countries (as of 2012) and a set of policy recommendations. This assessment was taken as a baseline by the experts and the mentioned recommendations served as indicators to evaluate progress in the field of fiscal decentralisation in the EaP Countries.

Existing data indicate that at the beginning of the evaluated period, in 2012, the level of fiscal decentralisation was significantly differentiated within our sample. For example, from the point of view of adequate financial resources, the only country in the region spending about one third of public expenditure through local authorities was Moldova, followed by Ukraine with a bit less. However, because of the low economic performance of the country, this percentage in its absolute value is not sufficient to cover the expected own and delegated responsibilities. On the opposite side we find Belarus and Azerbaijan. The total local government revenues in Azerbaijan are less than 0.14 per cent of the consolidated state budget and local governments spend about 1 per cent. The available data on Belarus are misleading because only very small part of the claimed local expenditures is managed by local self-government – most of local resources are spent through de-concentrated state bodies, the executive committees. The most visible progress from the point of view of fiscal decentralisation has been observed in Ukraine (recently) and Georgia, but also in Moldova. The responses also indicate that some standard mechanisms are still missing – namely accrual accounting and cost centre based financial management. Countries are motivated to implement programme performance budgeting, however this may not lead to progress, if too complicated schemes will be “inserted” to the LSG system on a top-down principle (as experience from Armenia or other developing countries clearly document).

Ukraine, between 2012 and the end of 2014 did not carry out serious changes that would improve the financial situation of local and regional authorities. However, in the end of 2014 massive changes started, especially when the Parliament adopted amendments to the Budget and Tax Codes. The key innovations are as follows: increasing financial resources of local authorities through the introduction of new local taxes and increasing their share in some state taxes; providing local authorities with significantly enhanced freedom in regulation and administration of local taxes and their administration; modernisation of the equalisation system has been changed dramatically by the introduction of a new formula of horizontal equalisation system based on local revenues; decentralisation of the local budgets planning system; creation of the legal basis for amalgamation of the local communities; distribution of the state subsidies according to the objective criteria; introducing the principles of formula-based calculation of grants according to introduced sectoral service delivery standards (for services guaranteed by the state) and their financing norms per user etc.

Very interesting is also the issue of the fiscal motivation for amalgamation of very fragmented local government structure. For small local authorities, for example villages that do not intend to merge, the new tax and budget system are very unfavourable which a clear incentive for voluntary mergers is.

Some results of these changes are already palpable. According to the National Reform Council, in the first half of 2015 local budgets increased by 37% in comparison to the same period of 2014. According

¹² Initiative on Fiscal Decentralisation // The Sub-group for Local Government and Public Administration Reform of the Civil Society Forum, available at: <http://eap-csf.eu/en/working-groups/wg1-democracy-human-rights/resources/initiative-on-fiscal-decentralisation>

to information provided by the Association of Cities of Ukraine (and its analytical centre) own resources of local budgets increased by three times; the number of subsidized local budgets decreased from 96% in 2014 to 74% in 2015; the number of local budgets-donors increased from 3.7% to 15.2% over the same period. Moreover, 182 cities are now entitled to carry out foreign borrowing (previously only 16 cities could do this).

The progress in **Georgia** is connected with the new Organic Law of Georgia: Local Self-Government Code, which was developed in accordance with the Key Principles of the Strategy for Decentralisation and Development of Self-governance of the Government of Georgia for 2013-2014 and adopted by the Parliament of Georgia 5 February 2014. In the area of fiscal decentralisation the new law (and amendments of other laws) addressed some existing gaps, but not all existing problems of local financial management. In particular, it enhanced the rights of municipalities to manage local taxation and announced a much more transparent system of fiscal equalization. It also foresees to increase own local resources by providing municipalities with shared tax revenues – however this step has still not been fully implemented as the adoption of relevant legal amendments kept on being postponed. On the other hand, the freedom of municipalities to borrow and invest is still very limited.

Moldova is a specific case – formally the legal environment in the area of fiscal decentralisation is almost (or may be fully) in compliance with ECLSG principles – Congress recommendations are more or less connected only with the request to enlarge local resources (what is very difficult to implement in the time of fiscal austerity).

In this situation major changes are not necessary and small improvements that have been made are appreciated, in particular:

- Amendments to the Tax Code (Law No. 47 from 27. 03. 2014) which granted to local authorities the right to independently establish the administration mechanisms to manage four local taxes: spatial planning tax (for farmers), tax on dog owners, tax for parking and salubrity tax);
- Amendments to the Fiscal Code (Law No. 71 of 04.12.2015) extended the taxable base of tax for publicity devices with panels for advertising or publicity used by entrepreneurs for their own purposes.

Amendments to the Law on Public Finances and Fiscal Responsibility (Law No. 181 of 25 July 2015) further increased the freedom of self-governments to manage their own finance and provided specific motivation for extra local revenues.

According to the respondents all these changes significantly improved the situation of LSG in 2015. The key steps forward are as follows:

- From 1 January 2015, the new system of the administrative and territorial units (ATU) budgets formation is fully implemented throughout the country (896 ATU of first tier and 35 ATU of second tier), and the local authorities have full freedom to dispose of the financial resources (own income, transfers with general destination and shares from personal income tax) according to percentage shares established by the Law regarding local public finances. Direct relations between the state budget and ATU budgets of the first tier are fully ensured along with implementation of the new system of formation of ATU budgets in all ATU;

- According to the new system of ATU budgets formation transfers of general destination are allocated directly, based on a formula distinctive for ATU of first and the second tier. The system of allocation is based on a set of basic indicators which approximates both local fiscal capacity and the needs of local public services: fiscal capacity per capita (CFL), population and surface of ATU. These indicators reflect both the ability to generate financial resources, and the need for public services of local public administration. Calculation of transfers of general destination is based on data from the last year for which exist the final budget execution and official data regarding population and area. Standards for breakdown of the duties and state taxes are established by law for different types of budgets of administrative-territorial units;
- The new system aims at stimulating local governments' own revenue collection through two mechanisms. Firstly the local authorities' expenditures are limited only by the level of income obtained and not by a value estimated at the central level as in the old system. So, if more revenue is collected there are more possibilities to address existing problems at local level, a stimulus that did not work in the old system. Secondly, in calculation of fiscal capacity per capita indicator only revenue from the income tax of individuals (IVPF) is used, apart from the own revenues of an ATU. In this way the better collection of own revenues do not influence the equalisation amounts received by the ATU, which is another important stimulus;
- The new budgeting system has a number of advantages and opportunities, such as: predictability for strategic planning, stability, transparency (including by exclusion of breakdowns from IVPJ as income source, which is distributed heterogeneous at the territorial level, and also, sensitive to the variations of the economic conjuncture); political exclusion and the human factor in calculating transfers; increased interest of local authorities to develop their local fiscal base and improve the collection of local taxes and duties; the possibility of allocating costs in line with local priorities.

Some improvements are also visible in **Armenia**. A draft Law on Local Duties and Fees is currently discussed within the Government but there is no defined and clear date for its submission to the National Assembly for adoption. The same applies to a draft Law on Financial Equalisation. There is no improvement with regard to a model of subventions, which was recommended by the CSF Subgroup in 2012t. The mechanism for conditional transfers is not defined.

Referring to investments framework, a model of alternative grants for community development (Territorial Development Foundation, TDF) has been established which aims at providing grants to municipalities for the implementation of their development projects.

Concerning the remaining two countries – **Azerbaijan** and **Belarus**, assessment was made on the basis of the information received from local independent experts as only very limited information was obtained from the authorities. We can argue that there no progress during 2012 – 2015 in Belarus, where effective local public finances do not exist, revenues and expenditures of self-government budgets are marginal, as most of local services are paid directly by de-concentrated state bodies. No improvements were observed during the reference period despite some promises that were made.

A very limited number of steps have been taken since 2012 in favour of fiscal decentralisation in **Azerbaijan**. Although there were a series of steps in the direction of increasing financial capacity of local self-government institutions, it was limited to legislative improvements and failed to provide

additional funding sources for municipalities. Although the tax revenues of local and regional authorities in 2012–2014 increased by 42% (from 75.9 million to 116.5 million EUR) the level of these revenues is still quite low: for Azerbaijan's only region (Nakhchivan AR) with the population of 440,000 the per capita revenue (without allocations from the state budget) is 160 EUR; per capita budget revenue at local level is only 5 EUR while per capita revenue of the state budget is about 2038 EUR. At that time, the proportion of the central government's revenues made up by local tax revenues increased from 0.45% to 0.6%. The municipalities' own sources of income in the share of state budget revenues also rose from 0.18% to 0.24%.

Given some changes that occurred at the level of legislation in Azerbaijan, there are four important amendments worth specifying here:

1. On 20 June 2014, the personal property tax base was improved through changes to the tax legislation and the Law on Municipalities. The property tax used to be based on the "inventory value of buildings" in the past while now, starting from 2015, the property taxation will be calculated per square meter of the building surface. According to the calculation of the Center for Support to Economic Initiatives (SEI), the new amendment will increase the tax income 8-10 fold and add 55-70 million AZN (58-74 million EUR) to local budgets.
2. On 20 June 2014, the criteria for unconditional financial aid (state transfer) were improved by amendments to the law on Budget System of the Republic of Azerbaijan. Until now, the unconditional financial aid had been provided based on two criteria. From now on, the calculation of the aid limit will be based on a more complex set of criteria which include the population and area of a municipality; its weight in the formation of the country's financial resources, revenues, and expenditures of municipalities; geographical location of a municipality, e.g. its proximity to the front line, high mountain areas; living standards of local people, and the socio-economic projects being implemented in the area.
3. On 30 June 2014, allocation mechanisms of conditional financial aid were improved by making amendments to the Law on Municipalities. The new law makes it possible to allocate additional subventions from the state budget to local budgets for implementation of projects in the fields of local social protection, environment, economic and social development programmes, as well as financing additional competencies of municipalities granted to them by the law and handed over by the executive committees.
4. An amendment has been introduced to the law on Local Taxes and Payments in order to improve transparency – thus as of 1 January 2015, the municipalities are forbidden to collect local taxes and payments in cash.

Azerbaijani legislation also enshrines the right of municipalities to independently determine their spending priorities. However, due to the lack of exceptional power of municipalities, these rights have proved impossible to exercise in practice.

It has to be noted that in 2012 all EaP Countries received the set of individual recommendations provided by the Sub-group for Local Government and Public Administration Reform of EaP Civil Society Forum. In the following text we indicate the opinion of the respondents to the questionnaires about the progress to implement these recommendations. First we provide a summary table with

scores achieved for each recommendation which followed by comments on the most important changes.

Table 10: General score on the implementation by EaP Countries of the recommendations on fiscal decentralisation formulated in 2012 by the Sub-group for Local Government and Public Administration Reform of EaP Civil Society Forum (0-5 scale)

| EaP Country | Number of the recommendations received by respective EaP country | Average score of the implementation of the recommendations |
|-------------|--|--|
| Armenia | 6 | 1.8 |
| Azerbaijan | 10 | 0.2 |
| Belarus | 5 | 0.4 |
| Georgia | 8 | 3.4 |
| Moldova | 12 | 2.4 |
| Ukraine | 6 | 2.9 |

Armenia received six recommendations. Little progress has been made in their implementation. Thus, the Parliament did not approve the new version of the law on Financial Equalisation which was supposed to take into account LSG fiscal capacities and financial needs. Implementation of the recommendation concerning a need to create the necessary conditions for involving municipalities in capital market (in particular, by preparation and approval of the draft law on Municipal Bonds, introducing the necessary amendments to the existing laws on Local Self Government and on Budgetary System in order to allow municipalities to receive loans from commercial banks) is not encouraged by the Government or by the Parliament.

The Government did not develop and introduce a model of subventions (targeted transfers from state to local budgets) which would be based on priorities defined by the Government, and would introduced tender procedure for applicants based on transparency principle. The mechanism for conditional transfers is still not defined. However, as already mentioned, a model of alternative grants for community development (Territorial Development Foundation, TDF) has been established which aims at providing grants to municipalities for the implementation of their development projects. This is a positive development, which will, hopefully, help communities to acquire alternative funding. As for the state grants there is no mechanism defined up to now.

Some small steps forward are also mentioned by the respondents in the area of local taxation (draft law in preparation). However, according to their opinion proposed changes will have little or no impact on local public finance.

According to the response by the national expert in **Azerbaijan** the only progress observed is a slight improvement of tax management mechanisms. At the same time, the Government did not make any

serious efforts in order to respond to other recommendations in the field of the fiscal and financial decentralisation expressed by the EaP CSF in 2012, in particular:

- The Parliament did not define more precisely the standards reflecting the status of a municipality as a local government body.
- LG bodies did not obtain any exclusive powers. The Government did not implement the reform aimed at more clear division of competences between municipalities and local government bodies.
- Municipalities did not receive sustainable funding sources in order to carry out their responsibilities.
- The Government and the Parliament did not adopt any decision concerning (possible) application of the shared tax system.
- The Parliament did not create the necessary legal background for the application of a minimum budget provision mechanism (in order to achieve the principle of formulation of financial resources appropriate to the competencies of municipalities).
- Public authorities did not succeed to improve tax management mechanisms (for using current tax resources more efficiently).
- The Government did not succeed to improve the mechanisms of allocation of transfers to municipalities (in order to avoid unconditional transfers, to ensure conditional transfers and to increase the volume of transfers from central to local budgets).
- A draft special law on the Status of the city of Baku was not approved by the Parliament.

Belarus hasn't met the most of the recommendations put forward in 2012 in the sphere of fiscal decentralisation. According to the response from the independent experts, there is very small progress concerning the improvements of fiscal and budgetary rules in the country. For the rest of questions there is no progress after 2012.

The opinion of the respondents in **Georgia** the level of implementation of the recommendations is very high. For most of them (improving the distribution of public funds across different budgets, decreasing the dependence of LSGs on the transfers received from the central budget, reviewing the main principles of distribution of tax and non-tax revenues between national and local budgets, approving decisions concerning possible reallocation of a part of income tax in favour of local budgets, introducing objective indicators in order to evaluate the transfer policy, improvement of transfer policy and developing the legislative procedure for obtaining loan by LSGs) the "marks" are really high – above 3.5. On average the respondents are very happy with the changes introduced after the adoption of the new LSG Code. The only less evaluated issue was the suggestion to improve the equalisation transfer formula where the score is only 2.2. According to respondents no changes took place between 2012 and 2014. Nowadays, the Government applies the same transfer formula as it was used in 2012 (although, the Government works with the World Bank and other international organisations in order to improve existing formula within the framework of an on-going project).

Moldova reports some progress on all recommendations addressed to the country to improve local finance. As already indicated in this report, changes implemented in 2014 and in force from 2015

represent a major step forward. This is visible also from the evaluation of progress by our respondents. According to their evaluation the most important steps forward are:

- reconsidering the concept of local budgeting which should transform them into independent budgets of local authorities at all levels (score 3.75)
- realising a gradual transition to direct and stable inter-budgetary relations between state budget and LSG budgets at level I (score 3.75)
- implementation of modern budgeting methods and technologies, including programme-based budgeting and performance-based budgeting (score: 3.85).

The areas with a moderate progress are: introduction of multi-annual budgeting (2.5); attribution on a permanent basis of the corresponding sources of revenues to each level of the budgetary system (2.37); promotion of efficient administration of local taxation (3.0); improvement of the fiscal incentives system combined with elaboration and implementation of concrete mechanisms stimulate economic agents' to pay local taxes timely (2.75). A rather limited progress is connected with following tasks: improvement of the normative framework for local borrowing (1.0); elaboration of a methodology for impartial evaluation of ATU fiscal base and optimisation of tax rates and taxes collected by LPA in order to increase public revenues in local budgets (1.5); extension of a local fiscal base (2.12); evaluation of fiscal capacities of particular territories (ATU) through evaluation of their economic potential based on realistic fiscal forecasts and identification of the amount of the transfers for budgetary levelling (1.28) and introduction of a practice of elaboration of Medium-Term Economic Frame MTEF at least to the level of ATU at rayon centres (1.5).

Also **Ukrainian** respondents report several positive steps from the point of improving a fiscal decentralisation system. Ongoing sectoral reforms support - at least to some extent - the implementation of fiscal decentralisation (3.0); performance-based budgeting approach for the local budgets was implemented for large municipalities (3.2); the legal base for a creation of mechanisms that would make it possible to combine the resources of local budgets within a framework of financial-organisational cooperation at the local level improved (3.7).

Some progress was achieved with regard to improvement of inter-budgetary relations between LSGs and state authorities in order to optimise the distribution of powers to make expenditures and to improve the procedure for transfers' distribution (2.6). However, very small steps forward are also visible in bridging the gap between the responsibilities of LSGs and their financial resources (2.0) as well as developing and introducing a system to offset losses of local budgets that result from the state tax remissions (1.2).

2.5 Evaluation of the level and the scope of implementation of public administration reform on a local level

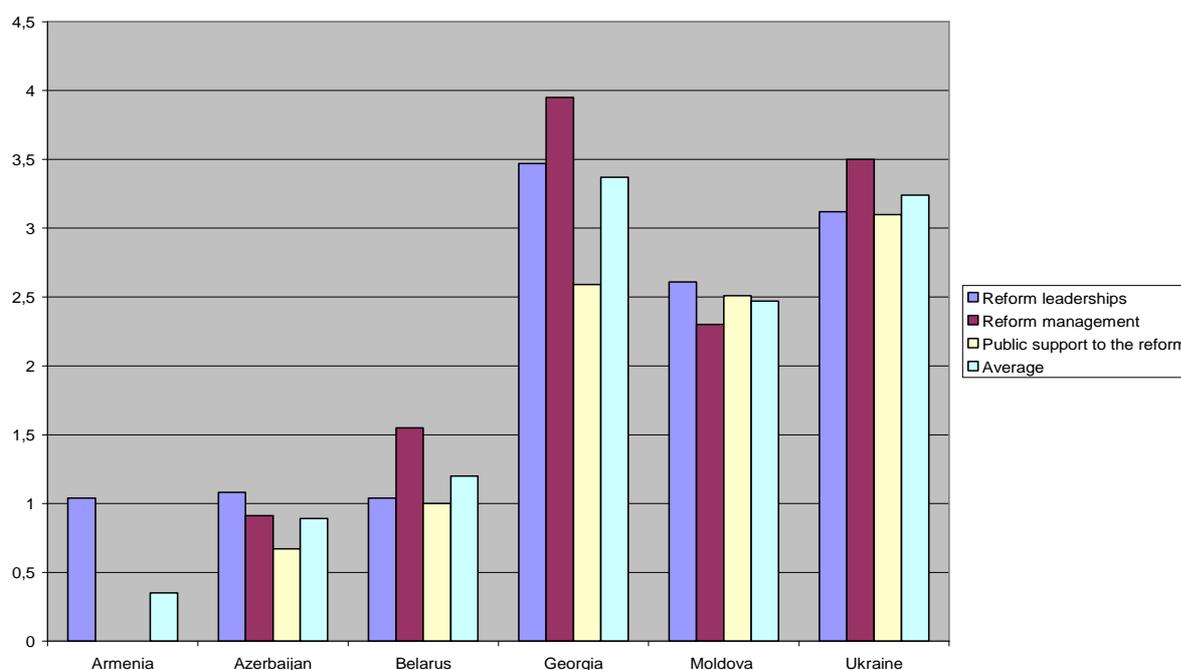
This part (quantitative analysis) is also based on perceptions of the respondents to the questionnaires. We benchmark the current situation, as perceived by respondents to questionnaires, according to the main pre-conditions for successful local government reforms, as defined in the Inception report on the base of existing international knowledge.

The general overview is provided in Table 10 and Figure 2. The data indicates that in Armenia, Azerbaijan and Belarus the capacities for reform (and as written above also will to reform) are rather limited. The main weaknesses seem to be citizens' support and consensus.

Table 11: Local public administration reform capacities in the EaP region

| | Armenia | Azerbaijan | Belarus | Georgia | Moldova | Ukraine |
|------------------------------|---------|------------|---------|---------|---------|---------|
| Reform leaderships | 1.04 | 1.08 | 1.04 | 3.47 | 2.61 | 3.12 |
| Reform management | 0 | 0.91 | 1.55 | 3.95 | 2.3 | 3.5 |
| Public support to the reform | 0 | 0.67 | 1 | 2.59 | 2.51 | 3.1 |
| Average | 0.35 | 0.89 | 1.2 | 3.37 | 2.47 | 3.24 |

Figure 2: Local public administration reform capacities in the EaP region



In the following text we proceed with individual evaluations – using spider-web diagrammes to illustrate the status of various indicators and criteria in each country. We do not create figures for Armenia, Azerbaijan and Belarus, as the data available do not permit that.

Georgia

The capacities to continue self-government reforms in Georgia are evaluated by the national stakeholders and the pool of local and international experts relatively very high (Figures 3 – 6). The weakest element from the point of view of the quality of the reform agenda is the level of the involvement of stakeholders (however, especially during the last few months the co-operation between government and NALAG significantly improved). Citizens' support to the reform is also very limited.

Figure 3: Quality of reform agenda: Georgia

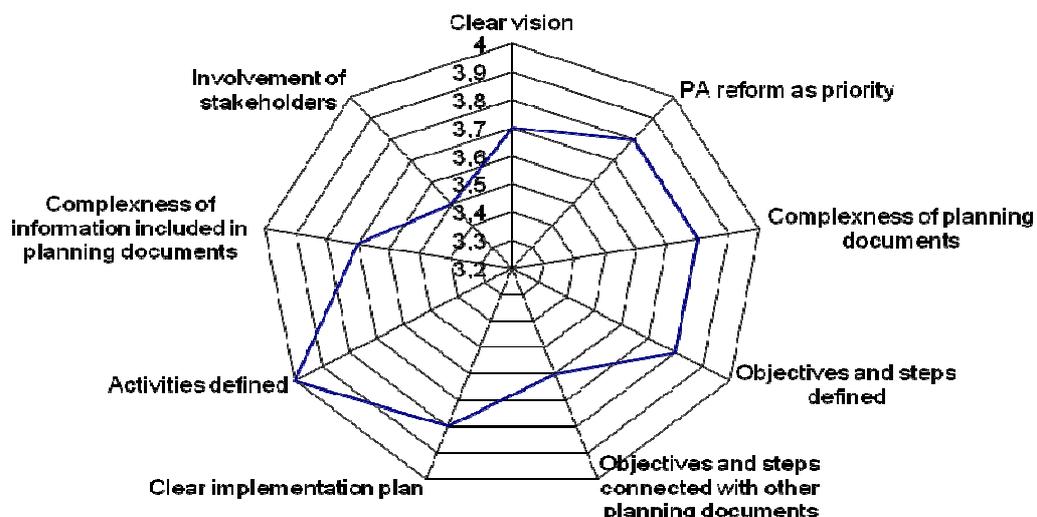


Figure 4: Reform implementation and resources: Georgia

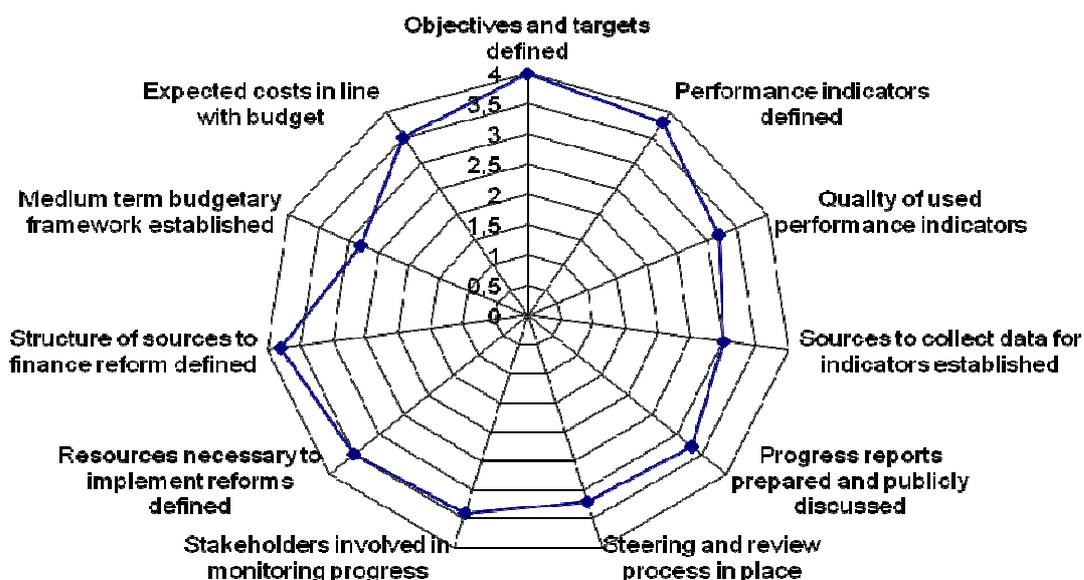


Figure 5: Reform management: Georgia

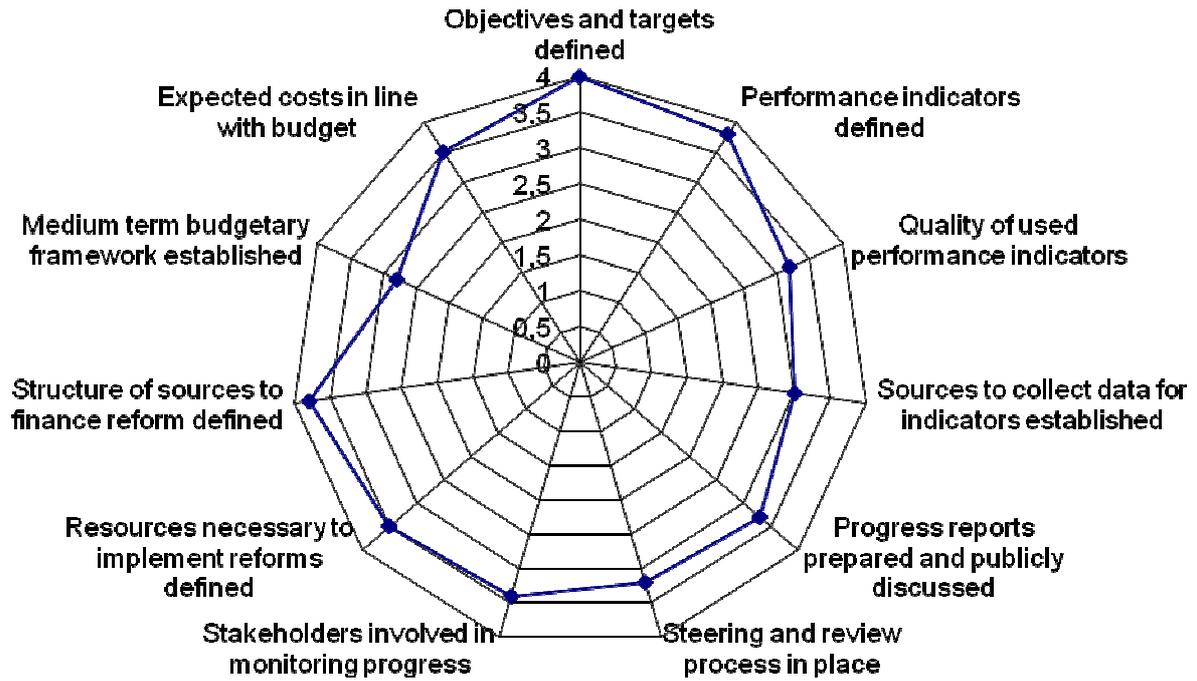


Figure 6: Public support to the reform: Georgia



Moldova

In Moldova, stakeholders and experts are less positive, especially on reform implementation dimension (Figures 7 – 10). For example they do not feel that the expected costs of the reform are included in the budget. The reform is supported by LSGs but not so much by other stakeholders.

