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Public Administration and Local Governments Reforms in Eastern Partnership Countries

Update on Public Administration and Local Governments Reforms in Eastern Partnership Countries

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Through its Re-granting Scheme, the Eastern Partnership Civil Society Forum (EaP CSF) supports projects of EaP CSF members with a regional dimension that will contribute to achieving the mission and objectives of the Eastern Partnership Civil Society Forum.

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Key areas of support are democracy and human rights, economic integration, environment and energy, contacts between people, social and labour policies.

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Acronyms used in the document

- ALDA** – European Association for Local Democracy
- EAP** – Eastern Partnership
- EaP CSF** – Eastern Partnership Civil Society Forum
- PAR** – Public Administration Reform
- GDP** –Gross Domestic Product
- ROA** – Republic of Armenia
- SNG** – Sub national Governments

Introduction

Public Administration and Local Government Reform in the Eastern Partnership countries is considered one of the main objectives to reach in the upcoming years that was reflected in Review of the European Neighborhood Policy in 2015 as well as underlined in CORLEAP Action Plan 2016-2017. The topic is also relevant in the Association Agreements signed by Georgia, Ukraine and Moldova. The difficulties are evident since they address the very same organization of the state and the relationship between citizens and authorities (both at the national level and at local level). These relations are often limited due to subordination to central authorities, deficiencies in functioning of the state, characterized by lack of transparency, corruption and limited scope of competences and resources of local and regional authorities, preventing them effectively address relevant to their territory and local communities issues. However, the ways of addressing these issues through Decentralization and Public Administration Reform varies among the countries of the region, depending on their willingness, commitment and level of cooperation with the EU.

The aim of the document, is to examine the recent developments a) on Public Administration b) Local Government/decentralization and territorial reform in each EaP countries; the analysis is following the progress achieved in reforms' implementation, their articulation in legislative and regulatory documents, as well as how they are implemented in practice. 69 respondents from central and local government, as well as experts contributed to the study to show the practical gaps and describe how the laws are executed in everyday life. The document also ambitiously contains comparative analyzes of six countries in question, in the section common trends you will find the

evaluation of level of decentralization as well as the progress of PAR in Eastern partnership region.

The document should contribute to the overall aim of the project to improve the functioning of public administrations and decentralization of decision-making for the well-being of population. Therefore the section recommendations proposes the views of experts involved how this can be achieved.

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Overview per country

Georgia

Decentralization

According to the Charter on the Local Self-Governance, strengthening of the self-governance and democracy, as well as implementation of the decentralization strategy are the challenges which, if successfully resolved, will lead to the creation of a real self-governance system, increased democratic involvement in decision making processes, deepening of Georgia's integration with the EU.

Implementation of the decentralization strategy in compliance with the Charter on the Local Self-Governance and strengthening the local governance in line with the European standards are among main priorities of Georgia-EU Association Agenda. This is a challenge and tackling it successfully, will determine both issues - creation of a real self-governance system and increase of democratic involvement in decision making processes, as well as Georgia's integration with the EU and establishing herself as a sound partner of the democratic community.

Forming the self-governance by passing the new Code on the Local Self-Governance, creation of new municipalities, formation of all municipal institutions by direct elections, as well as, handing a part of the revenues generated in the State Budget by the Income Tax to the municipalities - these are those important steps that have been taken to move forward in the self-governance reform implementation and to advance on the path of establishing a real self-governance.