Figure 7: Quality of reform agenda: Moldova

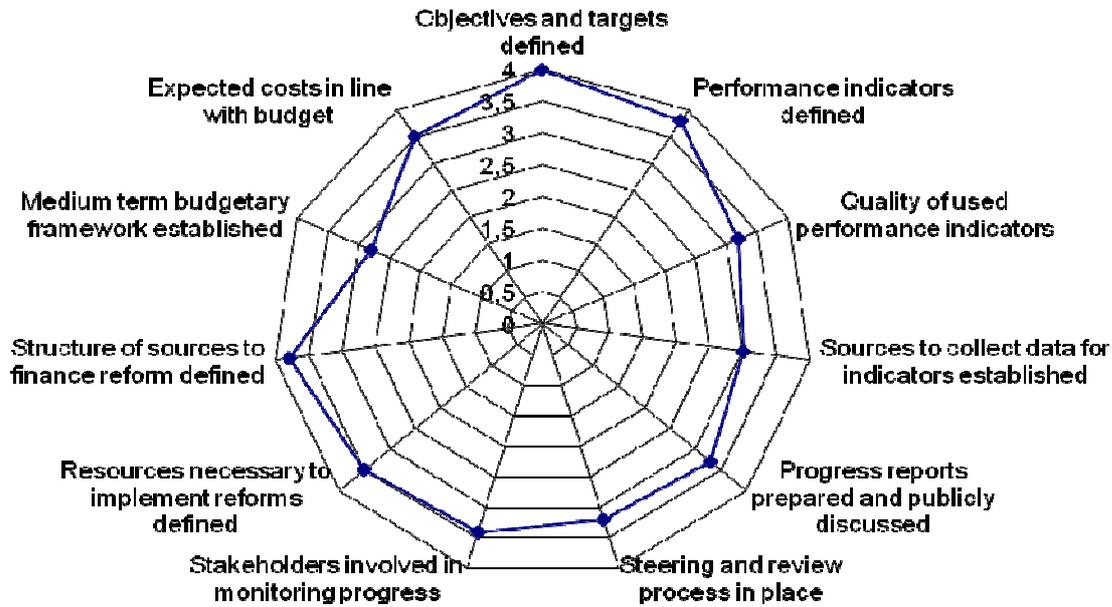


Figure 8: Reform implementation and resources: Moldova

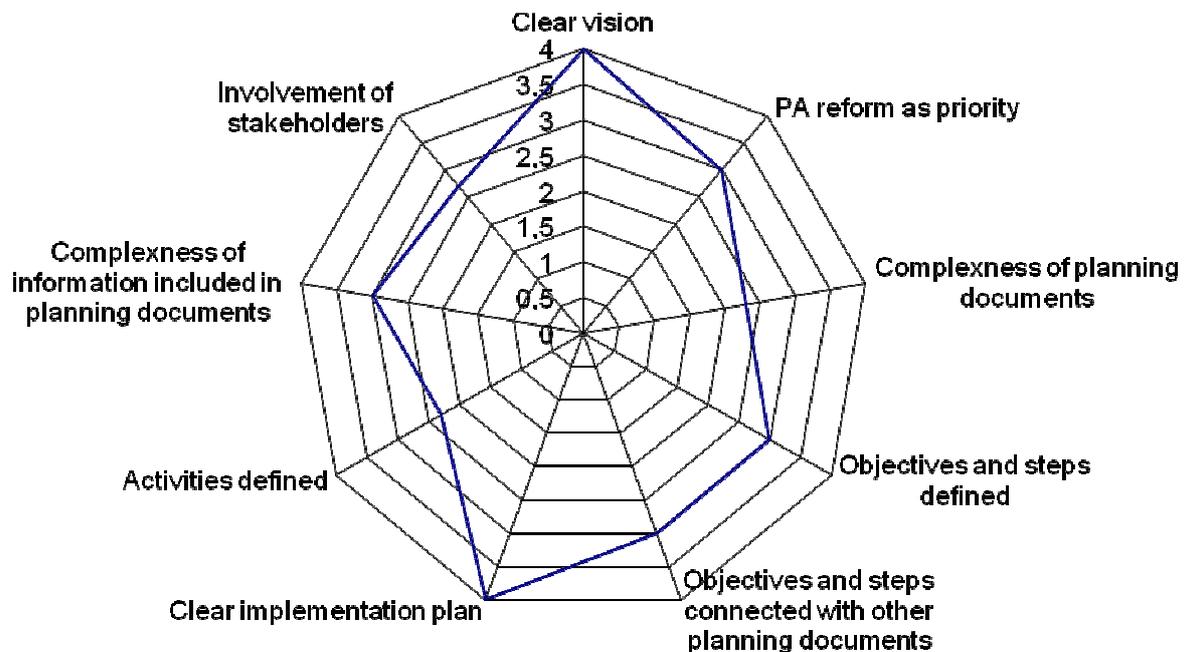


Figure 9: Reform management: Moldova

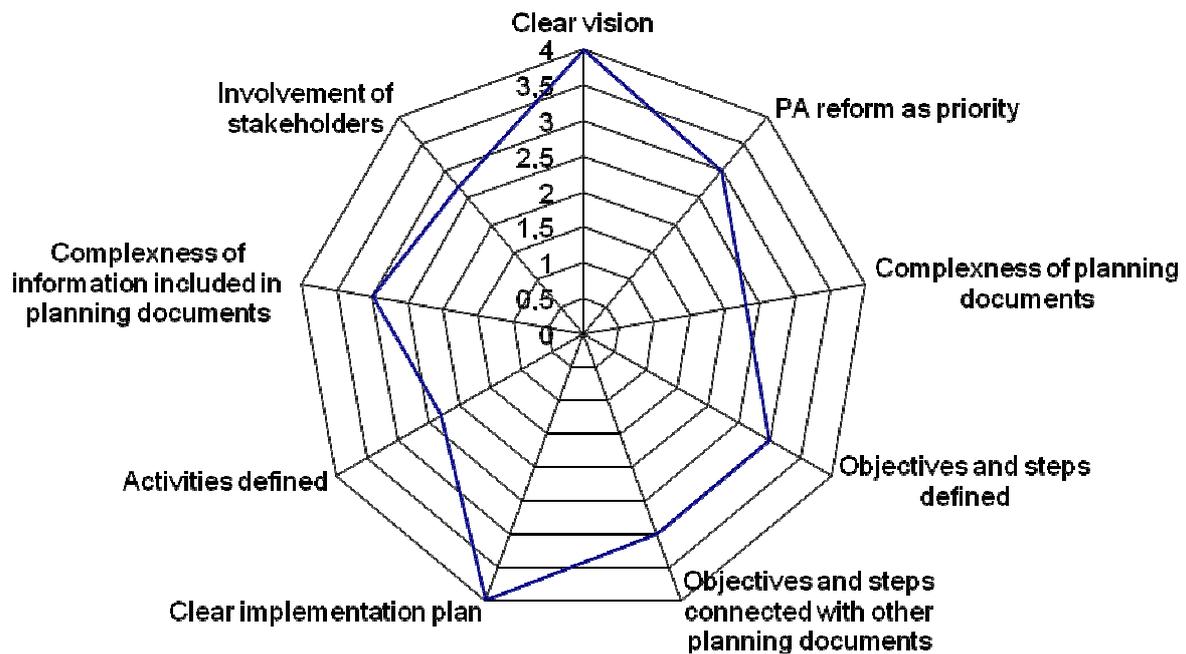
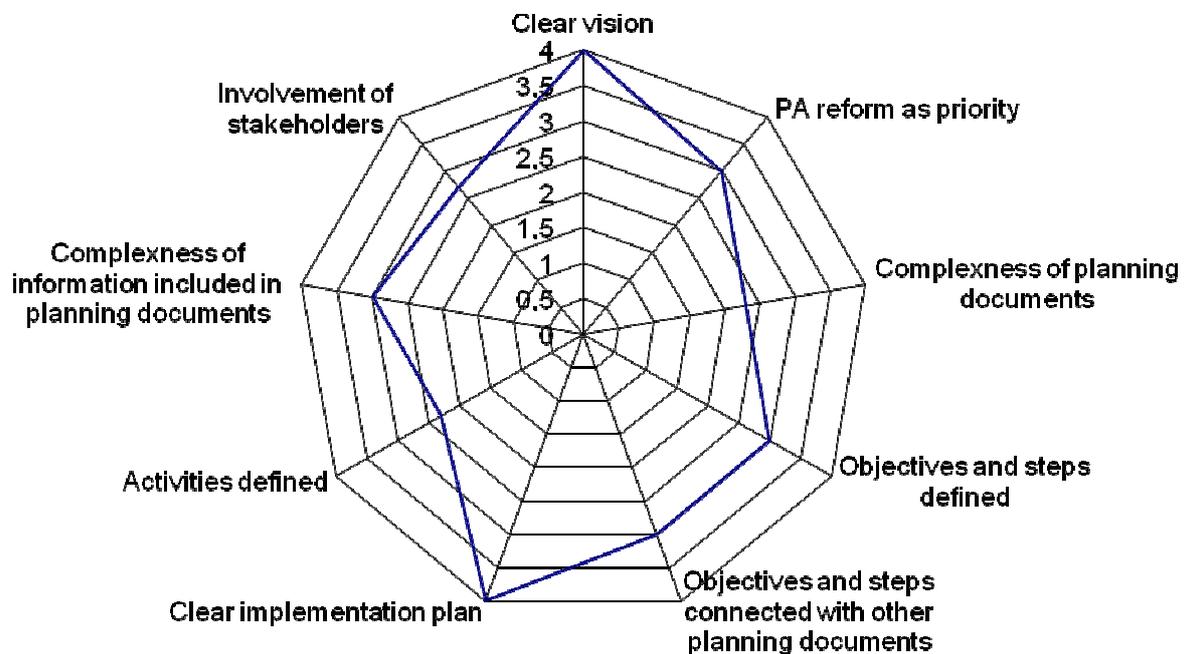


Figure 10: Public support to the reform: Moldova



Ukraine

The Ukrainian stakeholders as well as the experts are very positive when evaluating the reform capacities, which may be due to the major reforms that have been initiated shortly before this evaluation. Almost all evaluations are higher than 3, the reform is supported by most LSGs.

Figure 11 Quality of reform agenda: Ukraine

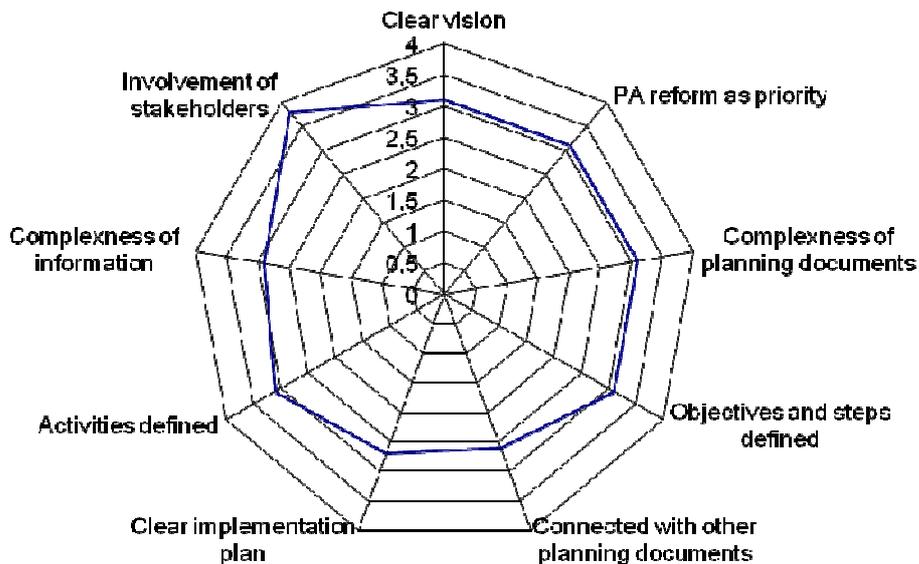


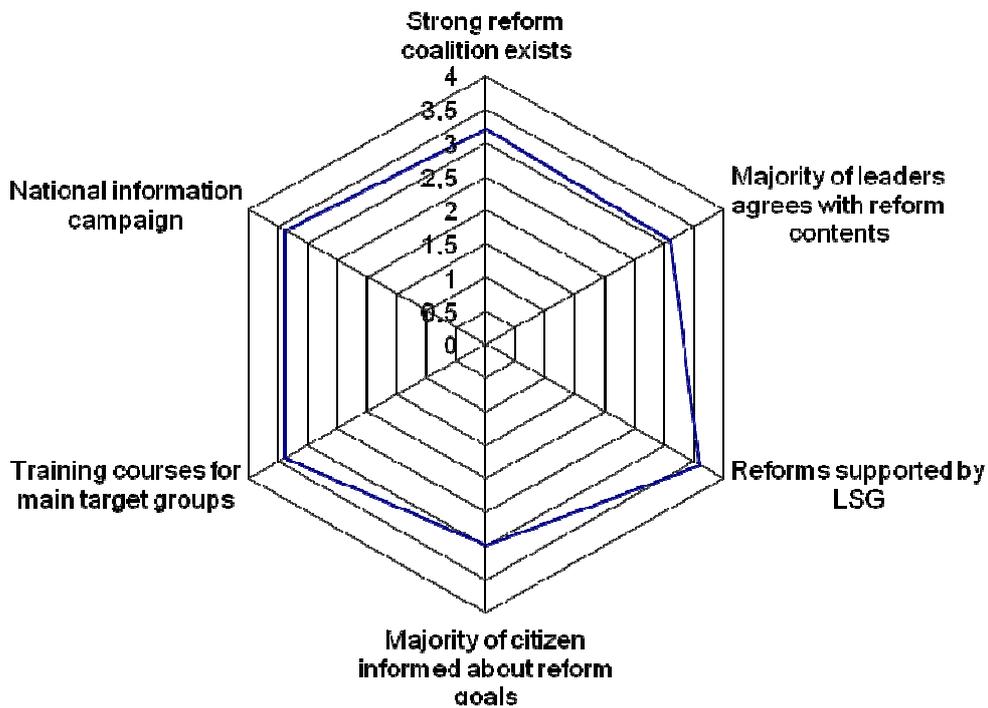
Figure 12: Reform implementation and resources: Ukraine



Figure 13: Reform management: Ukraine



Figure 14: Public support to the reform: Ukraine



3 OVERVIEW OF THE SITUATION IN EAP COUNTRIES

3.1 Armenia

The Republic of Armenia is composed of administrative-territorial units, called marzes (regions), while the local self-government in the country is exercised only on the level of communities.

The territory of Armenia is divided into ten marzes, namely *Aragatsotn, Ararat, Armavir, Gegharquniq, Lori, Kotayq, Shirak, Syuniq, Vayots Dzor* and *Tavush*. Marzes are not a separate level of governance. Marzpets (regional governors) represent the central government in the regions and implement state policies. They are appointed by the decisions of the Government and are validated by the President of the Republic. Marzpets are mainly called to coordinate the development and implementation of marz development plans. However, marzpetarans (territorial administrations), which appointed rather than elected, do not have their budgets, and spend budgetary resources in certain areas within the marz (money received from the central government)¹³.

According to the Constitution of the Republic (Chapter 7 on Local Self-Government, Article 104) the local self-government shall be exercised in the communities. The local self-governance is the right and power of the community to resolve, on its own responsibility, issues of local significance aimed at the welfare of the inhabitants in accordance with the Constitution and the national legislation. There are 915 communities, divided into 49 urban and 866 rural communities in the country (villages represent around 94% of municipalities). Each urban and rural community consists of one or more settlements within one common territory. There are 1000 settlements in Armenia.

The capital city Yerevan is a community, with a special status, and is composed of 12 districts. LSG bodies of a community are its Mayor and a Council. They are elected for 4 years (after amendments to the Constitution in 2005). Every marz has a regional Council, which is an advisory body composed of marzpet and heads of communities (of a given marz). Similarly, the Council of Yerevan is composed of heads of 12 districts and Mayor. Councils play a limited role in terms of power and influencing decisions.

The Law on Local Self-Government determines the basic organisational structure of the communities. The municipal representative body is the Council of Aldermen, which is elected directly for a four-year mandate. This representative body has 5 to 21 members depending on the number of local electors. The local council may establish permanent and ad hoc committees to assist it in its work. The Chief of the Community exercises local executive power. He or she is not a member of the local council (with the exception of the Yerevan City Council) and cannot simultaneously hold any state office or position. The Community Chief exercises his/her authority through a staff consisting of a deputy chief, heads of division, and public servants of the local community. Since the Community Chief implements human resources policies, appoints staff, and exercises his/her powers through municipal staff, – including that of the community's budgetary, administrative and commercial and non-commercial entities - it is the Chief, rather than the local council, who manages and directs the entire organisational structure of

¹³ USAID and Counterpart Armenia, "Republic of Armenia Strategy Paper on Further Development of Local Self-Government and Decentralization of Power"

the local community. With a view to assisting local authorities to establish their internal structure and working methods, central government issued an advisory paper on “Model Regulation of the Community Council”, which sets out to clarify the procedure to be followed at meetings of the local council or other institutions.

One of the main changes after 2012 was the ratification by Armenia of the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207) on 13 May 2013. It entered into force on 1 September 2013 and the necessary new legislation was adopted immediately.

These amendments are aimed at strengthening citizens’ participation in local self-government and enhancing the transparency of work of local self-government bodies. The amended law also introduces a new provision for citizen’s participation in local affairs, which allows inhabitants of the local community to initiate the inclusion of issues in the agenda of the Avagani (assembly) of the local community, as of age sixteen. The law defines the obligations of members of the Avagani with respect to interaction, public meetings and discussions with the population, as well as specific procedures for citizens’ participation in local self-government.

The Law on Introduction of Changes and Additions in the Law on Local Self-government entered into force on 19 June 2013 and its objectives included enhancing transparency and publicity of the operations implemented by local self-government bodies, as well as legally reinforced participation of citizens in local government.

At the same time, the existence of numerous small and weak municipalities is considered by many experts as a structural problem, creating imbalance between local authorities and limiting the service delivery capacity of municipalities. In this regard, in 2013 the Ministry of Territorial Administration initiated the community enlargement process in Armenia. In 2014 this Ministry was merged with the Ministry of Emergency Situations, which resulted in a delay in the implementation of decentralisation reform, with a specific focus on community consolidation process. As this report is being written (2015) the Community Enlargement Process has been in process of implementation in three regions (marzes).

It is important to note that ideas and approaches to municipal amalgamation have been broadly discussed since 2011, when the Government produced the Community Enlargement and Establishment of Intercommunity Unions Concept Paper. A specific governmental programme on amalgamation was developed and presented to the Parliament. Speaking of the costs that the current reform might entail, in 2012 the Turpanjian Center for Policy Analysis (TCPA) produced an estimation of direct and indirect costs and benefits related to a possible consolidation of communities. The study¹⁴ shows that community consolidation would be beneficial from the economic efficiency point of view.

According to the Ministry of Territorial Administration (2014) the principles of Community Enlargement and Formation of Intercommunity Associations include economic feasibility, facilities and accessibility, availability of human resources, LSGs’ autonomy, improvement of citizen participation and transport

¹⁴ Turpanjian Center for Policy Analysis, “Estimation of Direct and Indirect Costs and Benefits Related to Consolidation of Communities of the Republic of Armenia”

services, optimised governance structure, enlarged delegated powers, equal access to natural resources, availability of at least one large settlement, efficient and targeted use of community and state owned land, as well as private land plots.¹⁵

The following standards are also taken into consideration for the mentioned reform: availability of a common administrative border, with the centre of the community having a) central location, b) at least 3,000 of residents, and c) some minimal infrastructure.¹⁶ Cultural aspect in the process of reform should also be taken into consideration, including amalgamation based on mentality and compatibility of the local population, to ensure cultural consolidation within the newly formed community. Notwithstanding governmental intention to promote consolidation reform for effective operation of communities there are, however some concerns based on which the reform might entail serious negative socio-economic consequences.

According to the national legislation, Armenian communities are free to form associations and intercommunity unions. There are few examples of concrete and productive cooperation between communities. Nevertheless, further development of inter-municipal cooperation is complicated by a number of reasons, in particular underdeveloped infrastructure between the regions/communities, low public awareness, lack of citizen participation, complexity of the reform planning process etc.

At the same time, the Council of Europe Congress of Local and Regional Authorities drew attention in its Recommendation 351 (2014) on Local Democracy in Armenia¹⁷ to other points of concern, in particular:

- local authorities take part in service delivery only to a limited extent and they do not regulate and manage “a substantial share of public affairs under their own responsibility” (Article 3.1 of the Charter);
- the existence of numerous small and weak municipalities continues to be a structural problem, creating imbalance between local authorities and limiting the service delivery capacity of municipalities;
- the weak capacity of community councils in the exercise of their initiatives with regard to all matters relating to their competences (Article 4.2 of the Charter);
- local authorities play a very limited role and in practice do not have always full and exclusive powers, with local government bodies serving more as agents for the central government, than as autonomous actors of local public administration (Article 4.4 of the Charter);
- the own tasks and delegated powers of local authorities while defined in law are not applied in practice (Article 4.5 of the Charter);

¹⁵ Terteryan, “Experience of Armenia in Implementing Municipal Amalgamation Reform”

¹⁶ Terteryan, “Experience of Armenia in Implementing Municipal Amalgamation Reform.”

¹⁷ The Council of Europe. “Congress of Local and Regional Authorities Local Democracy in Armenia.”/ https://wcd.coe.int/ViewDoc.jsp?id=2170873&Site=COE#P657_87169.

- the absence of a formal mechanism of consultation between central government and local authorities on decision making process relating to all matters which concern them directly (Article 4.6 of the Charter);
- the supervisory powers of central government extend not only to a review of the legality of the local community's action, but also to the economic and financial aspects of local government matters, in contradiction to the Charter provisions (Article 8.2 of the Charter);
- local communities have limited own resources (Article 9.1 of the Charter).

In this regard, it is important to note that the sources from which Armenian community budgets are generated include taxes and duties, subsidies from central government, local duties and fees (collected by local authorities), land and property taxes, revenue from the sale of community property. At the same time, local authorities cannot impose real local taxes or determine the rate within reasonable limits set by law (this situation is not in conformity with Article 9.3 of the European Charter of Local Self-Government).

The main laws regulating the financial system of the local self-government in Armenia include the Law on the Budgetary System (1997), the Law on Local Duties and Fees (1997), and the Law on Financial Equalisation (1998). Both the Constitution and the national legislation provide guarantees for local-self government autonomy and operation of financial matters. The fiscal relationship between central and local governments is characterised with central government trying to: a) reduce financial disparities between communities to help them better implement their mandates; b) allocate subventions (ear-marked grants) to communities; c) allocate budgetary credits and loans to community budgets.¹⁸

However, there are some gaps between legislation and practice because of the lack of the financial capacities of LSG bodies. The fact of Armenian communities being small requires huge amount of resources for maintenance, which, communities find difficult to generate. Most of the municipalities have 80-90% spending on administration, which means that there is not much left to be spent on services attached to LG.

Besides, the mandatory and delegated responsibilities of the LSGs have priority in execution. However, due to lack of resources they have little chance of performing duties other than their mandatory powers. Communities are heavily dependent on state budget transfers. Their revenues are generated locally, through collection of fees and taxes as well as from State sources, including subsidies and subventions.

The Law on Financial Equalisation stipulates the procedure according to which subsidies are distributed among communities. The size of the community is a determinant factor in calculating subsidies for the communities. According to the mentioned Law on Financial Equalisation, the State helps reduce the difference in the costs for the communities, thus promoting a better community operation and development. However, the equalisation works only for the communities with population under 300.¹⁹ We can conclude that the financial equalisation mechanisms are not appropriate as regards the fiscal capacities and financial needs of the Armenian communities (contrary to Article 9.5 of the European Charter of Local Self-Government).

¹⁸ Tumanyan, *Local Self-Government in Armenia (2011) Book 5*, 5.

¹⁹ Tumanyan, *Local Self-Government in Armenia (2011) Book 5*, 5.

In Armenia, there are three local taxes defined by law: land tax, property tax and hotel tax. Local authorities have the right to define over the hotel tax only. The rates for land and property tax are defined by law. Local authorities do not have the right to set their own rates, but can waive them under special circumstances with the decision of Council. The share of centrally established taxes (PIT and CIT) that has to be transferred to local budget is still not defined by law. Each year the rate is being set to zero percent. Now the draft law on local duties and fees was prepared. It is discussed and is circulated among the national institutions. However, there is no defined and clear date for it to be submitted to the national Parliament for adoption.

The existing institutional arrangements are not sufficient to form sustainable communities. These depend heavily on state subsidies. Institutional sustainability depends on the financial sustainability. Dependency on allocations from the state budget limits communities' independence and a sustainable institutional growth.

However, since 2012, the Government of Armenia started to finance implementation of capital projects in Marzes and communities from its reserve fund. These funds are channelled through marzpetarans and directed at construction or renovation of social infrastructures, roads, and housing. For the purposes of addressing a number of urgent issues in the communities in 2013, the reserve fund of the government was used to allocate 7.4 billion AMD to Marzes to implement capital investment projects (in 2011-2014 four urgent projects were implemented at the value of 40.1 billion AMD). In 2013, incremental 1.3 million AMD were allocated to marzpetarans to implement capital investment projects.

The lack of human resources on the local level in terms of availability of relevant professionals remains one of the key problems for effective municipal management in many Armenian communities. The Law on Municipal Civil Service has been adopted in 2004 (with the amendments in 2008 and in 2013). It established the legislative basis for the legal status of public servants working for local authorities. A recent legislative development to strengthen capacity of local servants is that according to the amendment to the Law on LSG (2013) it was made possible for community servants to put a subject on the agenda of the council session. Despite serious efforts and numerous actions undertaken by the national Government (with the support of several international organisations and NGOs) for the organisation of the training not only for public servants of communities, but also for mayors and local councillors, Armenia still needs improvement in the staffing of local communities. The efficiency of local government personnel is still sharply criticised by NGO representatives and other stakeholders. It is a widespread opinion that a number of local communities do not operate under appropriate working conditions²⁰. In particular, rural communities lack effective administrative structures and professional staff.

Currently, the Executive and Legislative powers in Armenia are in the process of implementing a Constitutional reform, aimed to turn Armenia into a parliamentary republic. The process is controversial, unwelcomed by the citizens and seems to be supported only by the ruling party. A debate whether the changes are actually relevant today is going on and fuelled with criticism and general dissatisfaction. The draft amendments to the Constitution devote only a few words to powers and responsibilities of local authorities. The Government foresees organising a referendum by the end

²⁰ The Council of Europe. "Congress of Local and Regional Authorities Local Democracy in Armenia." https://wcd.coe.int/ViewDoc.jsp?id=2170873&Site=COE#P657_87169

of 2015 to initiate the reform whereas there is a growing enthusiasm by civic activists to oppose that change. Currently, the only reform that is being implemented in the framework of decentralisation is the implementation of the Community Consolidation and the Forming of the Intercommunity Unions Concept. Armenia is undergoing a community consolidation reform by virtue of which bigger communities are to be established in the near future. The consolidation is considered to be a precondition for decentralisation process: the Government is expressed the view that it is not possible to delegate powers to the weak communities. It remains to be seen how the changes initiated by the Government, including constitutional and local, are going to progress.

3.2 Azerbaijan

Republic of Azerbaijan is a unitary state. The Constitution of Azerbaijan was adopted in 1995 and amended in 2002 and 2009. According to Article 11 of the Constitution: "the territory of the Azerbaijan Republic is sole, inviolable and indivisible". Apart from the Nakhchivan Autonomous Republic, there are no other autonomous regions in Azerbaijan. As mentioned in Article 134 (I and II) of the Constitution, "(the) Nakhchivan Autonomous Republic is the autonomous state within the Azerbaijan Republic. The Nakhchivan Autonomous Republic is an integral part of the Azerbaijan Republic."

The Constitution of Azerbaijan recognises local self-government in Section 4 (which includes Chapter IX on Municipalities), which contains provisions on the organisation and scope of responsibility of municipalities and on guarantees of their independence. A separate chapter (Chapter VIII) is devoted to the Nakhchivan Autonomous Republic and comprises provisions on its constitutional status, its highest authorities and the division of powers between them. According to Article 124 and Chapter IX of the Constitution, local government is carried out by both local executive authorities and state bodies and municipalities. Local executive bodies are run by chief executives who are appointed and dismissed by the President of Azerbaijan, who also determines the powers of these bodies. Members of municipal councils are directly elected by the citizens, but the chairs of these councils are elected by the council members (indirect election). According to Article 1 of the Law on the Status of Municipalities "local self-government in the Republic of Azerbaijan is a system of managing the citizens' activity that grants to its citizens the ability to resolve important local issues independently and freely (...)". According to Article 2(2), municipalities are constituted by bodies that are established by municipalities to deal with local issues within their powers and are not part of the system of state bodies.

The Constitution does not define local self-government and merely refers to it as being "carried out by municipalities", which are elected bodies (Art. 142(I) and (II)). In particular, it does not regulate local self-government in Section 3 on State Power, which implies that municipalities are not included among the public authorities exercising state power. It does not define municipalities as institutions forming part of the overall public administration. Accordingly, the relevant provisions do not include the main components of the Charter's definition of local self-government since they enshrine neither the right of local authorities to regulate and manage local public affairs nor the concept of the interest of the local population.

At the same time, the implementation of the European Charter of Local Self-Government is complicated by the on-going Nagorno-Karabakh conflict between Azerbaijan and Armenia.

It is important to note that the administrative-territorial division of Azerbaijan has essentially been retained from the Soviet era and consists of villages, settlements, regions and cities. Municipalities are established in villages, settlements or cities, rather than on a regional basis. Each municipality acts as an independent juridical entity, with neither horizontal nor vertical subordination. Cities may be divided into administrative territorial units, in which case each unit comprises a separate municipality. Only two cities are divided into districts (Baku and Ganja). In these cities, district or settlement bodies of local executive authority are subordinated to the city executive authority.

The Law on Establishment of new municipalities through merging municipalities in the Republic of Azerbaijan was adopted on 30 May 2014. According to the new law 204 municipalities are merged and 94 new municipalities are established. Thus, 110 municipalities are abolished. This process of the municipal consolidated should be further continued.

It has to be noted that the tasks and the functions of municipalities are determined by the Constitution, the Law on the Status of Municipalities and some other legal instruments. In its Recommendation № 326 (2012) of the Council of Europe Congress of Local and Regional Authorities of the Council of Europe underlines that, as a result of imprecise division of competencies and responsibilities between municipalities and local executive committees, the vast majority of local public services are delivered by local executive bodies of the state administration, which is directly subordinate to the central government authorities. This division of powers and duties leads to an ineffective local administration and, in the absence of local democratic scrutiny, result in a serious democratic deficit. The Congress Recommendation also points out that the functions of local governments are typically not full and exclusive, since municipalities and local executive authorities carry out many parallel functions.

At the same time, no serious steps have been taken by the national Government towards fulfilling the principles of the European Charter of Local Self-Government and the Council of Europe Congress recommendations. The processes of regulating the local self-governance system in Azerbaijan are aimed at reinforcing the trend towards greater centralisation of the authority of Azerbaijan's local executive bodies, which are directly subordinated to the central government authorities, instead of drawing up and implementing comprehensive decentralisation reforms.

The functions and the scope of powers vested in the heads of the local executive bodies appointed by the President have been extended. The Regulation) regarding local executive authorities were approved by the Decree of the President of the Republic of Azerbaijan № 648 of 6 June 2012. Under this Decree local government authorities are established by the President of Azerbaijan and run the executive branch on site. Their heads were entitled not only to form their regional divisions and establish a legal entity, but also guide the activities of state-funded agencies and departments of the central bodies of executive power. Local bodies of executive power create organisations that manage housing and communal services, operation of housing fund and household waste disposal. They are funded from the state budget and other sources. Heads of these bodies are appointed by the President and have no right to hold elective office and engage in commercial activities, as well as receive wage supplements. Their deputies are appointed by the Presidential Administration, excluding the local executive authorities of Baku, where the country's President retained this right, and the Nakhchivan Autonomous Republic, where such powers were granted to the Supreme Council of the autonomy. People with dual citizenship are banned from positions of heads of local executive authorities. Local executive authorities and their heads have authority over all areas of state activity, including law enforcement, issues of security and civil defence.

Furthermore, analysis of the Regulations on Local Executive Authorities is paving the way for the following outcomes:

- Contrary to Azerbaijani society's expectations, as well as those of international organisations, the processes in Azerbaijan are aimed at reinforcing the trend towards greater centralisation of the authority of Azerbaijan's local executive bodies of the state administration, which are

directly subordinated to the central government authorities, instead of drawing up and implementing comprehensive decentralisation reforms;

- Local executive authorities manage and deliver local matters, including the most important public services;
- Local executive authorities in most cases are empowered to supervise the activities of other organisations (private enterprises or municipalities), in addition to delivering public services;
- Delivery of the most important local matters, including public services, by the local executive bodies of the state administration, which are directly subordinate to the central government authorities and chief executives under the regulations regarding local executive authorities, contradicts the principle of subsidiarity laid down by Article 4 of the European Charter of Local Self Government.

Changes have been made to the legislation with in order to reinforce the administration of local executive authorities. According to amendments to the law on Territorial structure and administrative territorial division of 12 June 2012, local executive authorities that are in administrative units the territory of which is not divided into regions/rayons, settlements and villages will have new territory executive powers and will shape new administrative districts. That is, administrative districts will be created in the territory of cities lacking division of region/rayons (for example, Mingachevir, Sumqayit, Shirvan, Naftalan and Nakhchivan cities), as well as city districts (for example, Baku's Narimanov, Yasamal, Nesimi, Ganja's Kapaz and Nizami districts). The population of each new territory executive body should not be less than 20,000. However, there is an exception here: if the population within a city without regional division is less than 20,000 it is allowed to establish one regional executive authority in that territory.

The Government claims that these changes are meant to push power closer to local communities. However, this approach fails to comply with the European Charter of Local Self Government, since the Charter states that bodies elected through citizens' voting are closer to the population than to appointed structures. The newly established administrative units will be formed like structures of central executive power and representatives will be appointed by the heads of the local executive bodies assigned to manage them. This means that several executive bodies and administrative districts will exist in the above administrative units within each area of municipal administration.

In the light of this variety of international and local calls and initiatives to eliminate the parallelism within the local self-governance system, in particular to transfer local public competences to municipalities in rural areas, the existing highly centralised system will bring increasing supervision and domination by local executive authorities over municipalities, as well as further weakening of the activities of local self-governments.

The rising cost of oil in the world market occurring in parallel with the increase in Azerbaijan's oil production has positively impacted the country's financial potential within a short period of time. In accordance to the Development Concept "Azerbaijan 2020: outlook for the future"²¹, the extensive production and export of natural resources gave an impetus to economic growth. In 2011, the real

²¹ Development Concept "Azerbaijan 2020: outlook for the future" // http://www.undp.org/content/dam/azerbaijan/docs/sustain_development/AZ_Vision2020_government_draft_en.pdf

GDP tripled in comparison to 2003. In 2011, Azerbaijan accounted for over 70 per cent of the added value generated in the South Caucasus, thus becoming a regional leader.

However, the central government, despite having profited from growing oil revenues, has not been interested in sharing that wealth with local governments. And contrary to the public's expectations, centralisation has gained a firm foothold within the country. Although certain decentralisation trends were observed in the early 2000s, the process started to reverse during the middle of the last decade, when the central government took back a number of the authorities it had previously transferred to local governments.

Monitoring of the current situation in Azerbaijan shows that financial decentralisation reforms in the country are not expected any time soon. According to the mentioned Development Concept "Azerbaijan 2020: A Vision to the Future", the national Government has no intention of strengthening the institutions of local self-government by 2020, let alone implementing decentralisation reforms. The priorities of the Government are mostly focused on the following issues: the development of an economic model based on effective state governance and mature market relations; improving the structure of the economy, developing the non-oil sector; supporting a scientific potential and innovative activity; modernisation of the transport infrastructure; development of information and communication technologies and transition to a knowledge-based society; development of the human capital and social spheres.

When assessing the level of fiscal decentralisation in Azerbaijan, we need to consider three levels of budget system: the central government budget (state budget), the Nakhchivan Autonomous Republic (NAR) budget and the local (municipal) budget. The central budget plays a crucial role as the biggest funding source in all state-led economic activities and investment projects in the country. The role of the budgets of NAR and municipalities remain insignificant.

Although not stipulated by the law, the budget of the NAR corresponds to the definition of "regional budget" applied in separate countries. According to Article 28 of the Law on Budget System, the budget of the NAR is formed by state taxes and other fees, as provided in the Tax Code, as well as by interest and fines that are calculated over those taxes and fees. The budget of the NAR for next year shall be approved by the Supreme Mejlis of the NAR.

Municipal budgets are enshrined within the legislation as 'local budgets' and they differ from the state budget and the NAR budget in terms of their source of income. According to the tax law, local authority budgets are formed from four taxes and up to seven non-tax revenues. Following the reunification in 2014, the number of municipalities in the country has dropped to 1607 from 1717, and the overall budget for all municipalities in the country is now 49.1 million AZN (51.7 million EUR).²²

Evaluating the various indicators of fiscal decentralisation proves that the central government, unlike the regional and local governments, seems to have a lot in terms of both authority and financial resources. Studies also show, that a very limited number of steps have been taken in favour of fiscal decentralisation in Azerbaijan since 2012. Although there was a series of steps in the direction of increasing financial capacity of local self-government institutions, it was limited to legislative

²² Statistical bulletin on 'Execution of Municipality Budgets'. January - December 2014, State Statistical Committee, Baku, 2015

improvements and failed to provide additional funding sources for municipalities. Given some changes that occurred at the level of legislation in Azerbaijan, there are four important amendments worth specifying here:

On 20 June 2014, the tax base of the physical entities' property was improved through changes made to the Tax Code on and to the Law on Local Taxes and Fees. If the property tax was depended on the "inventory value of buildings" in the past, starting from 2015, the property taxation will be calculated per square meter of the building area. According to the calculation of Centre For Support For Economic Initiatives (SEI), the new amendment will increase the tax income 8-10 fold and add 55-70 million AZN (58-74 million EUR) to the local budget.

On 20 June 2014, the criteria for unconditional financial aid (state transfer) were improved by making amendments to the law on "Budget System" of the Republic of Azerbaijan. Until now, the unconditional financial aid had been provided based on two criteria. From now on, the calculation of the aid limit will include the population of the municipality; its weight in the formation of the country's financial resources, revenues, and expenditures of municipalities; geographical location of municipalities, e.g. proximity of the settlement to the front line and high mountain areas; the living standards of local people, and the socio-economic projects being implemented in the area.

On 30 June 2014, mechanisms of allocation of conditional financial aid were improved by making amendments to the Law on Municipalities. The new law considers allocating additional subventions from the state budget to the local budgets for implementation of projects in the fields of local social protection, environment, economic and social development programmes, as well as financing additional authorities of municipalities granted to them by the law and handed over by the executive committees.

A new amendment has been introduced to the law on Local Taxes and Payments for the purpose of improving transparency, and from 1 January 2015, the municipalities are forbidden to collect local taxes and payments in cash.

Azerbaijani legislation also enshrines the right of municipalities to determine independently their spending priorities. However, as a result of the lack of exceptional power of municipalities, these rights have proved impossible to exercise in practice. In contrast, the scope of the NAR's authorities as defined by the Constitution is more precise, and it holds the right to allocate any expenses necessary for implementation of its plans.

Table 12: Main quantitative indicators outlining the level of expenditure decentralisation in Azerbaijan²³

| Indicators | 2012 | 2013 | 2014 |
|--|-------|-------|-------|
| Budget spending of Nakhchivan AR (million EUR) | 296.3 | 308.1 | 369.0 |

²³ The table reflects the expenses breakdown of the state budget, the local budgets and the NAR's budget between 2012 and 2014 based on official data (www.budget.az) that were compiled and analysed by national expert in Azerbaijan

| | | | |
|---|-------|-------|-------|
| Local budget spending (million EUR) | 34.8 | 43.8 | 51.7 |
| Aggregate spending amount of local and regional budgets (million EUR) | 331.1 | 351.9 | 420.7 |
| Shares of local and provincial budgets in state budget spending (%) | 2.0 | 2.0 | 2.14 |
| Spending shares of local and regional budget (% of GDP) | 0.56 | 0.66 | 0.68 |

Note: Average annual status of AZN against EUR in 2012, 2013 and 2014. Year 2012 - 1 EUR=1.03 AZN, Year 2013 – 1 EUR = 1.08, Year 2014 – 1 EUR=0.95. Source: State Statistical Committee.

As Table 12 clearly shows, the local and regional government share of the total central government expenditure and GDP is very low. Although there was slight growth between 2012 and 2014, overall local and regional government expenses have remained modest.

According to the Tax Code of the Republic of Azerbaijan, there are nine state taxes (tax on the income of physical persons, tax on the profit of legal entities, value added tax, excise tax; property tax levied from legal persons, land use tax levied from legal persons, road fund taxes, mineral royalty tax, simplified tax) and the taxes of autonomy republic are the state taxes levied in the NAR. Moreover, this Code has not established exclusive responsibilities for NAR with respect to regulation of tax rates and determination of tax base. The law recognises certain limited responsibilities entrusted to local governments in the field of local tax regulation. For example, municipalities can make decisions on complete or partial tax release or decrease of tax levels for certain categories of taxes paid by taxpayer in their areas subject to the Tax Code. Nevertheless, municipalities have no autonomy to adjust tax base and introduce new taxes. Consequently, the income opportunities of local governments are very slim. In contrast to expenses, the authorities of local and regional governments in local tax regulation are broad.

Table 13: Main indicators outlining the revenue decentralisation in Azerbaijan²⁴

| Indicators | 2012 | 2013 | 2014 |
|--|-------|-------|-------|
| Total budget revenue of NAR (million EUR) | 296.3 | 308.1 | 369.0 |
| Total local (municipal) budget revenue (million EUR) | 34.8 | 43.8 | 51.7 |

²⁴ The table reflects the expenses breakdown of the state budget, the local budgets and the NAR's budget between 2012 and 2014 based on official data (www.budget.az) that were compiled and analysed by the national expert in Azerbaijan

| | | | |
|--|-------|-------|-------|
| Local (municipal) and regional budget revenue (of Nakhchivan AR) (million EUR) | 331.1 | 351.9 | 420.7 |
| Local and regional budget amount without allocations from the state budget (million EUR) | 75.9 | 89.9 | 116.5 |
| Revenue shares of local and regional budgets in the state budget without allocations from the state budget (%) | 0.45 | 0.50 | 0.60 |
| Shares of local and regional budget revenue in GDP without allocations from state budget (%) | 0.14 | 0.17 | 0.19 |
| Revenue share of municipalities in state budget without allocations from the state budget (%) | 0.18 | 0.22 | 0.24 |

As Table 13 shows, the tax revenues of local and regional authorities in 2012–2014 increased by 42% from 75.9 million to 116.5 million EUR. At that time, the proportion of the central government's revenues made up by local tax revenues increased from 0.45% to 0.6%. The municipalities' own sources of income (not including state transfers) in the share of state budget revenues also raised from 0.18% to 0.24%.

In Azerbaijan, the intergovernmental transfer system is weak. The Law on Budget System envisages transfers of special funds (“targeted funds”) and general-purpose funds to the budget of NAR and to local budgets. However, only general-purpose transfers are practiced. The purpose of transfers to NAR is to prevent budget deficit and to balance revenue and expenditure. The purpose of transfers with respect to local budgets is uncertain as a whole. The Law on Budget System only states that in calculating the maximum level of subsidies, the number of population living in that municipal area may be taken into consideration. One of the challenges is that there are no precise and real legal mechanisms, guidelines and frames for distribution of transfers to local budget from central budget, in particular how municipalities can apply for these subsidies.

At present, Azerbaijan not only faces the problem of unsatisfactory transparency in the calculation and distribution mechanisms of transfers, but also with insufficient amount of central government transfers to local and provisional budgets.

Table 14: Main indicators outlining the dynamics of local and regional budget transfers in Azerbaijan²⁵

| Indicators | 2012 | 2013 | 2014 |
|------------|------|------|------|
|------------|------|------|------|

²⁵ The table reflects the expenses breakdown of the state budget, the local budgets and the NAR's budget between 2012 and 2014 based on official data that were compiled and analysed by the author // www.budget.az

| | | | |
|---|-------|-------|-------|
| Subventions to NAR allocated from the state budget (million EUR) | 250.6 | 257.1 | 298.6 |
| As 0% of share of transfers in the budget of NAR allocated from the state budget | 84.6 | 83.5 | 80.9 |
| Subventions to local budgets allocated from the state budget (million EUR) | 4.6 | 4.8 | 5.5 |
| As 0% of share of transfers in local budgets allocated from the state budget | 13.1 | 11.2 | 10.6 |
| Total transfers to local (municipal) and regional budgets allocated from the state budget (million EUR) | 255.2 | 261.9 | 304.1 |
| As 0% of share of total transfers in local and regional budgets allocated from the state budget | 77.1 | 74.5 | 72.3 |

As indicated in the table above, the share of transfers in recent years has decreased the NAR's budget revenues, although its share of state financial aid remains higher than 80%. The NAR's per capita tax revenues totalled just 151 manats (159 EUR) in 2014, while the total figure (per capita tax revenue) across the country exceeded 900 manats (950 EUR) in that year. The amount of the funds that the State allocates to local budgets is generally low. The amount of transfers from local budgets for 2012–2014 has been estimated at around 5 million EUR, while the state budget revenues increased by 2.6 billion EUR (from 16.6 bn to 19.4 bn) during that period. Further, the increase in financial aid to municipalities in 2012–2014 was just 0.5 million EUR compared with 25.6 million EUR in the NAR.

Despite the indication within the state legislation, conditional transfer to local budgets has not happened. According to Article 11.14 of the law on the Budget System, municipalities that want to claim financial aid from the state budget (including for a specific purpose) must submit their application to the relevant executive authority justifying the amount of financial assistance before 1 May of the current year. But there are no clear principles and criteria within the legal framework for obtaining aid. Moreover, the use of transferred amount and purpose also remain unclear. Whereas in the past municipalities applied regularly to receive conditional financial aid, in recent years the number of such applications has diminished significantly. Municipalities have been involved in the implementation of state's programmes. However, they have not received any conditional financial aid in their 15 years of operation in the country. In addition to this, a shared tax system, being one of the key financial aid system widely used in most of European countries, is not used in Azerbaijan and national law excludes any legal norms and mechanisms regarding the application of a shared tax system.

Even though there is a real need in municipalities, local authorities do not have effective mechanisms of access to credit, which is one of the key contributing factors of municipalities' weak financial capacity in Azerbaijan. The municipalities' lack of payment capacity and inability to afford their current

expenses do prevent them from being indebted, on the one hand, while, on the other, financial institutions and lending agencies are not interested in granting credits to these institutions of weak potential. Besides, municipalities are not commercial entities, so they are not permitted to take out loans on commercial terms. However, given that the purpose of any such loan is to create public services, there should be mechanisms for lending to municipalities under favourable conditions.

Concerning the development of local authorities' capacities in human resources, it has to be noted that in 2012 there were initiatives with regard to increasing the number of responsibilities allocated to municipalities in order to improve their ability to provide public services. Article 6 of the law on Public Service, enacted under the Decree of the President dated 14 March 2012, states: 'In addition to NGOs, legal and physical entities, municipalities are also supported to deliver public services to persons who need social care.' Municipalities are empowered to appeal to the relevant executive authority of the state administration for delivery of public services within the interest, and with the consent, of the persons (families) living under difficult conditions.

The law also gives rights to the state bodies to implement state orders in the field of public services. However, according to these rules, social services are commissioned through competition, and here the state body act as a client, while municipalities, physical and legal entities, as well as the NGOs act as executing agencies. Tender rules set and conditions for bidders may bar some municipalities from participating even in the bidding process. Under these conditions, a bidder must be fully or partially qualified to deliver social services, as well as have proven competence, technical background and financial capacity, adequate personnel and management skills in order to secure the execution of the contract, and he/she should not have any unpaid or delayed tax or other outstanding payment commitments. The problem is that the applicable legislation does not determine social services commissioning as an exclusive competence of municipalities, which concerns NGOs, private entities and municipalities equally. Although public services have been transferred to municipalities, the law does not define mechanisms for allocating financial resources from the state budget to municipalities for the purpose of delivering these services.

One of the ways of strengthening local self-government institutions in Azerbaijan is to launch capacity-building and proper training programmes for members of municipal staff, in order to improve the quality of their daily administrative work. Different training programmes are currently conducted by state institutions and NGOs (local and international) to improve administrative potential of municipalities. At present, there are 1607 municipalities with 15,682 elected persons and 16,000 municipality servants.

Training courses for members of municipal staff are conducted at the Academy of Public Administration under the President of the Republic of Azerbaijan and at the Academy of Justice under the Ministry of Justice. Training courses organised for municipal council members and employees aimed at enhancing their knowledge and skills should be highly appreciated, regardless of who conducts them. However, the scope and quality of these courses are important. Studies show that the scope of such courses is significantly limited, and they are based on traditional teaching methodology. There is still a need to develop a specific training programme based on the needs of municipality staff.

At the same time, the Government's focus in recent years has been on strengthening control over municipal council members and staff, along with increasing their accountability and transparency, in particular:

- Increased accountability requirements from municipal staff (the requirements on municipal staff in terms of public accountability were enshrined within the law on Status of Municipalities dated 28 October 2014. According to the amendment to the law, municipality staff should report to the public and ensure awareness about its activity through announcements, bulletins, local media, the Internet and other means);
- Suspension of municipal council members' authorities (in accordance to the amendments to the law on Status of Municipalities dated 28 October 2014, municipal members who do not comply with legislation are subject to suspension of their authorities ahead of time by the Central Election Committee or by the court);
- Improved admission procedures to the municipal civil service (following the amendment to the law on Municipal Service dated 13 February 2015, municipal civil service recruitment procedures have been tightened up. Municipality employees are now considered eligible for work not by the chairman directly, but through a competition on the basis of assessment. In addition, there are now a number of restrictions on the admission process, such as relating to family ties, for example;
- Ethical rules adopted for municipal servants. The law on Ethical Rules of Municipality Servants was adopted on 28 April 2015, with the purpose of improving the image of local self-government institutions and municipal staff, developing the effectiveness and transparency of local government actions, widening citizens' impact on municipal activities, preventing corruption within municipalities and avoiding conflicts of interest between municipal servants and others.

It should also be noted that the number of the elected municipal representatives receiving regular pay has been limited. In accordance with Article 15 of the law, only a certain number of municipal council members can be paid on a regular basis during their term of office (only two elected council members in a council consisting of five to seven members; three in a council of nine to eleven members; four in a council of thirteen to fifteen; and five in a council of seventeen to nineteen). This means that, at best, only one-third of the elected municipal council members can be regularly paid by the local self-governance institution. If municipal council members have no other job and the regular paid seats are taken, then those municipal council members are entitled to register as unemployed.

3.3 Belarus

The Republic of Belarus has only seen minor progress in the sphere of self-government since 2012. The Government has not taken any significant action to approximate to European standards and reform the existing public administration system on local level. The European Charter of Local Self-Government has still not been signed and ratified; the previous recommendations of European institutions (including the EaP Civil Society Forum's recommendations on fiscal decentralisation of 2012) are mostly not acceptable. The model of "sub-national government" existing since 1994 has not undergone any major changes, and the state vertical local government (executive committees) has only got stronger. The existing legislation reproduces in practice the obsolete schemes and patterns of the Soviet period e based on state theory of local self-government applied since decades.

The Constitution of the Republic of Belarus of 15 March 1994 (with the amendments introduced after the national referenda of 24 November 1996 and 17 October 2004) defines in Section V (Articles 117-124) the principles of public governance at the local level, which foresee the existence of two types of local authorities, namely:

- Local government - which refers to local executive and administrative authorities directly subordinated and accountable to the President of the Republic of Belarus;
- Local self-government - which refers to local Councils of Deputies elected by citizens every four years.

The Constitution provides for vertical hierarchical structure for both executive authorities and Councils as it introduces such concepts as superior executive and administrative authorities and superior representative bodies (Art. 122). The highest levels of power for executive and administrative authorities are the President of the Republic of Belarus and the national Government, and the highest level of power for representative bodies is the Council of the Republic of the National Assembly of the Republic of Belarus.

The concepts, which are used in practice by many European states, such as "municipality", "community" and "local community" are entirely missing from the national legislation. In the global practice it is the community that has the right to organize local communities, delegating part of its rights to the elected Council. In the Republic of Belarus, there is no community as an entity, being the subject of local self-governance. It is replaced by the term "administrative-territorial unit".

On 7 January 2012 the Law of № 346 – 3 (with the amendments approved on 31 December 2014) on the Administrative and Territorial Organisation of the Republic of Belarus was adopted in the new edition. The law defines targets and principles of the administrative and territorial division, the structure of the State and its parts. Article 1 of the law defines 'administrative-territorial unit' as a part of the Republic of Belarus (district, region, village council, city, settlement), within which local Councils of Deputies, local executive and administrative bodies are formed and operate in accordance with the procedure established by the legislation. At the same time, the Presidential Decree № 128 of 17 March 2014 on Some Issues Related to the Change in the Administrative-Territorial Organisation of the Republic of Belarus contains provisions, which define the order of formation, reorganisation,

liquidation of local Councils of deputies, local and administrative bodies and solutions of other issues related to the change in the administrative-territorial device of the Republic of Belarus.

It should be noted that the administrative division of the Republic of Belarus in 6 regions and the city of republican subordination Minsk has remained unchanged since 1960. The division of regions into districts has been the same since 1966 (excepting Dribin district which was created in 1989). Over the years of state sovereignty of the Republic of Belarus, there has been a change only in the number of cities of regional and district subordination, township and rural Councils.

At the same time, the period from 2010 to 2014 witnessed a considerable change in the number of administrative-territorial units, mostly at the primary territorial level. 128 rural Councils and 128 rural executive committees (9.9% of the total), 37 township Councils and 37 township executive committees (66.1% of the total) were phased out. At the basic territorial level, 2 city Councils and 2 municipal executive committees (16.7% of the total) were eliminated. During the period from April 2010 to March 2014 the total number of administrative-territorial units decreased by 167 units (11.2%) - from 1495 to 1328.

It is important to note that the regions significantly vary in size, environmental and demographic conditions, production and socioeconomic potential, as well as the established settlement system. The districts (rayons) and the rural Councils in each region vary considerably both in terms of population and area. With the average size of one district being 1.76 thousand sq. km, 10 regions cover the territory of up to 1 thousand sq. km., and 15 - more than 2.5 thousand sq. km. The current system of administrative-territorial units of the basic level (districts and cities of regional subordination) and primary level (rural Councils) does not correspond to the optimal size determined by the formation of market relations, enhancement of social focus on governance, increasing role of scientific and technical progress and educational level of the population, as well as the development of democratic processes at local level. In this regard, further improvement of the administrative and territorial organisation of the country should be considered as one of the main priorities for the implementation of the public administration reform on local level.

As it has been already mentioned, there are two co-existing independent systems of local government in each administrative-territorial unit: local self-government system and the system of local governance. The elected local representative bodies (local councils of deputies) are accountable to citizens and responsible to them. The Councils of Deputies do not have their own executive bodies. Bodies of local government (executive committees) are formed by higher government bodies; they are accountable to them and remain under their control. Both representative and executive local authorities are included in the system of state power.

The Law on Local Government and Self-Government in the Republic of Belarus assigns general and exclusive competences devoted to local councils. It also contains a description of features of the competence of local councils at various territorial levels. In accordance to the national legislation and the Constitution of the Republic of Belarus, the local Councils of Deputies within the limits of their competence approve local budgets and performance reports, approve socio-economic development programmes of the territory under their jurisdiction, determine the procedure governing the management and disposal of municipal property, impose local taxes and fees (tax on the ownership of dogs, resort fee and a charge from purveyors) and call local referenda. These powers are enshrined in

the Constitution and are within the exclusive competence of the local councils. However, in practice, these powers become a formality, since the major role in addressing the above mentioned issues is played by local executive committees. Besides, the local Councils of Deputies do not have the authority to influence the appointment of employees of the executive committees, and have very limited supervisory powers in relation to the activities of local executive committees.

The Constitution and the Election Code determine that the local Councils of Deputies shall be elected for the period of four years at three territorial levels: primary (settlement and village councils, Council of Deputies of a city of district (rayon) subordination), basic (Councils of Deputies of a district and cities of regional subordination), regional (regional Councils and Minsk city Council of Deputies). The Electoral Code specifies the minimum and maximum numbers of the deputies in Councils on each territorial level. Thus, there may be from 11 to 15 deputies in a rural Council on primary level, from 15 to 25 deputies in the township and city Council. On basic level, the number may go from 25 to 40 in district and city Council, whereas on the regional level there can be from 40 to 60 deputies in regional (oblast) Councils and Minsk city Council.

The exact number of deputies for each Council is determined by a decision of the Council adopted at the session, held in accordance with the law, within a period of not later than 4 months before the date of the next election. A decision of the council sets the number of electoral districts within the territory under the jurisdiction of the council. Due to the fact that the Belarusian elections to local Councils are held by a majority system in single-member constituencies, the number of districts on the territory of the Council corresponds to the future number of deputies in the Council. The total number of deputies in local Councils is steadily declining from election to election. Thus, in the result of election of 2 March 2003, 23,469 deputies were elected. On 14 January 2007 the number of the elected deputies was 22,639. The last election was held on 23 March, 2014. In accordance with the official data of the Central Electoral Commission on Elections and National Referendums, 18,809 deputies were elected to 1,328 local Councils, including 14,118 deputies to 1,193 Councils at primary level, 4,279 deputies to 128 Councils at basic level and 412 deputies to 7 Councils at regional level. Thus, the overall numbers of deputies of local Councils in 2014 decreased by 11.6% in comparison with 2010 and by 19.9% in comparison with 2003 (see Table 15 below).

Table 15: Number of deputies of local Councils and their distribution by territorial levels

| Level of representation | Number of deputies | | | | | | | |
|-------------------------|-----------------------|-----------------------|------------------------------------|-----------------------|------------------------------------|-----------------------|------------------------------------|------------------------------------|
| | 2003 Number (%) | 2007 Number (%) | % in 2007 (compared to 2003) | 2010 Number (%) | % in 2010 (compared to 2007) | 2014 Number (%) | % in 2014 (compared to 2010) | % in 2014 (compared to 2003) |
| Regional level | 398 (1.7%) | 415 (1.8%) | 104.3 | 415 (1.9%) | 100 | 412 (2.2%) | 99.3 | 103.5 |
| Basic level | 4 719 (20.1%) | 4 649 (20.5%) | 98.5 | 4 535 (21.3%) | 97.6 | 4 279 (22.7%) | 94.4 | 90.7 |

| | | | | | | | | |
|--|-------------------|-------------------|------|-------------------|------|-------------------|------|------|
| Primary level | 18 352 (78.2%) | 17 575 (77.6%) | 95.8 | 16 338 (76.7%) | 93.0 | 14 118 (75.1%) | 86.4 | 76.9 |
| Total number of deputies of local Councils | 23 469 100% | 22 639 100% | 96.5 | 21 288 100% | 94.0 | 18 809 100% | 88.4 | 80.1 |

The above mentioned change in the number of deputies is connected with considerable diminution of the total number of local Councils of Deputies (in 2003 1,672 local Councils were formed, in 2007 - 1,581 local Councils, in 2010 – 1,495 local Councils and in 2014 – only 1,328 local Councils). It is important to note that the presidents of local Councils as well as the specialists of these Councils are considered to be civil servants. They perform their duties on regular basis. The staff members of local authorities have the status of the State civil servants.

At the end of 2011, in accordance with the official statistics, there were 70,612 persons engaged in the state government system, of whom 29,670 (42%) worked on local and regional levels; 56,232 persons had the status of civil servants, of whom 22,785 of them worked on local and regional levels (40.5%).

The majority of the civil servants (22,512 people or 98.8% from the total number) worked in local executive committees (de-concentrated State bodies) and only 273 people (1.2 %) worked in local Councils. In 2015 the local Councils had only 270 civil servants (1.4 % from the total number of the civil servants working in public authorities on local/ regional level) and 398 other employees (1.6 % from the total number of the employees working in public authorities on local/regional level).

Table 16: Number of employees and civil servants in local government

| Category staff members/ servants | Number of employees and civil servants | | | | | | | |
|---|--|-------------------|----------------------------|-------------------|----------------------------|-------------------|----------------------------|----------------------------|
| | 2012 Number (%) | 2013 Number (%) | % in 2013 compared to 2012 | 2014 Number (%) | % in 2014 compared to 2013 | on 01 July 2015 | % in 2015 compared to 2014 | % in 2015 compared to 2012 |
| Staff members of local Councils of Deputies, local executive committees and administrative agencies | 29 670 (100%) | 29 009 (100%) | 97.8 | 25 401 (100%) | 87.6 | 24 646 (100%) | 97.0 | 83.1 |
| including civil servants | 22 785 (76.8%) | 22 703 (78.3%) | 99.7 | 19 211 (75.6%) | 84.6 | 19 220 (78.0%) | 100.1 | 84.4 |
| Employees in the local executive committees and | 29 264 (98.6%) | 28 603 (98.6%) | 97.7 | 25 012 (98.5%) | 87.5 | 24 248 (98.4%) | 97.0 | 82.9 |

| | | | | | | | | |
|--|-------------------|-------------------|-------|-------------------|------|-------------------|-------|------|
| administrative agencies | | | | | |) | | |
| including civil servants in the local executive committees and administrative agencies | 22 512 (98.8%) | 22 430 (98.8%) | 99.6 | 18 949 (98.6%) | 84.5 | 18 950 (98.6%) | 100.0 | 84.2 |
| Total number of employees in the local Councils of Deputies | 406 (1.4%) | 406 (1.4%) | 100.0 | 389 (1.5%) | 95.8 | 398 (1.6%) | 102.3 | 98.0 |
| including civil servants in the local Councils of Deputies | 273 (1.2%) | 273 (1.2%) | 100.0 | 262 (1.4%) | 96.0 | 270 (1.4%) | 103.1 | 98.9 |

It should be noted that the proportion of women elected in the local Councils of Deputies is always high. In 2003, women accounted for 44.4% of deputies of local councils, in 2007 - 45.7%, in 2010 - 45.5% and in 2014 - 46.3% from the total number of the members of local Councils.

At the same time, 86.4% of employees had higher education at the end of 2011, 89.5% - at the end of 2013, and 91.6% - in the mid of 2015. However, it should be noted that this growth rate is not only the reflection of an improving educational level of the employees. It is also connected with partial reduction of the personnel in local governing bodies, including those servants who had no higher education. Our analysis shows that the number of civil servants decreased from 19,697 to 17,609 for the given period.

Table 17: The distribution of the local civil servants by education and sex

| Date | Number of local civil servants | | | | | | | | |
|-----------------------------|--------------------------------|-----------------|--------------|-------------------------|-----------------|--------------|-------------------------|-----------------|--------------|
| | 2012 (on 01.11.2011) | | | 2014 (on 01.11.2013) | | | 2015 (on 01.07.2015) | | |
| | Total | Women / Men | | Total | Women / Men | | Total | Women / Men | |
| No. of | | percent | No. of | | percent | No. of | | percent | |
| Higher education | 19 697 86.4% | 13 750 5 947 | 69.8 30.2 | 17 202 89.5% | 12 366 4 836 | 71.9 28.1 | 17 609 91.6% | 12 828 4 781 | 72.8 27.2 |
| Secondary special education | 2 736 12.0% | 2 501 235 | 91.4 8.6 | 1 794 9.3% | 1 643 151 | 91.6 8.4 | 1 460 7.6% | 1 339 121 | 91.7 8.3 |
| Do not have a | 352 | 336 | 95.5 | 215 | 208 | 96.7 | 151 | 149 | 98.7 |

| | | | | | | | | | |
|--|--------|--------|------|--------|--------|------|--------|--------|------|
| higher and secondary special education | 1.5% | 16 | 4.5 | 1.1% | 7 | 3.3 | 0.8% | 2 | 1.3 |
| Total civil servants | 22 785 | 16 587 | 72.8 | 19 211 | 14 217 | 74.0 | 19 220 | 14 316 | 74.5 |
| | 100% | 6 198 | 27.2 | 100% | 4 994 | 26.0 | 100% | 4 904 | 25.5 |

However, figures about the high educational level of servants taken alone say little about their professionalism in the local government, their knowledge of specific subjects of local importance and methods of solving various issues, their style and quality of work.

Belarus currently lacks coherent and comprehensive education and training for local elected representatives, civil servants and/or citizens who decided to work in local government bodies. In spite of the needs for experienced managers and professionals on local and regional levels, the Ministry of Education has excluded the subject “Municipal Law” from university curricula. At the same time, some Universities introduced Master program on “State Administration”. The Academy of Public Administration under the President of the Republic of Belarus is also trying to fill the existing gaps by offering short-term training sessions for local officials. However, these activities are not sufficient; they do not allow responding to all LGs needs in the field of the organisation of training of their staff.

Article 59 of the Law on Local Government and Self-Government sets out the organisation of supervision (control) over the activity of local authorities. In accordance to the mentioned Article, higher representative and executive bodies of both local (councils and executive committees), and central government (the National Assembly and the Government) have the right to cancel decisions taken at a lower level.

The President can also cancel and suspend the decisions of lower-level local governments. The same practice is applied to orders of heads of representative and executive local authorities. In accordance with the mentioned Law (Part 2, Article 59), bills and regulations adopted by local authorities are subject to legal review. However, this procedure is carried out by structural units of these same local authorities or their parent bodies. Supervision over the activities of local government and self-government is also carried out by the prosecutor’s office (at national, regional, district and municipal levels).

It has to be noted that public finance management is still one of the most closed and conservative spheres in Belarus. During the period of 2012-2015, no significant action was taken regarding fiscal decentralisation. The principle of subsidiarity is still not implemented at regional and local levels. Fiscal capacity and autonomy of local authorities in decision-making process remain rather limited. Local budgets are perceived as vertical components of the state budget system, they are strongly subordinated to the central budget.

The degree of the centralisation in the local financial management remains very high. The consequences of this centralised policy are the following: insignificance of local taxes, lack of local fiscal autonomy, chronic shortage of own incomes in comparison with the local expenditures. Belarus is still far from achieving successful financial decentralisation regarding the assignment of revenues

and expenditures, financial equalisation, municipal loans, asset management, local financial autonomy and tax authorities.

The Budget Code of Belarus is largely based on the idea of strict state regulation in the financial and budgetary areas at all levels of state and local authorities. The Code leaves little freedom to local authorities in financial and budget planning and uses a regulatory approach in the assessment of budgetary needs of municipalities. The State renders financial assistance in this case only to those municipalities, the income of which is insufficient to cover the expenses planned by the government. On the one hand, such a system deprives successful municipalities of the incentives to increase budget revenues, on the other – it generates dependency among financially weak municipalities.

The State exercises control not only over the legitimacy of budget spending, but also over “reasonableness” of expenses of the local authorities. Almost all transfers from higher levels of the budget system are targeted and cannot be used by local authorities for any other purpose, even when due to the effective work of the local authorities the target has been achieved at lower costs than initially planned.

The Budget Code pays little attention to local budgets. It is explained by the fact that the concept of subordination of all levels of the government, applied in Belarus, includes local authorities in the central government system. In this regard, all the rules that determine the order of the central government in the financial and fiscal areas apply to local self-governments, and this eliminates the need for special regulation of these entities under the Budget Code.

Up to now expenditure functions of local authorities at primary level are extremely limited, and the main expenditure assignments are concentrated at the higher levels of governance. The vast majority of local government expenditures are concentrated on oblast (regional) level. Moreover, expenditure assignment system in Belarus has not been formed; differentiation of assignments has not been fully developed and fixed in the legislation. Over the last 10-15 years the number of local taxes and fees in local budgets has been significantly reduced. The share of these taxes was reduced from 10 per cent to 3 per cent in local budgets. Besides, the local authorities cannot regulate tax rates and determine tax base independently. Nowadays mobile taxes are dominating in the structure of local budgets. They are profit tax (PT), personal income tax (PIT), tax on incomes and other taxes which depend upon an economic environment in the region. It creates big budgetary risks and instability for local budgets' formation.

Among all EaP Countries Belarus strongly lags behind the countries with advanced tools and methods of financial equalisation as it still has no transparent formula for horizontal equalisation which would allow for measuring the transfers for local government objectively.

In Belarus the communal property is a subtype of state property. It can be confiscated and redistributed by the central and higher-level authorities in an administrative procedure. In accordance with Article 13 of the Constitution, “Mineral resources, waters and forests are the exclusive property of the State. Agricultural land is owned by the State.”

During the period of 2012-2015 there has been little progress in financial (budgeting) decentralisation in Belarus. The World Bank point out in its Public Financial Management Performance Report that the sub-national governments (SNGs) derive revenue from three main sources²⁶:

- Shared national taxes are the largest financing item and contribute roughly 60% of sub-national revenue;
- Transfers from the central government, including both block and earmarked grants, make up another 35%;
- The remaining 5% come from own-source taxes and non-tax revenue.

All significant tax bases, including VAT, personal income tax, property taxes and CIT, remain under the control of the central government, but the revenue is shared with oblast governments, that in turn share these revenues with the districts (rayons) and rayon subordinate towns.

The Budget Code sets out a formula for allocating transfers which is, however, not implemented in practice due to its complexity and high demands on data. The formula was simplified but is still in its pilot phase and is being run concurrently with the existing system. The existing state financial management system remains centralised, very conservative and closed for general public.

²⁶ Report № 89737-BY on Republic of Belarus: Public expenditure and financial accountability (PEFA) // Public Financial Management Performance Report// June 2014. Europe and Central Asia Region, the World Bank

3.4 Georgia

Georgia is a democratic republic with a population of around 4.45 million inhabitants. The country suffered from the armed conflict in 2008 that broke out between Georgia and the breakaway regions, South Ossetia and Abkhazia, supported by the Russian Federation. There were 236,000 displaced persons (from Abkhazia and South Ossetia) according to 2012 figures given by the Internal Displacement Monitoring Centre. It has to be noted that EU and most UN Member States do not recognise the existence of either South Ossetia or Abkhazia as independent entities, and consider them to be under Georgian sovereignty. Their status is defined by the Law on the Occupied Territories.

The country is administratively divided into 2 autonomous republics (*avtonomiuri respublika*), 9 regions (*mkhare*) and 69 local government units (*municipaliteti*), including 64 municipalities and 5 self-governing cities - the capital city Tbilisi, which has a special status, Rustavi (industrial city adjacent to Tbilisi), Kutaisi (city now hosting the national Parliament), Batumi and Poti (two Black Sea ports). The municipalities consist of three organs: the Council (*Sakrebulo*) is its representative and by function the legislative organ; the City Hall (*Gamgeoba*) is the local administration and is headed by a Mayor (*Gamgebeli*) who is its executive organ.

Since 2012 the Government of Georgia considers decentralisation as one of key priorities of its political agenda. Thus, a working group had been established under the Ministry of Regional Development and Infrastructure (MRDI) in order to prepare the appropriate decentralisation legal acts. On 27 November 2012, the MRDI issued the order № 117/N aimed at creating the Council of Advisors for Development of Self-governance and Regional Policy (consisting of over 70 experts and representatives of the civil society organisations, lawyers, economists, etc.) to implement decentralisation process. In 2013, the Government of Georgia also adopted a document on Key Principles of the Strategy for Decentralisation and Development of Self-governance of the Government of Georgia for 2013-2014²⁷ which was developed with the support of the European institutions.

In September 2013, the Government of Georgia submitted to the Parliament a draft Organic Law containing Local Self-Government Code that was developed in accordance with the Key Principles of the Strategy for Decentralisation and Development of Self-governance of the Government of Georgia for 2013-2014. This law was adopted by the Parliament on 5 February 2014 and differs significantly from the original²⁸. Some original Articles and provisions widely supported by civil society organisations and experts (e.g. those related to citizens' participation matters) were either changed or

²⁷ <http://static.mrdi.gov.ge/529dd6a60cf276b73b39d87d.pdf>

²⁸ Provisions related to the selection of public self-governance body in the villages were deleted from the final version of the code. The first attempt to introduce this system under a separate law failed in May 2013 as an author of the bill of code parliamentary committee on regional policy and self-governance (E. Tripolski, G. Zhorzholiani) withdrew the bill. It was decided to incorporate the law in the new Self-Government Code. However, G. Zhorzholiani took out the question from an agenda. Instead, an article was added to transitional provisions according to which the government was to submit a bill on additional civil engagement mechanisms to the Parliament by the end of 2014"; http://www.osgf.ge/files/2015/Publication/local_democracy_development_report_english_final_2.pdf

removed²⁹. Despite these limitations, the adoption of the Local Self-Government Code was an obvious progress and a step towards decentralisation.

The Code combined several legal acts that used to regulate local self-governance matters. Its enactment led to repealing the following laws:

- The Organic Law of Georgia on the Local Self-Government;
- The Law of Georgia on the State Supervision over Activities of Local Authorities;
- The Law of Georgia on the Capital of Georgia - Tbilisi;
- The Law of Georgia on the Property of a Self-Governing Unit.

The Local Self-Government Code comprises of eight sections, 22 chapters and 197 Articles. *Section I (Local Self-Government)* incorporates chapters on General Provisions, Administrative - Territorial Organisation of Local Self-Government, and Powers of Municipality. The *Section II (Municipal Bodies)* includes chapters on Representative Body of Municipality, Executive Body of the Municipality, and Administrative-legal acts of municipality and its officials. The chapters of the *Section III (Tbilisi – the Capital City of Georgia)* stipulate the Status of the Capital City, Representative Bodies of Tbilisi Municipalities, Executive Body of Tbilisi Self-Government (system of executive bodies of Tbilisi self-government), and Territorial Body of Tbilisi City Hall – Tbilisi District Gamgeoba. The *Section IV* covers matters on the Participation of Citizens in Implementation of Local Self-Governance. The *Section V (Budget of Municipalities and Economic Fundamentals)* contain chapters on Budget of Municipalities, Municipal Property, Creation of property of Municipality, and Privatisation of Municipal property and transfer under rights of use. The *Section VI (State supervision and auditing of activities of Municipal Bodies. Direct state governance)* stipulates aspects of the State Supervision of Activities of Municipal Bodies, Audit of Activities of Municipal bodies, and Direct State Governance; Dissolution, Suspension of activities and Early Termination of authorities of Municipal Council and Gamgebeli/Mayor. The *Section VII (Regional Advisory Council)* includes chapter on Status and Authority of Regional Advisory Council. And finally, the *Section VIII (Transitional and Conclusive provisions)* presents transitional and conclusive provisions that clarify matters pertaining to local self-government elections and terms of office, territorial optimisation of municipalities, measures to be implemented to enforce present, separation of revenues between budgets, training of local public officials, transitional period of validity of legal acts, and so forth.

The most significant reform under the new LSG Code was the direct election of mayors (gamgebelis) granting them greater legitimacy. The Code also highlights the optimisation initiative, pointing out that to ensure management optimisation; a municipality can be divided into administrative units. Territory of an administrative unit covers one or several settlements within the self-governing community. In a self-governing city administrative unit is a part of a settlement. Local NGOs report that “optimisation has not taken place even in the self-governing cities. Pilot optimisation programmes have not been implemented. The reform was limited to the separation of cities from municipalities. Both governmental entities (the city and the municipality) remain in their former centres, which undermines the process of

territorial optimisation. Whether the optimisation process is completed or not will depend on the political will of the Government”³⁰.

The provisions of the Code regulate the creation and authority of Regional Advisory Councils (RAC) at regional levels. The Regional Advisory Council consists of Mayors (Gangebelis) of all relevant municipalities, chairman of the Municipal Council and deputy chairman of the Municipal Council. They are authorized to:

- Review projects, programmes and cost-estimates that are going to be implemented by the state on their relevant territory upon a recommendation of the state trustee - the Governor;
- Review the social-economic development strategy of the territory of the Governor's authority;
- Develop recommendations for the state trustee - the Governor - in the process of elaborating and implementing the respective territory development plans.

It is important to note that these Councils do not possess any public function and are merely consultative bodies to the Governor of a province. Overall, in 2013-2014, the Government of Georgia developed and introduced a number of legal acts aimed at improving self-governance milieu. Thus: in March 2014, the Government issues the Decree № 515 on Separation of Municipalities and Establishment of Self-Governing Communities – Municipalities; in May 2014, the MRDI introduced the Resolution № 363 on Rules for Redistribution of Property and Responsibilities between Municipalities; in June 2014, the Government of Georgia approved the Resolution № 384 on Approving Interim Rules for Redistribution of Budgets, Budget Incomes and Payments to the End of 2014 for New Municipalities Created in accordance with Article 152 of the Organic Law of Georgia on the Local Self-Government Code.

In July 2014, the Government also enacted the Law on Civil Safety which liquidated, as of 10 January 2015, all emergency management agencies, fire brigades and/or rescue services operating under the management of local self-governing authorities. The Local Self-Government Code brought important improvements in the field of fiscal/financial decentralisation. Thus, it authorises municipalities to:

- Prepare and submit draft budgets to the Municipal Council for approval as well as draft amendments to the budget; ensure fulfilment of the approved budget within their competence;
- Pursuant to the Budgetary Code of Georgia, based on the rules set by the Municipal Council make decision on allocation of funds between budgeting classification items and codes of the spending institution without introducing changes to the approved budget of the self-government unit;
- Take loans (on behalf of the municipality and by the consent of the Municipal Council), in accordance with the Code and other legislative acts of Georgia.

The Local Self-Government Code defines the following forms of transfers to local budgets:

- equalisation transfer which is a sum allocated to a municipal budget from the state budget;

³⁰ “Two Years in Government: Georgian Dream's Performance Review”, ISFED, May 2015

- capital transfers are defined as transfers from one budget to another for the purpose of implementation of a targeted capital project, which is related to the increase of the non-financial assets of the transfer recipient;
- targeted transfers are made from one budget to another for the purpose of financial support of the delegated powers. Capital and targeted transfers are: from the state budget to a municipal budget; and from the budget of an Autonomous Republic to the relevant municipal budget;
- special transfers are allocated from the state budget, or from the budget of an Autonomous Republic to a municipal budget for the elimination of consequences (damages) of natural calamities, environmental or other disasters, hostilities, epidemics and other emergencies, as well as for the implementation of other measures by the municipality.

Revenues from the equalisation transfer are used by the municipality at its own discretion, in order to exercise its authorities. It is noteworthy that municipalities getting equalisation transfers from central budget are obliged to consult with the Ministry of Finance on spending scope and priorities. The government developed a system to evaluate projects submitted by municipalities (infrastructure project have higher priority), although there is no benchmarking mechanism against performance and results, just technical certification procedures for physical infrastructure projects. The recipients reported that whenever municipalities are sending projects to the MRDI, the ministry has always the right and power to decide which projects are to be financed.

Activities of Governors and of regional administrations are financed from the central budget. Regions receive funds from delegated transfers, Village Development Fund, Regional Development Fund, the Reserve Fund, and Municipal Development Fund and from subsidies. Regional authorities are composed of employees that are paid from the central budget and dispose with the funds for the development for municipalities. Regions are included in the system of financial equalisation and can use other funds and bank loans.

A report produced in May 2015 by a group of NGOs indicates that despite the Local Self-Government Code determines types of properties to be transferred under local governance ownership; the Government of Georgia had not started any property transfers to municipalities so far. Moreover, the public is unaware of mechanisms be used by the government to implement the shared income tax system.

The Law on Civil Service³¹ (Article 16) stipulates the basic requirements for local self-government servants. Any citizen of Georgia, who has completed secondary school, reached 18 years and knows the state language of Georgia can enter the local self-government service. Education requirements vary depending on position and grade. According to the Government's Decree № 143 of February 2014, secondary education is a minimum requirement for positions of specialists and other lower grade positions. The same Decree stipulates additional qualification requirements which can be set by the heads of agencies or their supervisors. Thus, upon the restructuring of an agency resulting in a reduction of staff, the head of the agency can introduce by a normative act additional qualification requirements applicable to civil servants of this agency.

³¹ http://csb.gov.ge/uploads/Law-of-Georgia-on-Civil_Service.pdf

Besides, Transparency International³² and International Society for Fair Election and Democracy (ISFED) produced a report on the cases of massive dismissals of civil servants that took place in 2012 and 2014³³ at the central and local levels. ISFED stated that new staff had been hired as interim civil servants, in order to dodge on competition. As a result, the Government developed guidelines for holding competitions to regulate hiring practices. Nevertheless, further legislation improvements are still necessary to create an independent and impartial public administration system.

According to the Law on Civil Service³⁴, a public competition on a vacant civil service position is announced on the webpage administered by the Civil Service Bureau and – facultative - in an official printing body. Candidates are given 10 days from the publishing date to submit all relevant documents. Based on a decision of the President of Georgia or local self-government agency, a competition can be announced to fill certain positions within the agency, except the cases covered by Article 30 of the Code. At the same time, the following groups of civil servants can be appointed without competition:

- a) Civil servants, appointed or elected by the President, the Parliament, the Chairman of the Parliament or the Prime Minister;
- b) Civil servants elected by the supreme representative bodies of the Autonomous Republics of Abkhazia and Adjara;
- c) Deputy Ministers, assistants and advisors to the Minister;
- d) Temporary substitutes;
- e) Temporarily acting civil servants;
- f) Acting officials for the position that should be filled only through competition;
- g) Civil servants – in case of promotion;
- h) Civil servants – in case of transfer to another structural subdivision of the agency if the positions have the same requirements³⁵.

In the Georgian Civil Service, individual employment contracts are signed in accordance with the requirements of the Labour Code of Georgia, which may result in a possibility of non-equal remuneration between civil servants and public employees contracted by the labour legislation³⁶.

A maximum amount of fee for sakrebulo officials is determined under the resolution of the Government of Georgia. According to 2014 data, official fee for sakrebulo chairpersons was 2 650 GEL per month (compared to national average wage of around 930 GEL in 2015), for deputy chairpersons - 1 700 GEL per month and for chairpersons of sakrebulo commission and factions – 1350 GEL. In addition, as noted earlier, expenses related to discharging of official powers of sakrebulo municipal council members are compensated under the regulations of sakrebulo. As demonstrated by official records

³²<http://www.transparency.ge/en/post/general-announcement/dismissals-civil-servants-tbilisi-city-hall-allegedly-political-grounds>

³³ <http://www.isfed.ge/main/900/eng/>

³⁴ http://csb.gov.ge/uploads/Law-of-Georgia-on-Civil_Service.pdf

³⁵ http://csb.gov.ge/uploads/Law-of-Georgia-on-Civil_Service.pdf

³⁶ <https://idfi.ge/public/migrated/uploadedFiles/files/Remuneration%20of%20civil%20servants.pdf>

requested by ISFED, such expenses are often compensated for sakrebulo officials³⁷. Compensations of expenses related to the work of a sakrebulo member have the following two key components:

- for attending sakrebulo meetings and participating in the work of sakrebulo agencies; and
- for meetings in constituencies and executing orders of sakrebulo and sakrebulo chairperson.

In some municipalities only a total monthly amount of compensation is provided, without segregated amounts for meeting in constituencies or executing orders of sakrebulo chairperson or any other responsibilities. In some cases, the amount for compensation is excessively segregated – for instance, Kareli municipality is the only with extremely narrow compensation regulations. For instance, regulations provide specific amounts for compensating sakrebulo members for attending meetings. These amounts differ depending on meeting venues. In particular, member of sakrebulo receives 100 GEL for attending sakrebulo meetings and participating in commissions; 250 GEL for meeting constituents, which is further narrowed down to 100 GEL for a meeting within the premises of Kareli municipality, 50 GEL for a field meeting (no more than three meetings per month) and 50 GEL for meeting persons accountable to sakrebulo.

In case of self-governing cities (in accordance to Article 9 of Tbilisi sakrebulo Regulations), sakrebulo member receives total of 1700 GEL per month for his/her work, including: chairpersons of sakrebulo factions can provide compensation for faction members for their contributions to the work of the faction with maximum amount of 300 GEL; sakrebulo members receive 700 GEL for their work in commissions and remaining 700 GEL can be provided as compensation by sakrebulo chairperson for individual sakrebulo members for attending meetings, participating in discussions and executing orders, in each individual case³⁸.

It is obvious that lack of financial incentives and instability (rapid changes in the structures, complete dependence on an immediate supervisor, and the absence of knowledge transfer system) impedes the establishment of highly qualified service on a local level. Acknowledging moderate qualification of local servants the government of Georgia legally obliged all municipalities to allocate at least 1 percent of their salary funds for training and capacity building actions.

³⁷ <http://www.isfed.ge/main/790/eng/>

³⁸ <http://www.isfed.ge/main/790/eng>

3.5 Moldova

Moldova proclaimed its independence from the USSR on 27 August 1991. According to the Constitution of 29 July 1994, the Republic of Moldova is a sovereign, independent, unitary and indivisible State. At the same time, the problem of Transnistria region still remains a sensitive issue.

The Government of Moldova explicitly acknowledges that decentralisation represents an essential item on the State reform agenda. The goal is to provide quality services to women and men equitably – including the rights of persons from vulnerable groups – through building autonomous and democratic local governments, able to manage efficiently their responsibilities.

Nowadays, based on the recent amendments to the Law № 764 of 27 February 2001 “On the Organisation of Local Government in the Republic of Moldova (which were introduced in the period of 2012-2013), Moldova is divided into:

- 873 first-tier administrative units: 823 communes (1384 villages in the frame of the communes); 50 towns (32 district residence towns and 18 towns);
- 35 second-tier administrative units: 2 Municipalities (Chisinau and Bălți); 32 Rayons and Districts; 1 Autonomous Territorial Unit (Gagauzia).

Article 4 of the mentioned Law has changed the status of Chisinau and Bălți municipalities. It stipulates that "Administrative-territorial organisation of the Republic of Moldova is done on two levels: villages (communes), sectors and cities (municipalities) constitute the first level; districts (rayons), Chisinau and Bălți municipality constitute the second level". The legal framework of the Autonomous Territorial Unit of Gagauzia (ATU of Gagauzia) is governed by Article 111 of the Constitution and by Law No. 344-XIII of 23 December 1994 on the special legal status of Gagauzia (Gagauz-Yeri) and other statutory instruments of the People's Assembly of Gagauzia (Halc Topluşu), which must not be incompatible with the Constitution and the laws of the Republic of Moldova.

It has to be noted that the procedure of organisation and functioning of governments in territorial and administrative units is established and regulated by the Law № 436 of 28 December 2006 on Local Public Administration. Thus, the mentioned Law № 436 stipulates the following:

- 1) Local public authorities through which is performed local autonomy in villages (communes), towns (municipalities) are local councils, as deliberative authorities, and mayors as executive authorities;
- 2) Local public authorities through whom local autonomy in districts (rayons) is realised are the district councils, as deliberative authorities, and district chairmen as executive authorities;
- 3) The local councils of first and second levels and mayors are elected under the Electoral Code (Article 5).

In 2013 the following amendments have been introduced to the Law № 436:

- on the organisation of the working sessions of local councils (Art. 13);
- on the introduction (in the list of the "basic competences of local councils") of the new competence on the creation of the position of the Community mediator in compactly or mixed localities populated by the Gypsies (Art. 14, point "y");

- on early termination of the counsellor's mandate in the cases of the absence without good reason during three consecutive meetings of the council (Art. 24);
- on introduction of the new competence of the mayors concerning the registration of the trolleybuses, cyclo-motors, other machines used for construction or agriculture works, which are not subject of the registration (Art. 29, point I).

In 2012 the Chapter VII "Public administration of Bălți municipality" was also completed by the following Articles: Article 591 "The public administration authorities of Bălți municipality"; Article 592 "Coordination of the public administration authorities' activities of Bălți municipality"; Article 593 "Convocation of Bălți Municipal Council".

In the period of 2012-2015 the local public authorities of the second level received additional competence on the maintenance of primary schools and primary-kindergartens schools, gymnasiums and high schools, institutions of secondary vocational education, boarding schools and boarding school with special regime, other institutions in the field of education which serve the people of the district, and the methodical activity, other activities in the field.

As for regional development, the Law № 438 of 28 December 2006 on regional development in the Republic of Moldova defines the Development Region as a territorial-functional unit, which represents the planning, evaluation and implementation framework for the regional development policy. The country was divided by the mentioned Law into six development regions (North, Centre, South, Autonomous Territorial Unit of Gagauzia, Chisinau Municipality and Transnistria) which are not considered as administrative regions (Article 3 of the Law № 438). Article 8 of the mentioned Law stipulates that the Regional Development Agency is constituted within each development region. It is a legal entity which operates according to its Regulation.

The National Decentralisation Strategy which was approved by the Law № 68 dated 5 April 2012 represents an essential document for LSG reform realisation. The Strategy establishes the main objectives for further decentralisation of the power in line with the principles of the European Charter of Local Self-government. In the framework of the Strategy implementation, the methodology on local public administration capacities estimation was prepared in order to concretize the material, human and financial capabilities of the local authorities for the fulfilment of their responsibilities. The Strategy institutional framework was also established in order to allow the realisation of the following actions:

- Approval of the nomenclature of the competences of the LPAs of the first and the second tiers;
- Creation of the Intercommunity (Inter-municipal) Cooperation mechanism (by the decision of the Government № 549 of 07/09/2014);
- Formation of working groups in the ministries to deal with sectoral decentralisation;
- Technical assistance and/or advice in the preparation of policy documents on sectoral decentralisation by the Ministry of Health, Education, Environment and the Ministry of Labour, Social Protection and Family;
- Development of a methodology for implementation of Gender Equality and Human Rights Principles in Local Development Policies as well as application of these principles in practice;

- Adoption on 3 July 2015 by the Parliament of the Law № 131 on Public Procurement (it should come into force from 1st May 2016). This law is targeted at the harmonisation of the national legislation with the European Commission Directive. 18/2004/ EC as well as at the implementation of the commitments fixed in the Association Agreement and the Agreement on Free Trade Area between Moldova and the European Union;
- Adoption by the national Parliament on 7 December 2013 of the Law № 204 amending the Law № 121-XVI of 4 May 2007 on the Management and Privatisation of Public Property in order to approve the mechanism for delimitation of public property, including fields and stocktaking of public property, and to insure clear and predictable transfer of ownership;
- Approval by the decision of the Government № 476 of 04 July 2012 of the standard procedures and conditions for selecting private partners in the realisation of public-private partnership projects;
- Creation of a governmental portal on vacant public jobs – www.cariere.gov.md (by the decision of the Government № 1022 of 16 December 2013) in order to improve transparency and facilitate citizens' access to public positions in all public authorities, including LSG bodies.

The National Decentralisation Strategy also provides for three main building blocks of financial decentralisation: strengthening of the revenues of local authorities; reforming the system of transfers and shared taxes; and strengthening the autonomy and financial management at local level. By consequence, the Law № 267 of 1 November 2013 introduced the amendments in the Law № 397-XV of 16 October 2003 «On Local Public Finances» and the Tax Code dated from 24 April 1997.

It has to be noted that according to the existing legislation framework, Moldova is a unitary State with two levels of government. Sub-national governments consist of 38 middle-tier jurisdictions (rayons), excluding Transnistria, and almost one thousand of local governmental units (villages, municipalities, cities, and communes). Each sub-national government has a separate operational and capital budget documents. These budget documents are aggregated at the national level into the State Budget and the Social Fund (in the general governmental accounts). Sub-national spending is funded mostly by transfers/block grants from the central government³⁹. The following legislative acts were approved after 2012 in order to improve the budget system and the budget process in the Republic of Moldova are:

1. Law № 181 of 25 July 2014 “on Public Finance and Fiscal Responsibility;
2. Law of 2 December 2014 amending the Law № 847-XIII of 24 May 1996 on Budgetary System and Budgetary Process and the Law № 397-XV of 16 October 2003 on Local Public Finances;
3. Law of 12 February 2014 amending the Law № 489-XIV of 08 July 1999 on State System of Social Insurance and the Law № 1585-XIII of 27 February 1998 on Payment of the Compulsory Health Insurance;
4. Law № 267 of 1 November 2013 amending the Law № 397-XV of 16 October 2003 on Local Public Finances and the Fiscal Code № 1163-XIII of 24 April 1997. This law introduced a new

³⁹ Boris Morozov “Republic of Moldova: 20 years of independence and experiments with public finance system”

system of drafting the local budgets, applicable in all administrative-territorial units since 1 January 2015 ⁴⁰;

5. Law № 47 of 27 March 2014 amending the Tax Code № 1163-XIII of 24 April 1997 in order to grant to local authorities the right to independently establish mechanisms to administer four local taxes: spatial planning tax (for farmers), tax on dog owners, parking tax and salubrity tax);
6. Law № 71 of 04 December 2015 amending the Fiscal Code in order to extend the taxable base of some taxes, including the tax on publicity and publicity devices;
7. Amendments in the Law № 419-XVI of 22 December 2006 concerning public sector debts and introducing State guarantees as of 1 April 2015 in order to ensure better coordination of the LGs activities with the Ministry of Finance with regard to foreign credits from international financial institutions;
8. Law on Public Finances and Fiscal Responsibility № 181 of 25 July 2015, which determines the legal framework of public finances (fiscal principles and rules; the budget calendar; budgeting process; rights and responsibilities in public financing etc.). According to this Law, local executive authorities of all levels have to prepare appropriate drafts of their respective local budgets including indicators achieved in the last two budget years, expected results for the current budget year, a budget proposal for the next fiscal year and estimations for the following two years. To implement this law the following new rules have also been legislated:
 - Methodological norms of the cash execution of the budgets of the national public budget through the treasury system of the Ministry of Finance (Order of the Minister of Finance № 65 of 15 May 2015);
 - Plan of accounts in the budgetary system and Methodological norms on accounting and financial reporting in the budgetary system (Order of the Minister of Finance № 66 of 15 May 2015).

Table 18: Percentage of own LG/RG revenues (without and with shared taxes) from total revenues in 2012 and in 2014

| | without shared taxes, % | | with shared taxes, % | |
|--|-------------------------|------|----------------------|------|
| | 2012 | 2014 | 2012 | 2014 |
| own LG revenues from total revenues | 25 | 17 | 48 | 31 |
| own RG revenues from total revenues | 9 | 8 | 48 | 32 |
| | 2012 | | 2014 | |
| earmarked grants to total amount of grants LGs | 1 | | 2 | |

⁴⁰ http://www.mfa.gov.md/data/9386/file_502127_0.pdf

| | | |
|--|-----|---|
| earmarked grants to total amount of grants RGs | 0.4 | 1 |
|--|-----|---|

Enforcement of the above mentioned legislation was reinforced by the creation of a new Financial Management Information System at the Ministry of Finance (FMISMF); which integrates a set of financial management tools in order to enhance efficiency and transparency of financial management process and public expenditure control as well as to streamline the budget planning processes at all budget levels.

As it has been already underlined, the new system of the ATU budgets formation which was introduced in Moldova since 1 January 2015. Moldova created 896 ATU of the first tier and 35 ATU of the second tier. By consequence, the local authorities have full freedom to administer their financial resources (own income, transfers with general destination and breakdowns from individual's income tax) according to the percentage shares established by the Law "on Local Public Finances".

The new system is aimed at stimulating local governments' own revenue collection through two mechanisms. Firstly, the local authorities' expenditures are limited only by the level of income actually obtained and not that estimated at the central level (as it was the case in the past). Thus, the more revenue local authorities collect the more additional possibilities to spend for local development they have. Secondly, fiscal capacity per capita indicator is only calculated based on the revenue from individual income tax. Therefore, improved collection of own revenues does not influence the equalisation amounts received by the ATU, which creates an additional reason for local authorities to use the new formula. However, the experts observed several important gaps remaining after the introduction of the new system and in particular the lack of financial support for covering the needs in the social and cultural fields.

Now, the Government and the Ministry of Finance support the organisation of extensive training for public authorities at central and local levels on the application of the new FMIS budget planning for the 2016 – 2018 period. A new training methodology focuses on the provision of additional skills necessary the ATUs of the second level to develop and to approve their budgets on the basis of financial management tools and performance indicators in 2015; and for the ATUs of the first level – in 2016.

Last municipal elections were held in Moldova in June 2015. Thus, 898 mayors, 1,116 district councillors and 10,564 village/municipal/city councillors have been elected.

According to the Law № 239 of 13 November 2008 on Transparency in Decision Making Process, (Article 11), consultations with citizens, organisations and other stakeholders have to be ensured by the relevant public authority responsible for the organisation of the decision making process through: public debates, public hearings, referendum, requests for experts' opinions, creation of permanent or ad-hoc working groups with the participation of the civil society representatives"⁴¹.

⁴¹ <http://lex.justice.md/md/329849/>

In 2012 the Government adopted the Regulation № 188 of 03.04.2012 on Official Internet Web Sites of Public Administration Authorities. In 2014 80% of local authorities of the second level had official web sites but only 7 % of local authorities of the basic level (mainly cities – rayon’s centres) had them. "Open Government Index 2015" Report underlines that Moldova has a specific law in the field of information, consultation and citizens’ participation in public life. At the same time, only 44% of the population is aware of this legislation that guarantees access to public information held by the authorities.

The legal status of local public service is regulated by the following legislative acts:

- the Civil Service Law № 158 of 2008 that regulates the civil service and sets out its vertical and horizontal scope;
- the Code of Conduct for Public Servants (Law № 25) of 22 February 2008;
- Law № 793 of 10 February 2000 on Administrative Litigation;
- Law № 317 of 18 July 2003 regarding normative acts of the Government and other authorities of central and local public administration;
- Law № 435 of 28 December 2006 on Administrative Decentralisation ”;
- Law № 436 of 28 December 2006 on Local Public Administration”.

According to the data which was collected and analyzed by the local expert, the total number of civil service employees represented 42,764 in 2014 which was a slight increase compared to 41,568 in 2012.

Table 19: Breakdown of local civil servants by sex

| | 2012 | | 2014 | |
|---|--------|--------|--------|--------|
| | men | women | men | women |
| Total functions and positions / employees | 22203 | 19365 | 23351 | 19413 |
| | 53.4% | 46.6% | 54.6% | 45.4% |
| Civil servants | 14740 | 13857 | 14874 | 19096 |
| | 51.5 % | 48.5% | 43.8% | 56.2% |
| Local civil servants | 5068 | 2808 | 5030 | 2747 |
| | 65.5 % | 49.4 % | 64.7 % | 35.3 % |

The mentioned Civil Service Law contains two Articles (37 and 38) regulating the issues of civil servants professional development. Article 37 of the Civil Service Law obliges civil servants to update their skills, setting a threshold of 40 training hours per year. Public authorities have to commit 2% of their payroll to training. Article 38 grants specific rights to civil servants to attend the training courses.

At the same time, the number civil servants undergoing training in 2014 decreased by 54.5% compared to 2012.

According to SIGMA's 2012 peer review⁴², the training objectives are achieved once a civil servant receives at least 40 training hours per year. However, the data collected by the local expert from open sources indicate that this objective is still not achieved for many civil servants, in particular at local level.

The Study Team observe little positive changes in 2015 with the implementation of the first stage of local public finance reform.

⁴² <http://www.sigmaweb.org/publications/ParradoDiezS-CS-Professionalisation-Nov2014.pdf>

3.6 Ukraine

The Constitution of Ukraine (1996) and the 1997 Law on Local Self-Government are based on a distinction between “local communities” (hromada – citizens of village, town, city) and “administrative and territorial units”. In 2014 11,520 local councils represented 27,210 villages and settlements; around 200 villages and towns were integrated into 64 city councils of regional (oblast) significance and about 1,000 were integrated into city councils of district (rayon) and republic significance. The Constitution of Ukraine defines 24 oblasts as well as the Autonomous Republic of Crimea, the cities Kyiv and Sevastopol which have a special status. The status of the city of Kyiv is regulated by the Law on the Capital of Ukraine – the Hero-city Kyiv which was adopted in 1999. The city is divided into 10 districts (rayons) and its population is about 2.63 million inhabitants.

It should also be noted that since 2014 the territory of the Autonomous Republic of Crimea and the city of Sevastopol are occupied by the Russian Federation while parts of the territories of Donetsk and Luhansk regions are occupied by separatist organisations – “Donetsk Popular Republic” and “Luhansk Popular Republic”.

The recent armed conflict in the Eastern Ukraine had a very negative impact on social and economic situation of the whole country. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), the number of documented deaths caused by the war was at least 8,050 as of August 2015, 2,500 of them being civilians⁴³. By April 2015, the war had caused at least 1.3 million people to become internally displaced within Ukraine. In addition, more than 800,000 people had fled Ukraine.

Administrative and territorial division of Ukraine is characterized by a number of problems. Ukraine with its nearly 28,000 municipalities is one of the most fragmented countries in Europe⁴⁴. This fragmentation leads to decreasing financial autonomy, low quality of public services in small municipalities, lack of possibility to manage issues of local significance of municipalities etc. As a result residents of small communities do not have access to high-quality services in their communities and have to address their needs to district/city authorities or higher.

There is lack of clear differentiation between concepts of local communities (hromada) as a social term and as a part of administrative and territorial division of the state⁴⁵. According to Article 140 of the Constitution a local community (hromada) is defined as “residents of a village or a voluntary association of residents of several villages into one village community, residents of a settlement, and of a city”. According to this Article residents of each of the 28,000 settlements can establish a municipality. There is no clear procedure to do that but during the last years, despite the decreasing population of Ukrainian, the number of local councils increased. At the same time this legal confusion leads to another problem: lack of ubiquity of local self-governance.

⁴³ "Humanitarian Bulletin Ukraine". OCHA (1, 01 - 31 August 2015). August 2015

⁴⁴ Tolkovanov Vyacheslav, Intermunicipal Cooperation as a Modern Tool for Local Self-Government Development in Ukraine. // Actes du colloque "Vivre et travailler dans les espaces a faible densite", les 29-30 novembre 2012, IADT, Clermont-Ferrand, pp. 223-227

⁴⁵ Tolkovanov Vyacheslav "La mise en oeuvre du nouveau systeme de l'autonomie locale en Ukraine". These de doctorat (droit public), Universite Robert Schuman de Strasbourg III, 2006, 405 p.

We have to stress that the current administrative and territorial division of Ukraine is not well structured. ATUs have a number of enclaves and exclaves, territory of one unit can contain territories of smaller units where local councils are functioning as well. This situation leads to overlapping of functions and competences of different levels of local self-government, misusing of local resources, conflicts etc. Both municipal and district (rayon) levels have huge disproportions in terms of population and territories. For example, the population of the smallest Ukrainian district is around 7 thousand, and that of the biggest district is more than 180 thousand. The same situation exists at municipal level. This causes disproportions in quality of public services that residents of different territorial units of the same level can expect. In addition, the costs of services with lower quality are dramatically higher. Moreover, 92% of rural territorial communities have populations below 3,000 inhabitants and almost 11% communities – below 500 inhabitants.

It should also be noted that after “Euromaidan” and Yanukovich’s departure in February 2014 decentralisation became a high priority topic on political agenda of the new Government and the democratic coalition in the Verkhovna Rada (Parliament of Ukraine). Thus, on 1 April 2014 the Government approved by its Regulation № 333-p a new Concept of the Reform of LSG and of Territorial Organisation of Authority in Ukraine.

This Concept should be realised in two stages. At the first stage (2014) it was planned to:

- create legal framework for voluntary amalgamation of territorial communities with State support foreseen for 5 years and aimed at developing infrastructure and transport accessibility;
- regulate the legal framework of the administrative and territorial division (structure);
- model administrative-territorial units in regions and finalise proposals of a new administrative and territorial system;
- ensure constitutional basis for the establishment of executive bodies of oblast (region) and rayon (district) councils and to distribute competences of LSG bodies and local State administrations;
- organize information and awareness raising campaign about the reform of LSG and territorial organisation of power;
- form (in legal terms) LSG bodies on the new territorial basis.

These objectives were achieved only partly (creation of the legal framework for the amalgamation of the territorial communities and creation on its basis of 159 new amalgamated communities; adoption in the first reading of the amendments to the Constitution of Ukraine in the part referring to the decentralisation of power, information and public awareness campaign about LSG reform).

At the second stage (2015 - 2017) it is planned to:

- unify and standardise administrative and social services to be delivered to population by LSG bodies in accordance with the principle of maximum services accessibility, and ensure the legal framework for its adequate funding;
- hold local elections based on the reformed system of LSG bodies;

- ensure institutional re-organisation of LSG bodies according to the new territorial basis and competences;
- improve the system of territorial planning and provide newly established communities with territorial planning schemes and general plans.

Significant efforts were undertaken by different stakeholders (in particular the President, the Government and the Parliament) to prepare the necessary amendments to the Constitution with regard to the decentralisation of power.

On 31 August 2015 the Parliament passed in the first reading, by 265 to 226 majority, the draft law № 2217 on Amendments to the Constitution of Ukraine in Terms of Decentralisation of Power. The draft had been previously seen by the Constitutional Court which ruled on 31 July 2015 that it was consistent with the Constitution of Ukraine and not aimed at liquidation of Ukraine's independence or violation of its territorial integrity. However to change the Constitution at least 300 votes necessary.

According to its explanatory note, the draft amends certain provisions of the Constitution in terms of administrative and territorial structure. In particular, it reads that the territory of Ukraine is divided into communities, being primary units in the system of administrative and territorial structure of Ukraine. Also, the draft provides for separation of powers in the system of local self-governments and their executive bodies at different levels based on the principle of subsidiarity, which corresponds to the principles of the European Charter of Local Self-Government. It provides for the establishment of local self-government executive bodies within communities, being accountable to community councils. Community chairman presides at council meetings and heads the community local self-government executive body. District councils and regional councils in their turn elect corresponding chairmen from among their members, to head the executive committee.

Material and financial scope of local self-government is introduced. In particular, it is determined that such a scope comprises land, movable and immovable property, natural resources, and other objects being in the communal property of a territorial community; local taxes and fees, some state taxes and other revenues of local budgets. In order to ensure that local authorities comply with the Constitution and laws of Ukraine the institute of prefects is introduced. According to the bill, a prefect is appointed and dismissed by the President of Ukraine upon a submission by the Cabinet of Ministers.

On 17 June 2014 the Parliament adopted the Law № 1508-VII “on Cooperation of the Territorial Communities which determines a legal basis of Inter-municipal Cooperation (IMC), principles, forms, mechanisms of such cooperation, its stimulation, financing and control. This Law determines the cooperation between territorial communities as relations between two or more territorial communities, which are performed on a contract basis in the forms determined by the Law for the purpose of ensuring social, economic and cultural development of the territories, improvement of the quality of services delivering to the population on the basis of common interests and the purposes, effective implementation by LSG bodies of the competences determined by the law. The Law foresees five main forms of IMC (Article 4), i.e.:

- delegation of one or several tasks to one cooperating entity by other cooperating entities, together with a transfer of appropriate resources;

- implementation of joint projects, which entails coordination of cooperating entities and accumulation of resources by them for a specified period of time, with the objective of joint implementation of appropriate measures;
- joint financing of municipal-owned companies, institutions, organisations and infrastructural objects, by the cooperating entities;
- creation of joint municipal companies, institutions and organisations by cooperating entities;
- creation of joint management bodies by cooperating entities, for joint execution of the authority determined by law.

According to the information from the Ministry of Regional Development, Construction, Housing and Municipal Economy of Ukraine, by the end of 2015 thirty one IMC projects have already passed the procedure of official registration and were included in the relevant State Register (managed by the Ministry)⁴⁶.

On 5 February 2015 the Parliament adopted the Law on the Voluntary Amalgamation of the Territorial Communities. According to this Law, perspective plans of municipalities' amalgamation were developed and adopted. Despite of sceptical vision that municipalities would not initiate voluntary amalgamation, the process has started quite actively. As a result, 159 merged municipalities representing 794 former hromadas were formed by October 2015. The New LSG bodies of these communities were elected in the last local elections of 25 October 2015.

This relative success of amalgamation and IMC can certainly be attributed to a number of incentives foreseen in the tax and budget codes and other legislation. For example, Article 24-1 of the Budget Code in force since January 2015 completes the provisions on the regional development fund offering additional resources to support economic development projects, which should further convince municipalities that are reluctant to envisage mergers or co-operation. The new legislation also includes measures aimed at sparing the sensitivities of the smallest local authorities and maintaining a fine coverage of the territory through the creation of authorities with '*starosta*'⁴⁷status.

Concerning the distribution of the competences, it should be noted that own competences and responsibilities of LSG bodies are fixed by Article 26 of the Law on Local Self-Government dating back to 1997. The system for allocating powers is fairly complex. It makes a distinction between the different organs of authority (council, executive body, mayor) and between its own and delegated powers. The list of competences is quite significant but the Ukrainian legislation does not ensure the principle of subsidiarity: local authorities can execute only those functions prescribed directly by legislation.

In accordance with Article 19 of the Constitutional bodies of state power and bodies of local self-government and their officials are obliged to act only on the grounds, within the limits of authority, and in a manner envisaged by the Constitution and other laws. Article 144 of the Constitution proclaims

⁴⁶ www.minregion.gov.ua

⁴⁷ Starostas are former mayors of the territorial communities which were amalgamated. They are integrated now in the system of executive power of the new amalgamated communities under the authority of the new elected Mayors.

that the rights of local self-government are protected by judicial procedure. At the same time, the Constitution stipulates that local authorities can address issues of local significance but the definition of the latter or explanation of what is covered by that notion do not exist in the Ukrainian legislation. This situation does not correspond to Article 4 of the European Charter of Local Self-Governance that proclaims the following: “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”.

It is important to note that the Ukrainian Constitution of 1996 does not define clearly the notion of regional self-government. At the same time, oblasts (regions) and rayons (districts) councils are included in local self-government system; they represent common interests of local (city, village, settlement) communities. There are rayon and oblast councils which, being in theory bodies of local self-government, do not possess any real power neither financially nor organisationally (they do not have their executive bodies responsible to them). As a result, they are totally dependent on the State local administrations. Besides, the oblast and rayon councils can delegate some of their powers to bodies representing the State – local state administrations – in accordance with the Constitution and the national legislation. In this case, local state administrations are accountable to rayon and oblast councils. These arrangements made the system very confusing.

To make the picture even more complex there are some contradictions between provisions of different normative acts regulating LGs activities. In particular, there are contradiction between basic law on Local Self-Government and sectoral legislation, i.e. legislation on land, construction, architecture and other issues. In addition, a number of practical barriers exist limiting the right of local authorities to execute their full responsibility for local development with full discretion, in particular a lack of professional and experienced staff, a weak financial base of local communities and weak capacities of local governments to execute their functions. Also the absence of a clear division of the competences between State authorities and the LSG bodies is observed, which may give rise to overlapping or duplication in the exercise of powers.

From 2012 till the end of 2014 the financial situation of local and regional authorities did not see any serious changes. A number of problems in local finance system of Ukraine were identified by interviewed representatives that are similar to those existing in previous years. The revenues of local budgets were quite significant and represented 7.1% (2012) and 6.5% (2014) of GDP (without inter-budgetary transfers). But taking into account that GDP per capita in Ukraine is quite low the respective revenues of the local budgets cannot cover the needs of local communities. More than a half of local budgets expenditures (56.4% in 2014) consist of transfers from the state budget. This dependence of local budgets on state authorities grew during the last several years. However, the local authorities interviewed underlined that these financial resources did not cover all delegated competences of local authorities; around 20% of public services are underfunded.

The structure of local budgets consists of own taxes and charges, share of state taxes and inter-budgetary transfers. The key role in the structure of local earnings is played by personal income tax that represented more than 60% of all revenues (without inter-budgetary transfers). At the same time it should be mentioned that rural areas and small communities did not benefit from this tax as it is only gathered in the communities where the taxed persons worked. Thus, only big and developed communities could receive significant share of financial resources from personal income tax.

During the 2012-2014 period, the share of own taxes in the revenues of local budget increased very slowly; it is represented only 8% of revenues of local budgets in 2014 (without inter-budgetary transfers). In 2012 there was an attempt to introduce new property tax as local one though it would concerned only a small part of private physical persons property, in addition it was not foreseen that local authorities could influence the share of the tax. The equalisation system was not transparent enough.

The overall situation of local revenues system was characterised by a number of restrictions and limits imposed by the national legislation and the central Government. Local authorities did not have enough competences to regulate and administer even local taxes. The administration of taxes itself was complicated and resource-consuming. Moreover, making use of own resources was problematic for the LSG as these resources were administrated by the central treasury. This situation led to significant delays in payment of local expenditures. At the same time local authorities did not have the right to open bank accounts in private or state banks even for own taxes and charges. Access to capital was limited.

Nevertheless, the situation started to change considerably since 2014. By the adoption of the new Budget and Tax Codes in December 2014, a considerable progress has been achieved in the area of financial decentralisation. The key innovations are the following:

Increasing of financial resources of local authorities through establishment of new local taxes and increasing share of state taxes:

- Property tax is introduced for residential and/or non-residential property. Local communities have the right to decide on property tax rates and tax relief at their discretion in relation to location (zoning) and other criteria. Tax rate may not exceed 2% of the minimal wage per square metre (24 UAH per square meter, from December 2015 – 26 UAH). In 2014, local budgets received 45 million UAH from property tax. In 2015, tax revenue is expected to amount to 400 million UAH (around 14 million EUR);
- Local increment for excise tax is introduced for retail companies that trade in excisable goods. The tax is paid into local budgets, where retail outlets selling excisable goods are located. The rate is 5% of the value of excisable goods (with VAT) starting from 1 January 2015 irrespective of whether local councils adopted relevant decisions, because the Tax Code sets a single rate of 5%. In 2015 the Ministry of Finance expects local budgets to receive about 8.1 billion UAH of excise tax;
- 60% of personal income tax will stay in cities of regional significance, districts and merged communities, 15% - in the regions, and only 25% will go to the state budget;
- 10% of profit tax will stay in the regions.

Competences of local authorities to regulate of and administer local taxes were enhanced. For example, local authorities are now authorised to increase/decrease tax rate (property tax), they can open bank accounts in banks (not only in the state treasury) to gather local taxes and charges etc. Land tax has become a local tax, local authorities received the right to regulate its rate, introduce exceptions in the borders of their settlements and beyond.

The equalisation system has changed dramatically. A new formula of horizontal equalisation system based on local revenues has been introduced. Both poor and rich communities receive incentives for development. Poor communities (with revenues below 90% of country's average) will receive 80% compensation of the expenditures to cover their needs through subsidies. Communities with revenues from 90% to 110% of country's average will not be subject to either compensation or deduction. And communities that earn more than 110% of country's average will be a subject to deduction of 50% of the excess.

Local budgets planning system has been decentralised: local authorities are now fully responsible for their budget planning instead of having local earnings and expenditures planned by the Ministry of Finance.

Incentives for mergers of local communities were introduced. Merged communities have the same taxes as cities of oblast significance; in addition they will have direct relations with state budgets (instead of rayon budgets). System of state subsidies is distributed according to objective criteria. Responsibility of ministries for sectoral development was increased by introduction of sectoral grants for education, healthcare, training of regular labour force and social system.

The principles of formula-based calculation of grants according to introduced sectoral service delivery standards (for services guaranteed by the state) and their financing norms per user were introduced. Though until the list of services is not approved and standards are not developed in social sectors (for example, education, health etc.) the principle cannot be fully implemented.

At the same time, for small local authorities, for example villages that do not intend to merge the new tax and budget system is less favourable. But this step was made by the Government to stimulate administrative and territorial reform in the country and introduce incentives for merging.

According to the National Reform Council information, as a result of the legal changes in the first half of 2015 local budgets have increased by 37% in comparison to the same period of 2014. According to information of the analytical centre of the Association of Cities of Ukraine own resources of local budgets increased threefold; the number of subsidized local budgets decreased from 96% in 2014 to 74% in 2015; the number of local budgets-donors increased from 3.7% to 15.2%. Also 182 cities received the right to carry out foreign borrowing (previously only 16 cities could do this).

In conjunction with fiscal decentralisation reform, the Government and the Parliament started to implement new basis for regional development policy. Thus, the Law on Principles of Regional Policy № 156-VIII was adopted on 5 February 2015. It defines the main legal, economic, social, environmental, humanitarian and organisational principles of the state regional policy. According to the Law, the state regional policy is determined by a number of strategic documents, i.e.:

- State Strategy for Regional Development of Ukraine which is developed in the long term perspective (7 years) and is approved by a decision of the Government;
- Regional development strategies which are prepared by the State (oblast and rayon) administrations for the duration of the state strategy of regional development. These documents should define objectives, priorities and main problems of socio-economic development of the respective regions as well as stages and mechanisms of their implementation; monitoring and evaluation system implementation;

- Action Plan on the Implementation of the State Strategy of Regional Development of Ukraine as well as actions plans for the realisation of the regional strategies.

Among other important decisions on regional development, we have to stress the following:

- Resolution № 195 of the Cabinet of Ministers of Ukraine "Using Resources of the State Regional Development Fund in 2015" of 18 March 2015;
- Resolution № 196 of the Cabinet of Ministers of Ukraine "Certain Issues of the State Fund of Regional Development for 2016" of 18 March 2015.

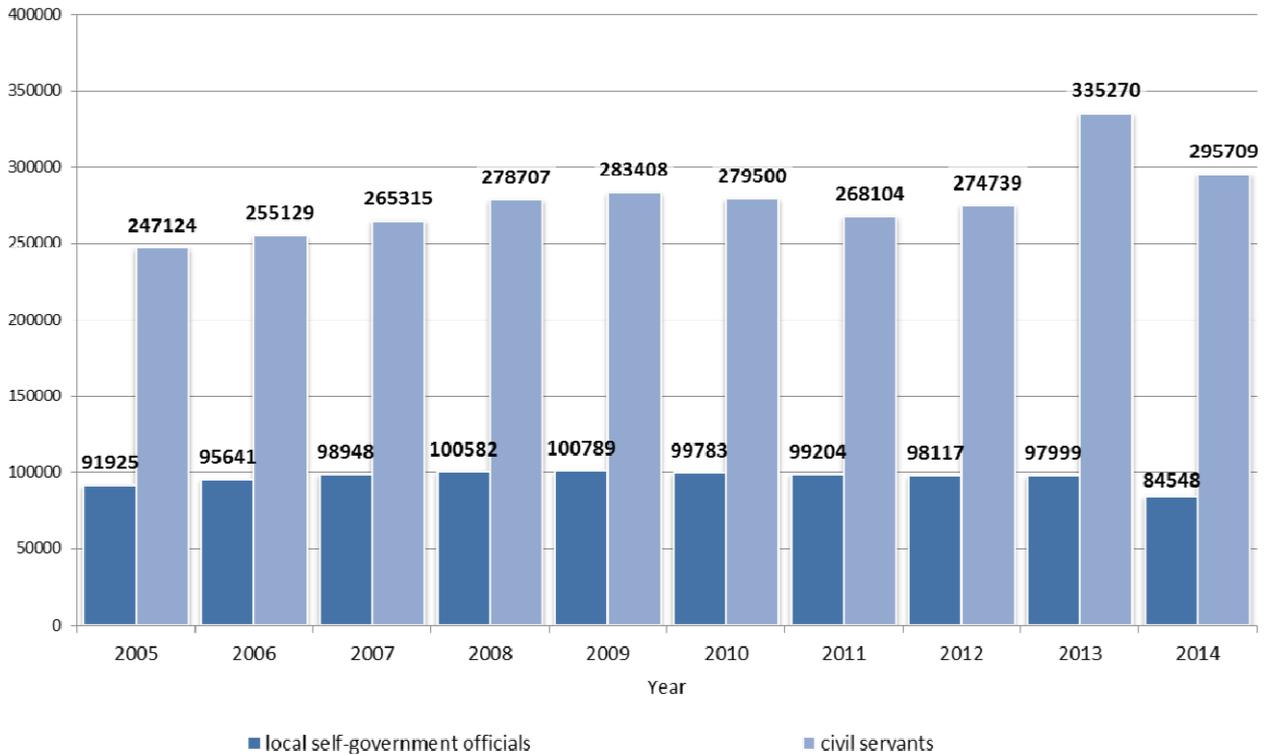
It is important to note that the Ministry of Regional Development, Construction, Housing and Municipal Economy of Ukraine as the key authority for the implementation of the decentralisation reform demonstrates strong will to introduce project-based approach concerning the financing of regional projects in connection with the approved regional strategies and development priorities of the respective territories. The possibility to interfere in the distribution of funds by the Government is totally limited; there is no possibility to distribute funds among regions voluntarily. In addition, some schemes were introduced that is devoted to invest more funds to under-developed regions. The Government decided to use the Fund to support merged communities as well as further realisation of IMC projects. In 2015 the Fund amounts to 3 billion UAH; it is planned that in 2016 it will amount to 4.7 billion UAH.

That status of local civil servants is regulated by the Law on Service in LSG Bodies of 2001 and is in principle similar to the general civil service, while taking into account some specific features and the structure of local self-governance bodies. In both cases public service is a professional activity that should be conducted without political interference. The numbers of civil servants of LSG bodies are determined by the apparatus of the relevant council and its executive bodies. All other workers of public sector, including education, health sectors, police etc. are not a part of the service of local self-governance bodies. The total number of servants of local self-governance bodies in 2014 was 84,548 (without information on AR Crimea, city of Sevastopol and occupied territories of Luhansk and Donetsk oblasts). At the same time, as Figure 15 shows, the total number of the State civil servants amounts to 295,709. During the last years the number of servants has slightly decreased. In accordance with the Figure 16, women working in the State civil service and the service in LSG bodies (red colour) represented in 2014 75 % (285 243 persons) of the total number (380257) of the civil servants (green colour), and men (blue colour) – only 25 % (95 014 persons).

The Constitution of Ukraine (Article 38) recognises equal rights of all citizens to join the state and local self-government civil service. At the same time, as the Figure 16 shows, more than 75% of total numbers of servants in local self-governance bodies are women.

The Law on Service in LSG Bodies regulates legal, financial and social conditions of the holders of not elected positions in local self-government bodies (procedure of appointment, ranks and categories, general salary and retirement conditions). It also stipulates the scope of authority for the officials of local self-governments and legal protection during the service in local self-governments. However, there is no sufficient control mechanism over local self-governments to check the local normative act concerning civil service for compliance with the Law on Service in LSG Bodies.

Figure 15: Dynamics of the total numbers of the State civil servants and local civil servants⁴⁸



The procedure of selection and appointment of servants in local self-governance bodies are based on an open competition. However, this procedure is quite complicated and lengthy especially taking into account anticorruption requirements and checks before appointment of selected public servant. Because of that combined with low prestige of public service and uncompetitive conditions the number applicants is very limited. At the same time there are cases of corruption and abuse of power in the process of recruitment. In 2014 only 57% of local servants were recruited on the basis of competition. Promotions through unjustified managerial decisions and under political pressure are not uncommon. As a consequence, the proportion of management staff is already too high (26 % in 2014) vis-à-vis the number of specialists (74 %) at central and local bodies of state executive power. In local self-government the proportion is even higher (42% to 58 % in 2012).

⁴⁸ Source: Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine, Kyiv, 2015

Figure 16: Breakdown of the State civil servants and local civil servants in LSG bodies by sex⁴⁹

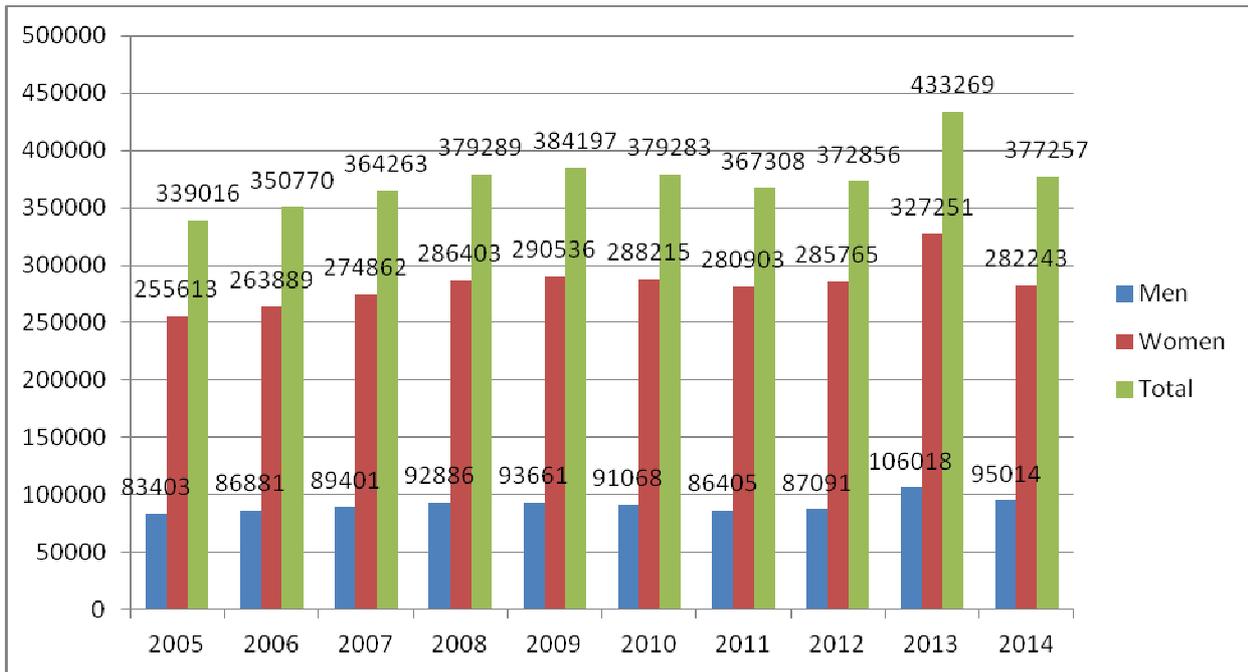
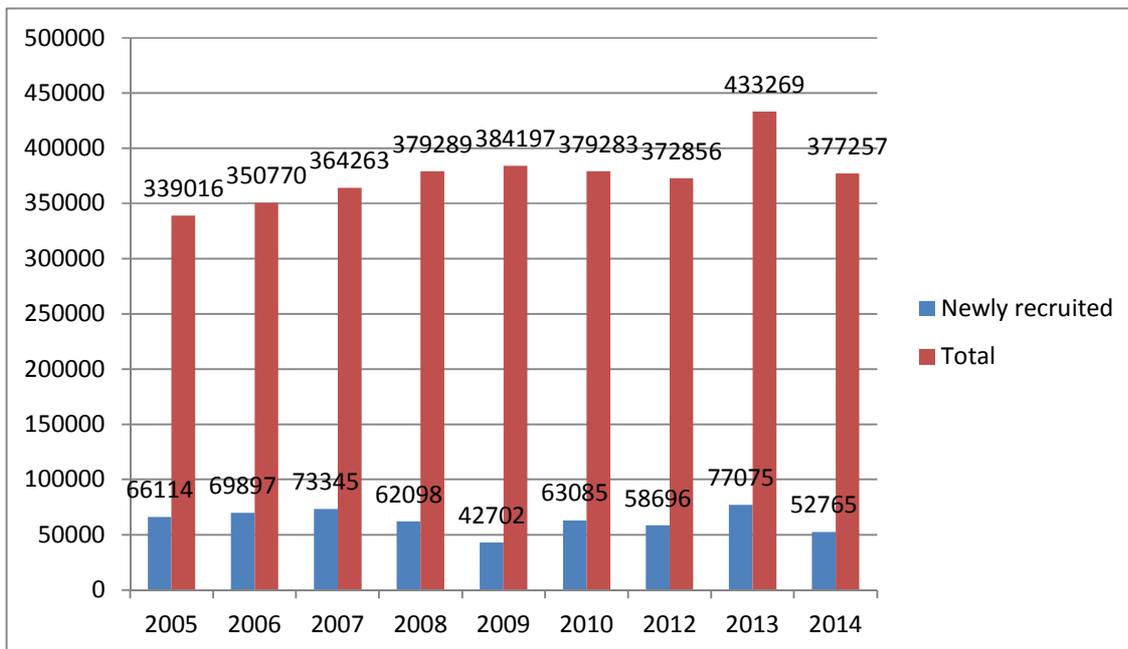


Figure 17. Number of the recruited State civil servants and local civil servants from 2005 till 2014⁵⁰

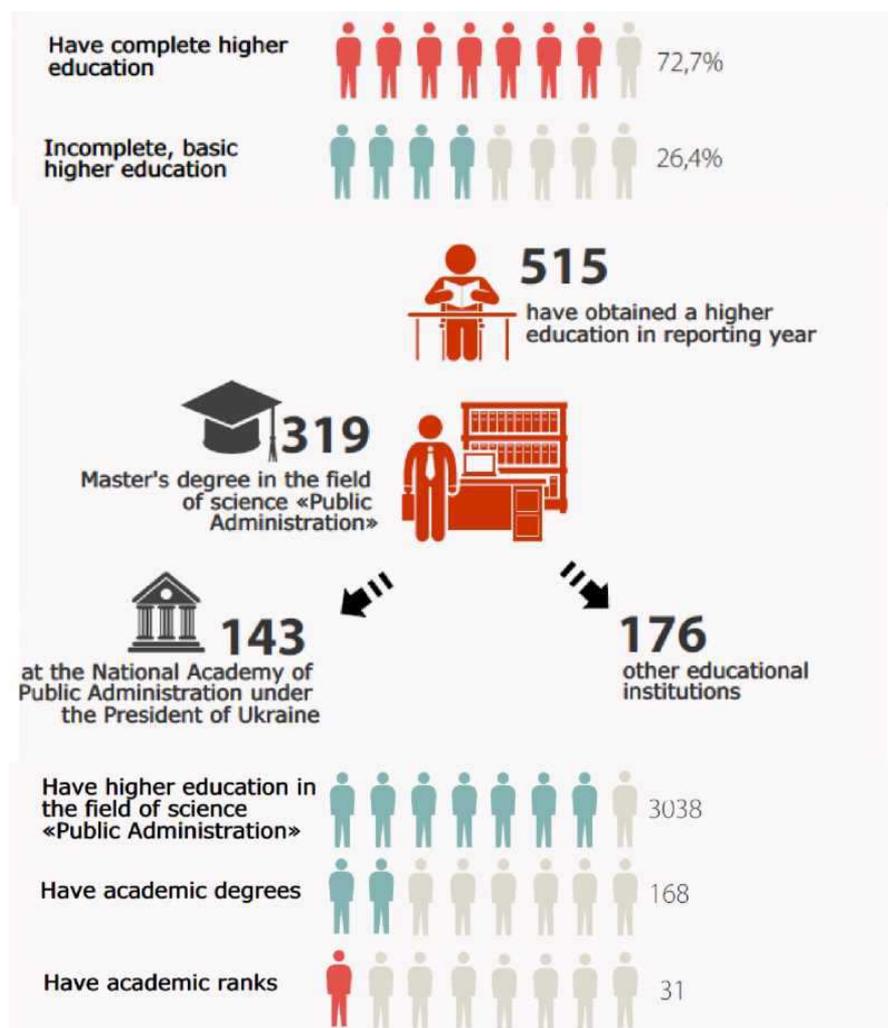


⁴⁹ idem

⁵⁰ Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine. Kyiv, 2015. Detailed data for 2011 were not published.

According to the relevant programmes that are financed mostly from the state budget but also partly from local budgets public servants have to increase their competence through the national training system. The system is coordinated by the National Agency on Civil Service as well as the National Academy of Public Administration under the President of Ukraine. Public servants can increase their competence only in state-owned institutions⁵¹. In 2014 around 8,000 local civil servants participated in such training.

Figure 18: Education level of the local civil servants⁵²

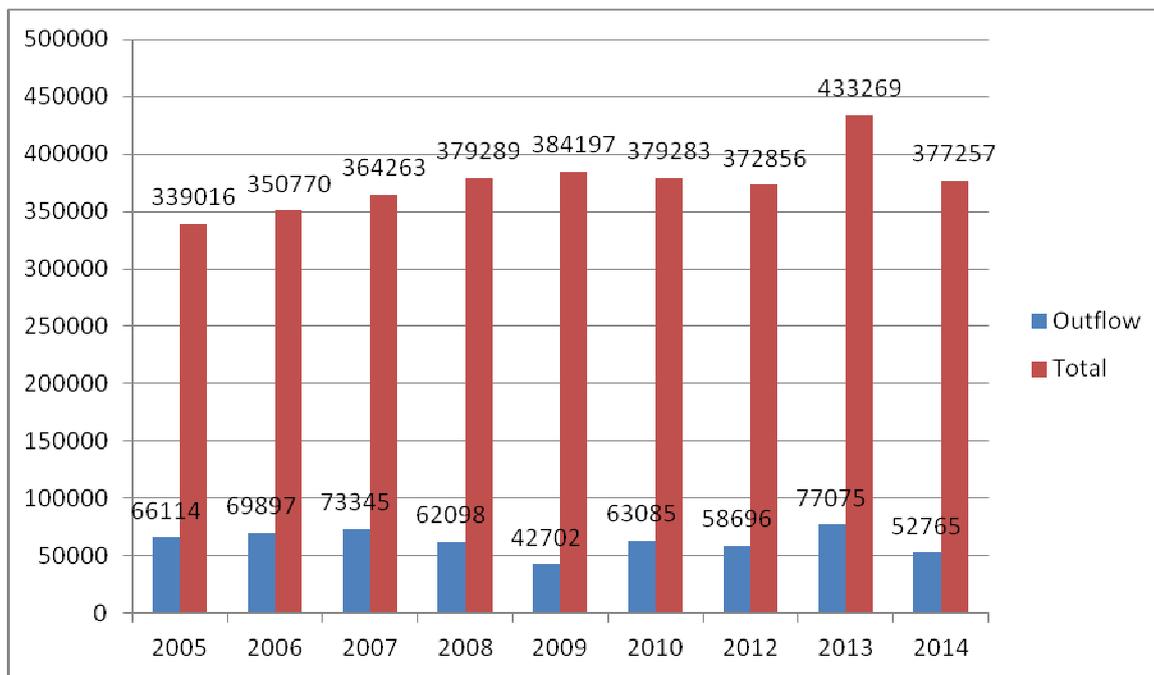


⁵¹ Tolkovanov Vyacheslav, Innovative Tools for Improvement of the National Training System of Ukrainian Civil Servants and Local Self-Government Officials// Scientific Journal of Petro Mohyla University. Mykolaiv, № 169, 2012, p. 7-11

⁵² Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine. Kyiv, 2015 // www.nads.gov.ua

It should be noted that the salary level for public servants is quite low and in general is not competitive. The level of staff turn-over is quite high and fluctuated at around 10% in last couple of years (Figure 19)⁵³.

Figure 19: General number of the resigned State civil servants and the local civil servants from 2005 till 2014⁵⁴



All these and other problems require a modernisation of the national legislation on public civil service (State civil service and service in LSG bodies)⁵⁵. In this regard, the Parliament approved in November 2015 the new Law on Civil Service, which aims at improving the functioning of the State administration, but is also expected to have positive impact on the service in LSG bodies. According to this Law, top civil service appointments will no longer be divided between political parties under a quota system, but will be made via transparent competition - a special commission will first vet candidates before the Cabinet makes the final decision. The commission will consist of social activists, along with representatives of the Parliament, the President, the Government, the head of the National Anti-Corruption Bureau, and members of trade unions. The law is also expected to help depoliticise the civil service - there will be a difference between political and administrative positions.

⁵³ Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine. Kyiv, 2015 // www.nads.gov.ua

⁵⁴ Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine. Kyiv, 2015. Detailed data for 2011 were not published.

⁵⁵ Tolkovanyov Vyacheslav, Public Administration Reform in Ukraine: main objectives, current status and problems to be solved// Public Policy and Economic Development: scientific journal. - Mykolaiv, 2011, № 2, p. 5-12

This Law will enter into force on 1 May 2016 and the respective amendments to the Law on Service in LSG Bodies should be prepared meanwhile.

4 MAIN CONCLUSIONS AND RECOMMENDATIONS

It is important to note that all EaP (except Belarus) suffered from armed conflicts since the dissolution of the USSR in 1991. These conflicts have not been fully solved, which creates serious problems for the organisation of an effective government system in particular regions/territories of the respective EaP countries. This report (as well as other analytical materials) indicates that the self-government situation and progress in the realisation of the public administration reform differs significantly across EaP countries.

However, there are also some other common problems that can be addressed and discussed on the Eastern Partnership forum. Strong local government should be seen as a key element in efforts to ensure stability and sustainable development of the EaP region and be recognised as such by all state bodies. National debates on the benefit of decentralised government should be stimulated. Comprehensive decentralisation strategies should be developed in all EaP countries, based on a clear definition of the role of local and regional governments shared by all main stakeholders (national Government, Parliament, local authorities, national associations etc.). In this regard, two sets of recommendations – general and country specific- are herewith proposed by the Study Team.

4.1 Main EaP ‘regional’ issues

The data in the Table 1 and Figure 1 clearly indicate that there are many common problems in the region; the most important of them are discussed below.

4.1.1 Optimum size of LSGs is being debated in the EaP Countries in the context of the necessary and/or ongoing reforms. At this moment the situation differs significantly across countries. Georgia implemented an important administrative and territorial reform a few years ago; Ukraine is going to realise an important amalgamation process of its territorial communities; at the same time Belarus is still the example of a country with much amalgamated LSGs. There is no optimum size of LSGs, but too small or too big units may be counterproductive both in terms of the quality of local democracy and in terms of economies of scale. **In this connection one of topics that could be covered by the PAR Panel would be a comprehensive discussion about pros and cons of amalgamation versus fragmentation – such a discussion should lead to evidence based national decisions. This discussion should also address the issue of inter-municipal co-operation. In this regard, it will be important to collect, to analyse and to disseminate best national practices in the field of IMC development.**

4.1.2 Another debated issue is that of **regional self-government**. It exists formally in three countries (Belarus, Moldova and Ukraine) but the functionality and also institutional protection of this level is rather limited.

4.1.3 Concerning the **legal basis for LSG** most countries should still improve the constitutional protection of LSGs, make a clearer distinction between own and delegated responsibilities in the national legislation and harmonise legal framework regulating LSG level. The following specific objectives should be taken into consideration while drafting/amending the national legislation:

- to reduce overlapping responsibilities and vest, whenever possible, the local authorities with exclusive tasks;
- to increase decentralisation of the responsibilities in the provision of utilities and basic social services on local level;
- to fix clear boundaries to the mandatory tasks/competences; to introduce clear standards in service provision, which shall be consistent with the resources available.

It is also recommended to conduct an in-depth analysis of the local government legal framework in order to identify the possible internal inconsistencies and to prepare the necessary amendments to the basic and sectoral legislation as well as to plan legislative reforms in a rational and comprehensive manner and introduce them with timely implementation measures.

It is also evident that the improvement and further development of the legislative framework as well as the realisation of the capacity-building programmes for local and regional authorities are two main priorities for the implementation of the PAR on local level in all EaP countries and might be addressed by the Eastern Partnership PAR Panel.

4.1.4 Training is one of the key elements in building a modern public service at the local level. In this regard, it will be necessary to offer an appropriate support (legislative, financial, institutional, technical etc.) for the development of National Training Strategies based on comprehensive Training Needs Analysis in collaboration with all main stakeholders. The realisation of the National Training Strategy should help develop training priorities and standardised curricula in core topics, to assist training providers in raising their standards and co-ordinating their approaches, to ensure provision of sufficient qualified trainers, to develop training capacity within each local authority, to increase national and local resources devoted to training, to ensure longer-term sustainability in the provision of training etc. At the same time, development of the new training activities should be realised in parallel with the improvement of the legislative framework and strengthening the financial basis of local authorities.

The above could be supported and/or complemented by capacity-building programmes. Local public services can be improved by learning from best practice and by using techniques like fundamental performance reviews. The community participation can be improved through networking. Performance management programmes can be used to introduce the discipline of continuous improvement in service delivery. It would also be important to assess the leadership and strategic management in each local authority as well as to introduce models and standards for the effective management of the human resources.

4.1.5 Good governance is not just about managing better. It is about opening up new opportunities, reaching out more widely and deeply within the community, working with businesses and NGOs, cooperating with neighbouring local authorities to tackle common challenges, tackling poverty and unemployment, working across traditional boundaries. Managing such a complex institution, sustaining high standards and dealing with an ever-changing environment requires high levels of

stamina and skill. This is why all EaP will require an effective leadership for further realisation of PAR on local level and decentralisation process implementation⁵⁶.

Success of the implementation of the public administration reform will depend fundamentally on public trust. Without broad confidence of the public in the integrity of those they elect to represent them, and of those employed to deliver services to them, democratic institutions will falter. Ultimately, democracy will fail in societies that do not maintain reasonable standards of ethical behaviour at all levels of public life; the result will be that people become disempowered and poorer⁵⁷. **In this regard, it is recommended to pay high attention to the issue related to the development of public ethic standards and an effective fight against corruption.**

4.1.6 In all countries **the right of LSGs to execute their full responsibilities for local development with full discretion** is partly or very limited by the national legislation and even more so by bad practices. This is why the main practical barriers should be discussed and on such base the relevant solutions should be prepared.

4.1.7 Another general issue is the **control and supervision**. Solutions adopted in the EaP region differ from country to country and the practice can be improved everywhere (the system of external audit, internal control and legality checks for own responsibilities should somehow exist everywhere). What is really lacking are effective performance auditing/ control.

4.1.8 The area where many possible improvements can be proposed is the **level of fiscal decentralisation**. LSGs and RSGs competences and resources shall be balanced, costs of delegated responsibilities fully covered by the state. The quality of local financial management is very basic (most respondents did not understand the notions like accrual accounting or cost centre – full costs accounting), benchmarking is not regular and its results are not publicly known. Medium term budgeting is introduced in most countries, however its performance dimension is not well implemented (the schemes introduced are too complicated and very badly executed – too many and inappropriate indicators, targets not properly measured and results not used to improve). LSGs and RSGs shall also be trained for public procurement (however, for all countries the priority is to improve public procurement systems, switching from compliance based to value for money based processes and evaluations).

4.1.9 The evident issue is the **“quality” of local democracy**. All stakeholders involved should be motivated and allowed to become real local actors, promoting genuine local democracy. A deeper understanding of local democracy and community participation is needed by both the public authorities at all levels and the citizens. At the same time, in all EaP Countries there are insufficient mechanisms for citizens' participation in local public life; the role of civil society is also undervalued. In this regard, the following is recommended:

⁵⁶ Modern Leadership for Modern Government. Council of Europe Centre of Expertise for Local Self-Government Reform, Strasbourg, 2013//
<https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2751082&SecMode=1&DocId=1991708&Usage=2>

⁵⁷ Public Ethics Benchmark. Council of Europe Centre of Expertise for Local Self-Government Reform, Strasbourg, 2009 //
<https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2564758&SecMode=1&DocId=1910774&Usage=2>

- to support the organisation of local and regional forums to develop a common understanding of democratic participation among local authorities, political parties, NGOs and the media;
- to encourage local authorities to establish active communication policies, tailored to their community's needs and expectations;
- to invite local authorities to work closely with civil society institutions in order to deliver more effective services for the citizens;
- to promote civic education in schools and universities and through local cultural events in a way that fosters participation;
- to support the more dynamic NGOs, especially those active in promoting the participation of women and youth in local politics and decision-making and in developing mutual understanding within multi-ethnic communities⁵⁸.

4.1.10 Further **development of transfrontier cooperation** should represent a core priority for all EaP Countries. In this regard, it is recommended to ratify not only the Council of Europe's European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (ETS 106, known as the Madrid Convention)⁵⁹ but also its three Additional Protocols. It is also recommended to remove legal and administrative obstacles to cross-border cooperation as well as to accelerate the process of the creation of the new Euroregions.

4.2 EaP countries' specific issues

4.2.1 Taking into account the analysis of the situation in **Armenia** and the progress made with regard to previous recommendations in the field of decentralisation, the following is herewith recommended:

1. To improve checks and balances between the central government, regional administration units (marzpetarans) and local communities. Under the current system of strong state control of marzpetarans, there is a risk of regional administrations' withstanding from the responsibility for any mismanagement (whether on behalf of their own or local communities). In other words, if something goes wrong, regional administrations have a capacity to find a scapegoat and lay the responsibility on communities. This is a serious problem that can be addressed by strengthening the system of checks and balances between the three layers, which will contribute to greater responsibility on behalf of each party.⁶⁰ Marzpetarans' financial (and full) dependence on central government is yet another pillar, requiring attention in order to achieve a transparent and a better operating environment;

⁵⁸ Toolkit on Local Government Capacity-Building Programmes. Council of Europe, Strasbourg, 2011 // <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2565163&SecMode=1&DocId=1910750&Usage=2>

⁵⁹ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680078b0c>

⁶⁰ Also, a better communication mechanism in place will contribute to democratic communication circulation (among the three parties) and checks and balances.

2. To adopt a new Law on Fiscal Decentralisation;
3. To develop capacities of local authorities for fundraising. Apart from central government funds receipt, it is important to consider developing capacities, as well as providing opportunities to local authorities for alternative funding. As the analysis of the situation shows, financial resources of local communities seem to be dramatically restricted. However it remains to be important to develop local authorities' capacities in order for them to realise their competences defined by the national legislation;
4. To reinforce citizens' engagement in the policy making related to their communities. Although some progress has been made by local NGOs and international organisations, strengthening of citizen participation should always remain in the central focus of stakeholders. Assessment and monitoring of the decentralisation reform implementation by citizens should serve as an important area for engagement;
5. To review the national legislation in order to better implement the principle of subsidiarity and to allow the local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population; to ensure that local authorities enjoy full and exclusive powers, as autonomous actors of local public administration, and do not have these powers undermined by the central authorities;
6. To develop and implement new training programmes for local officials and elected representatives in order to increase the level of their professional competences;
7. To continue developing inter-municipal co-operation as an important stage for the improvement of the existing organisation of territorial governance and the preparation of the administrative and territorial reform;
8. To specifically focus on implementing each of the recommendations formulated by the EaP CSF Sub-group for Local Government and PAR in 2012. Armenia's progress in following these recommendations is minimal, whereas their implementation is vital for the development of the system of local self-governance and is directly linked to the development of legal and institutional framework. It will hardly be possible to implement any further steps, without having these recommendations followed in the first place.

4.2.2 Concerning the situation in **Azerbaijan**, the following blocks of activities are recommended:

1. Status and competence of municipalities:

- 1.1. The legislation should provide for the norms defining the status of municipalities;
- 1.2. In line with the principles of the European Charter of Local Self-Government, the exceptional responsibilities should be assigned to municipalities and the clear-cut division of responsibilities between local state executive bodies and municipalities should be provided.

2. Financial potential of the municipalities:

- 2.1. Municipalities should be provided with sustainable financial sources so that they can carry out their responsibilities, and possibilities of the application of shared taxes system should be considered by making changes to the legislation;
- 2.2. Taxation mechanisms should be improved so that municipalities can make efficient use of the existing tax sources⁶¹;
- 2.3. Current mechanisms of transfers from the state budget to municipalities should be improved: conditional transfers along with unconditional ones should be provided and the amount of transfers should be increased considerably;
- 2.4. Effective mechanisms should be developed to give municipality's access to credits on favourable terms; an establishment of various funds supporting the development of municipalities should be promoted.

3. Administrative supervision over the activity of the municipalities:

- 3.1. Provisions instituting mechanisms of supervision over municipalities that contradict the principles of the European Charter of Local Self-Government should be removed from the legislation;
- 3.2. Administrative supervision over municipalities should be carried out only to ensure the compliance of municipalities with laws and constitution and should not be used as a means of pressure on them.

4. Relations between the municipalities and the local state executive committees:

- 4.1. A precise division of responsibilities between municipalities and the local state bodies should be introduced through a special legislative act or amendments to the existing legislation;
- 4.2. As one of the components of removing the overlap of responsibilities in local governance, the local executive bodies should be abolished and their respective responsibilities be transferred to municipalities.

5. Property provision and inviolability of the municipalities:

- 5.1. The state authorities should implement the law on Property Transfer to Municipal Ownership of 2000 according to which the state is supposed to provide all the municipalities with administrative buildings in a short time;
- 5.2. The authorities should finalise the documentation of municipal property, especially of municipal lands located in the capital⁶².

⁶¹ "As the determination of the inventory value of real estate causes an increase in administrative costs, municipalities face difficulty with collection of physical entity property tax. Therefore, we propose to establish simplified procedures in the legislation for the calculation of physical entity property tax Annual Report on the administrative supervision exercised over local governments" (2012), from deputy justice minister Vilayat Zahirov's speech in a parliamentary (Milli Mejlis) debate.

⁶² "Failure to issue documents to some municipalities approving their right to lands causes concerns: out of 1718 municipalities, only 1128 have documents approving their property rights, while only 1454 have been through soil consistency/earth structure so far. Relevant government bodies have been notified accordingly". "Annual Report on the administrative supervision exercised over local governments" (2012), from deputy justice minister Vilayat Zahirov's speech in a parliamentary (Milli Mejlis) debate.

6. National associations of local authorities:

- 6.1. Associations should be accepted as equal partners of the central government in the processes of developing state policy on local self - governance and effective legal mechanisms for such a partnership should be designed;
- 6.2. In order to ensure the regular consultations between central government and municipalities, a consultative body should be established on a permanent (as well as public) basis;
- 6.3. Real basis should be created for national municipal associations to operate independently;
- 6.4. Associations should be held accountable before member municipalities and build their operations on the basis of transparency and accountability principles.

7. Status, working conditions and benefits of elected personnel and servants of municipalities:

- 7.1 Sustainability of salaries and benefits to the elected members of municipal councils serving on a professional basis during their term of office should be guaranteed;
- 7.2 The core principles of municipal service should be reflected in the law and municipal servants should be defined;
- 7.3 The law should outline the hiring conditions to municipal service and specify the time when the status of municipal servant is granted.

8. Experienced and qualified municipal personnel:

- 8.1. A training system of municipal staff should be established with improved curriculum and accreditation of training programmes should be carried out;
- 8.2. Re - training courses should be provided if needed. Therefore, municipal associations and relevant state authorities should develop a mechanism to accurately and constantly assess these needs;
- 8.3. A national strategy of retraining and enhancing the skills of municipal staff should be worked out: regional training and education centres should be established.

9. Status of Baku as the capital city and formation of the City Council:

- 9.1. Legal barriers for the establishment of a single municipality in Baku city should be removed and a special law should be adopted to regulate the complex relations around the status of Baku city;
- 9.2. The Election Code should outline the terms of elections to the City Council of Baku City specifying the number of elected persons depending on the type of local self - governance and representation norms of administrative units within the territory of the capital city;
- 9.3. The law should also clearly divide the responsibilities between Baku Municipality, which should be created, and Baku City Executive Committee and regulate their relations and coordination with other state bodies;

- 9.4. Baku Municipality should be provided with the necessary funding sources to fulfil its duties and operate effectively.

10. *Organisation of regional administration in Azerbaijan:*

- 10.1 To initiate a discussion regarding a transition to regional administration and possibilities of adapting the existing local governance to regionalisation for the purpose of a more efficient local self - governance in Azerbaijan.

11. *Public participation and accountability:*

- 11.1. Provisions on public participation and accountability in the existing legislative acts should be made more concrete and accurate and effective mechanisms of their application should be developed with a clearer focus;
- 11.2. Mechanisms of penalties in case of a breach of principles of accountability and public participation should be made more precise;
- 11.3. Recommendations formulated by the EaP CSF Sub-group for Local Government and PAR in 2012 should be fully implemented by the national authorities of Azerbaijan.

4.2.3 The existing local self-government system in **Belarus** has no opportunities to fulfil its goals of self-governance in compliance with ECLSG and the European Principles of Good Governance on Local Level. The reasons for this conclusion are the following:

- An analysis of the existing legal and institutional framework of local democracy reveals a significant deviation from the principles and norms of the European Charter of Local Self-Government: the national legislation on local self-government ignores the principle of subsidiarity; local councils are included in the system of state bodies; there is no concept of "community" as a source of self-government and its main subject; local councils do not have their executive and administrative bodies; there is a lack of financial and economic basis of local self-government, etc.;
- Any progress in the sphere of financial decentralisation is not tangible as yet and the recommendations made in 2012 by the Sub-group on the Reform of Local self-Government and Public Administration of the EaP Civil Society Forum have been practically ignored;
- The ongoing optimisation of ATU does not include any legally binding instruments or clear conceptual approaches and, as a result, its objectives are not transparent and understandable;
- The evaluation of local authorities' capacities in the field of human resources proves its failure and inefficiency;
- An analysis of the forms and procedures of citizens' participation in the preparation, adoption and execution of decisions of local authorities reveals imperfections of direct democracy instruments; absence of appropriate conditions required for citizen participation and excessive complexity of the proposed legal arrangements.

In this situation, a set of comprehensive and comprehensible measures should be adopted in order to ensure further LSG reform in Belarus in compliance with the provisions of the ECLSG and the European Principles of Good Governance. The Study Team recommends in particular the following:

1. Preparation and adoption of the Concept of LSG Development in the Republic of Belarus:

- 1.1. A draft Concept of LSG Development in the Republic of Belarus should be prepared in accordance to the ECLSG principles as well as a Road Map for its implementation;
- 1.2. A public debate on the Concept should be initiated with the participation of all main stakeholders, public authorities on all levels, representatives of the scientific and educational institutions, political parties, public associations, trade unions and citizens;
- 1.3. The Concept should be translated into a Law which should then be adopted.

2. Preparation to the ratification of the ECLSG by the Republic of Belarus:

- 2.1. An official invitation should be addressed by the relevant authorities of Belarus to European experts to analyse the national legislation and its compliance with the principles of ECLSG;
- 2.2. The text of the European Charter of Local Self-Government and its commentary should be officially translated into the official language of the Republic of Belarus;
- 2.3. A number of the national, regional and local seminars for the representatives of the different target groups should be organised in order to present the results of the work of the European experts as well as to highlight the main provisions of the ECLSG and the European Principles of Good Governance;
- 2.4. The authorities of Belarus should define which Articles and specific principles of the ECLSG the country would intend to commit to and implement.

3. Improvement and further development of the national legislation in accordance with the principles of the European Charter of Local Self-Government:

- 3.1. Working groups should be created (with the participation of the national and the international experts) in order to prepare new legislative acts aimed at the realisation of the decentralisation reform in Belarus;
- 3.2. The Parliament should adopt the new version of the basic Law on LSG as well as other important pieces of national legislation related to the decentralisation process, implementation of the PAR on local levels and rationalisation of the administrative and territorial organisation of the country;
- 3.3. Recommendations formulated by the EaP CSF Sub-group for Local Government and PAR in 2012 should be fully implemented by the national authorities of Belarus.

4. Implementation of measures to ensure further stability of the democratic local self-government system in Belarus:

- 4.1. Democratic local elections should be organised in accordance with the new legislation on local elections;
- 4.2. A new National Association of Local Authorities should be created and its institutional capacity reinforced;

- 4.3. A National Training Strategy for civil servants, local elected representatives and other categories of the specialists working in the sphere of LSG development should be developed and implemented;
- 4.4. Criteria for evaluation of the effectiveness of activities of local councils and their members should be developed and applied;
- 4.5. A principle of transparency and openness in the work of public local authorities should be introduced and applied; different forms of direct democracy and citizens' participation in local public life should be promoted.

4.2.4 With regard to **Georgia**, the following is herewith recommended:

1. Amendments should be prepared as necessary to the Local Self-Government Code to ensure complete delimitation of municipality competences;
2. Legal framework supporting diverse forms of public participation mechanisms in self-governance should continue being developed;
3. Mechanisms (including shared income tax systems mechanisms) ensuring sustainability of financial independence and fiscal decentralisation of self-governing entities should be developed and enforced. These mechanisms should also be reflected in the relevant strategies and the policy papers;
4. Citizens' participation in local public life should be reinforced and a public awareness on decision making in budget preparation (including public awareness on shared income tax systems mechanisms) should be developed;
5. Rules and the procedures (including management and usage procedures) of transferring property under the ownership of local governance entities should be developed;
6. Internal business processes should be improved to ensure a timely provision of information in hard copies and in e-document formats;
7. Human capacities of local authorities should continue being developed in order to improve the quality of municipal services to citizens;
8. Transparency of staff appraisal and HR management practices of self-governing bodies should be enhanced, thus allowing any interested party to monitor staff attestation and hiring processes;
9. A cooperation with the donor community should be continued to improve the existing transfer system (including transfer formula);
10. A proper incentive scheme should be developed to attract highly qualified workforce into civil service at local level and to reduce complete dependence on political climate change.

4.2.5 Based on the analysis of LSG development and progress in the realisation of PAR in **Moldova**, it can be stated that during the period of 2012-2014 years a number of significant reforms and improvements have been launched. At the same time, due to the last parliamentary and local elections PAR implementation process after 2014 was slowed. In this context the following is recommended:

1. The existing discrepancy between the “general” legislation in the field of LSG and the sector-specific legislation should be streamlined by means of harmonisation of the latter with the new Law on Local Public Administration and with other legislative acts enhancing decentralisation
2. Institutional and financial capacities of the ATU (excepting the municipalities of Bălți and Chisinau) of the second tier should be consolidated in particular by means of identification of new sources of RGs own revenues and elaboration of new mechanisms for improvement of local taxes and revenues collection.
3. Institutional capacities of public authorities at all levels to implement the National Decentralisation Strategy should be strengthened, in particular through:
 - strengthening the capacities of sector ministries and motivating their staff to initiate and to promote further decentralisation reforms in all sectors;
 - promoting Inter-municipal Cooperation to reduce problems created by the existing territorial fragmentation;
 - reinforcing the interagency coordination, including all ministries, government agencies, local authorities and their associations which are involved in the implementation of the decentralisation reform process.

4.2.6 With regard to **Ukraine** the Study Team would like to encourage its authorities to continue the on-going decentralisation reform. It wishes to recommend in particular the following:

1. A completions of the constitutional reform in its part relating to the decentralisation of power should be treated as a priority objective: 2. Territorial boundaries of local self-governance bodies and executive power should be defined in order to reinforce the three-tier system of administrative and territorial structure (with 27 regions, 120-150 rayons, 1500-1800 local communities);
3. A clear division of competences should be set between the local self-governance bodies of different levels (hromada, rayon and oblast). At the same time, the competences which are the most vital for peoples’ life should be transferred to the levels closest to the people following the principle of subsidiarity;
4. A clear division of competences should be set between the LSG bodies and local state administration bodies. The latter should transfer most of their competences to local self-governance bodies and retain only control functions;
5. The fiscal decentralisation reform should be continued with a particular focus on the implementing each of the recommendations formulated by the EaP CSF Sub-group for Local Government and PAR in 2012;
6. The accountability of LSG bodies to the citizens of the respective hromadas should be reinforced. People will become aware that the quality of the local power operation will depend on their voting. So the quality of life will depend on the residents themselves;
7. Standards for services delivery and its financing should be developed with particular focus on education, health, and other social services. Full implementation of these standards into the state transfers/subsidies mechanisms will ensure consistent access to public services

throughout the whole territory of Ukraine. This step will stimulate optimisation of social infrastructure, spending resources for increasing quality of services instead of maintenance of public utilities;

8. A more transparent framework for local budgets should be established. Increasing of local funds should be accompanied by enhancing mechanism of public control and supervision over utilisation of these funds. Local authorities have to be accountable to local communities especially in terms of planning, implementation and reporting on spending of local finances;
9. Awareness of the citizens of the decentralisation reform, its objectives and the main results should be enhanced and promoted;
10. Further development of IMC as an important stage for further amalgamation of the communities (hromadas) should be continued. At the same time, the process of amalgamation of the communities should be further supported by the central government. In this regard, the dialogue with the newly elected mayors and local elected representatives should be reinforced; awareness raising campaigns among mayors based on success-stories and peer-to-peer approach may be also used;
11. The autonomy of LSG bodies to manage their own human resources within the framework provided by the relevant laws should be further guaranteed. At the same time, proper control mechanisms of compliance with the provisions of law should be established. The new Law on Service in LSG Bodies should be finalised and adopted. Its quick implementation should be a priority for further realisation of the decentralisation reform in Ukraine;
12. The delegated powers and competences should be fully financed by the central government, introduction of new privileges and bonuses should be accompanied by respective financial resources to the local budgets.

.

5 REFERENCES AND BIBLIOGRAPHY

1. Access to Public Information in Georgia Information Report № 6 October 2013 – December 2014, Institute for Development of Freedom of Information, available at: <http://www.osgf.ge/files/2015/Publication/OPD-ENG-29-01-2015.pdf>
2. Civil Service in Figures – 2015. National Agency on Civil Service of Ukraine, Kyiv, 2015, available at: www.nads.gov.ua
3. Civil Service Council of the Republic of Armenia, Statistical data, available at: <http://www.csc.am/%D5%BF%D5%A5%D5%B2%D5%A5%D5%AF%D5%A1%D5%BF%D5%BE%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6/%D5%BE%D5%AB%D5%B3%D5%A1%D5%AF%D5%A1%D5%A3%D6%80%D5%B8%D6%82%D5%A9%D5%B5%D5%B8%D6%82%D5%B6>
4. Congress of Local and Regional Authorities of the Council of Europe, Situation of Local Democracy, Armenia, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2295286&SecMode=1&DocId=2017274&Usage=2>
5. Council of Europe. Additional Protocol to the European Charter of Local Self-Government on the Right to Participate in the Affairs of a Local Authority, 2009, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=90000168008482a>
6. Council of Europe Congress of Local and Regional Authorities, Report on Local Democracy in Armenia, available at: https://wcd.coe.int/ViewDoc.jsp?id=2170873&Site=COE#P657_87169
7. Council of Europe Congress of Local and Regional Authorities, Explanatory Memorandum on Local and Regional Democracy in Azerbaijan, 2013, available at: www.wcd.coe.int/ViewDoc.jsp?id=1982467
8. Decentralisation , Region Development, Spatial Planning Aspects and Policy Milestones for Georgia , David Melua, NALAG, 2013, available at: <http://nala.ge/uploads/files/5321986a5aefd.pdf>
9. Deputies of Local Councils: about Legal Bases of Local Self-government in Belarus / Handbook, under the general editorship Miroslav Kobasa, 2010, available at: <http://www.sapieha.org>
10. Development Concept “Azerbaijan 2020: outlook for the future” // http://www.undp.org/content/dam/azerbaijan/docs/sustain_development/AZ_Vision2020_government_draft_en.pdf
11. European Charter of Local Self-Government: Standing Conference of Local and Regional Authorities of Europe, Strasbourg, 1985, available at: <http://www.coe.int>

12. Initiative on Fiscal Decentralisation // The Sub-group for Local Government and Public Administration Reform of the Civil Society Forum, available at: <http://eap-csf.eu/en/working-groups/wg1-democracy-human-rights/resources/initiative-on-fiscal-decentralisation>
13. Humanitarian Bulletin Ukraine. OCHA, № 1, 01 - 31 August 2015
14. Key Principles of the Strategy for Decentralisation and Development of Self-governance of the Government of Georgia for 2013-2014". Government of Georgia, 2013
15. Kobasa Miroslav, Local Self-Government in Belarus: How to Shift Myth to Reality / Policy paper, 2012, available at: <http://www.sapieha.org>
16. Local democracy in Armenia: Call to Government, Union of Communities of Armenia, Communities Finance Officers Association, Association of Municipal Councillors, 2014, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2679289&SecMode=1&DocId=2231676&Usage=2>
17. Local government reform in Armenia: challenges and prospects for success, Master's thesis, American University of Armenia, available at: <http://dspace.aua.am/xmlui/handle/123456789/606>
18. Local Self-Government in Belarus and Other Countries (Questions and Answers) / Textbook, under the general editorship Mikhail Chudakov, 2005, available at: <http://www.sapieha.org>
19. Local Self-Governance in Georgia, 1991-2014, OSGF, available at: http://www.osgf.ge/files/2015/Publication/local_democracy_development_report_english_final_2.pdf
20. Modern Leadership for Modern Government. Council of Europe Centre of Expertise for Local Self-Government Reform, Strasbourg, 2013// <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2751082&SecMode=1&DocId=1991708&Usage=2>
21. Morozov Boris, Republic of Moldova: 20 years of independence and experiments with public finance system. Chisinau, 2012
22. National Human Development Report in the Republic of Belarus (UNDP, 2015, Executive Summary) / <http://www.by.undp.org/content>
23. New Local Self-Government Code: Overview of the main novelties, TI, March 2014, available at: <http://www.transparency.ge/en/blog/new-local-self-government-code-overview-main-novelties>
24. Plisko Mikhail, Forms of Citizens Participation in the Implementation of the Local Self-Government / Brochure, 2014, available at: <http://www.sapieha.org>
25. Public Ethics Benchmark. Council of Europe Centre of Expertise for Local Self-Government Reform, Strasbourg, 2009 // <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2564758&SecMode=1&DocId=1910774&Usage=2>

26. Recommendation 126 (2003)¹ the Council of Europe Congress of Local and Regional Authorities. Strasbourg, 2013, available at: <https://wcd.coe.int/ViewDoc.jsp?id=1982467>
27. Report № 89737-BY on Republic of Belarus: Public expenditure and financial accountability (PEFA) // Public Financial Management Performance Report// June 2014. Europe and Central Asia Region, the World Bank
28. Report on the implementation of the Law "On Public Function and Status of Civil Servant in the Republic of Moldova", 2014
29. Report № 89737-BY on Republic of Belarus: Public Expenditure and Financial Accountability (PEFA) // Public Financial Management Performance Report // June 2014. Europe and Central Asia Region, the World Bank, available at: <http://www.worldbank.org/external>
30. SIGMA's 2012 peer review/ Recommendation on the development of the civil service in Moldova, available at: <http://www.sigmaweb.org/publications/ParradoDiezS-CS-Professionalisation-Nov2014.pdf>
31. Society for Fair Election and Democracy (ISFED) Report on the situation in Georgia, 2014, available at: <http://www.transparency.ge/en/post/general-announcement/dismissals-civil-servants-tbilisi-city-hall-allegedly-political-grounds>
32. Sokol Dmitriy, Public Finance or Finances to the Public / Brochure, 2013, available at: <http://www.sapieha.org>
33. Statistical bulletin on 'Execution of Municipality Budgets'. January - December 2014, State Statistical Committee, Baku, 2015
34. Terteryan, Vache. "Experience of Armenia in Implementing Municipal Amalgamation Reform." Kiev, Ukraine, 2014, available at: <http://www.coe.int/t/dgap/localdemocracy/news/2014/kiev2509/PPT-TERTERYAN.pdf>
35. Tolkovanov Vyacheslav, Innovative Tools for Improvement of the National Training System of Ukrainian Civil Servants and Local Self-Government Officials// Scientific Journal of Petro Mohyla University. Mykolaiv, № 169, 2012, p. 7-11
36. Tolkovanov Vyacheslav, Intermunicipal Cooperation as a Modern Tool for Local Self-Government Development in Ukraine. // Actes du colloque "Vivre et travailler dans les espaces a faible densite", les 29-30 novembre 2012, IADT, Clermont-Ferrand, pp. 223-227
37. Tolkovanov Vyacheslav "La mise en oeuvre du nouveau systeme de l'autonomie locale en Ukraine". These de doctorat (droit public), Universite Robert Schuman de Strasbourg III, 2006, 405 p.
38. Tolkovanov Vyacheslav, Public Administration Reform in Ukraine: main objectives, current status and problems to be solved// Public Policy and Economic Development: scientific journal. - Mykolaiv, 2011, № 2, p. 5-12
39. Tolkovanov Vyacheslav, Tools for Ensuring Good Governance at Local and Regional Levels. PhD Thesis in Public Administration. - Zaporizhia, 2013, 436 p.

40. Toolkit on Local Government Capacity-Building Programmes. Council of Europe, Strasbourg, 2011 // <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstraneImage=2565163&SecMode=1&DocId=1910750&Usage=2>
41. Transparency International Report on the situation in Georgia, 2012, available at: <http://www.transparency.ge/en/post/general-announcement/dismissals-civil-servants-tbilisi-city-hall-allegedly-political-grounds>
42. Tumanyan David, Local Self-Government in Armenia (2011) Book 5. Yerevan, Armenia, 2012, available at: <http://cfoa.am/wp-content/uploads/2012/03/Pages-from-cfoa-maket-2012-2.pdf>.
43. Turpanjian Center for Policy Analysis. "Estimation of Direct and Indirect Costs and Benefits Related to Consolidation of Communities of the Republic of Armenia." Yerevan, Armenia: American University of Armenia, 2013, available at: http://tcpa.aua.am/files/2012/07/TCPA-for-Counterpart_Cost-Benefit-Final-Report_ENG.pdf
44. Two Years in Government: Georgian Dream's Performance Review, May 2015, ISFED, Transparency International Georgia
45. USAID and Counterpart Armenia. "Republic of Armenia Strategy Paper On Further Development of Local Self-Government and Decentralisation of Power," 2012, available at: <http://program.counterpart.org/Armenia/wp-content/uploads/2012/11/Decentralisation-strategy-final-Eng-exec-summary.pdf>.
46. Zavadski Andrej, Belarus and the European Union: Opportunities for Mutually Beneficial Cooperation in the Field of Local Self-government / Brochure, 2012, available at: <http://www.sapieha.org>
47. Zavadski Andrej, On the Accession of the Republic of Belarus to the European Charter of Local Self-government / Brochure, 2013, available at: <http://www.sapieha.org>