MUNICIPAL STATISTICAL DATA

Region	# municipalities	# settlements	# cities	#towns	# population	Area thousand sq.m.
Guria	4	189	2	5	113 350	2.033
Racha-Lechkhumi and Kvemo Svaneti	5	258	3	3	32 089	4.6
Samtskhe-Javakheti	7	353	5	7	160 504	6.421
Mtskheta-Mtianeti	5	490	2	7	94 573	5.8
Samegrelo-Zemo Svaneti	10	497	9	2	330 761	7.5
Kvemo Kartli	7	347	7	8	423 986	6.5
Shida Kartli	5	373	5	2	263 382	6.2
Imereti	12	559	10	3	533 906	6.518
Kakheti	9	285	9	0	318 583	11.31
Adjara Autonomous Republic	6	342	2	7	333 953	2.9
Tbilisi*	1	10		3	1 108 717	0.72
	71	3704	55	47		

* Tbilisi, the capital of Georgia is the city municipality and in this table is counted as municipality, settlement and city

Source: Ministry of Regional Development and Infrastructure; GeoStat

Along with the progress, some drawbacks and issues were also revealed during this short period of time that might have a negative impact on financial abilities of the self-governments and their level of independence. The land (agricultural or non-agricultural), local forest, local public real estate still is not transferred to the municipalities. Furthermore, the competences on the municipal property management is dominated by the central bodies of administration: Parliament and Government. Just few procedural competences are assigned to the municipal organs.

Some piece of budgetary incomes is assigned/transferred to the municipalities, namely about 15% of total finances generated from the Income Tax is transferred to the municipalities/municipal budgets. Nevertheless of this progress, still absolute majority of municipal finances are managed and dominated by the Central Government: transfers to the municipalities (equalizing, targeted, special, capital), budgetary fund for the regional projects, and reserve fund of Government and municipal development fund are in the exclusive competence of Government. Without having strong, legally fixed guarantees of fiscal independence and clear regulations for transfers, possibilities for making political or other types of subjectively motivated decisions by the Central Government, still remain.

Despite the readiness to pass some of the budget revenues generated by the Income Tax to the municipalities, the central Government still maintains its dominating influence over the municipal finances. The largest portion of the municipal finances is managed by the central authorities. This is done through transfers (targeted, special, capital transfers), the Fund for Regional Project, the Municipal Development Fund or reserve funds.

THE RATIO OF EQUALIZING TRANSFERS TO THE NOMINAL GDP

Year	GDP/Equalizing transfer	Amount/GeL	%
2009	Nominal GDP	17 986 000 000	1.54%
	Equalizing transfer	276 616 200	
2010	Nominal GDP	20 743 400 000	2.52%
	Equalizing transfer	522 553 000	
2011	Nominal GDP	24 344 000 000	2.58%
	Equalizing transfer	627 788 300	
2012	Nominal GDP	26 167 300 000	2.76%
	Equalizing transfer	721 459 000	
2013	Nominal GDP	26 847 400 000	2.8%
	Equalizing transfer	750 296 100	
2014	Nominal GDP	29 187 000 000	2.66%
	Equalizing transfer	776 141 900	
2015	Nominal GDP	30 663 800 000	2.72%
	Equalizing transfer	834 233 000	

Note: Equalizing transfer - the sum of own budgetary revenues of all municipalities

Transfer of enough Finances and Property, together with competences in finance/property management to the municipalities was started but the process is paused. It can be observed as sign of the change of the decentralization policy.

„The new government that came to power in the October 2012 parliamentary elections has made decentralization one of its priorities, although it is not clear how they plan to develop the self-government systems and whether the state will manage to overcome the pro-centralization tendencies that have been prevalent in

Georgian governments“ – this is alarming observation of the study “Citizens’ satisfaction with public services in Georgia”¹

Competences of Local Authorities

Competences of municipalities and division of competences of central and local administrations are defined by the Constitution of Georgia and the Code of Local Self-Governance. The local matters and services are competence of municipalities. According to the constitution: powers of local self-government shall be delimited from those of state bodies, municipalities shall have its own, exclusive and delegated powers.

Nevertheless, the issue of competences of municipalities is problematic. Many competences that should be implemented by the municipalities face intervention from the central government. On the other hand, the municipalities are implementing competences, which are in the mandate of central government or autonomous republic’s authority.

The following competences are exclusive competences of municipalities:

1. preparation, discussion and approval of the municipality draft budget, making changes in the approved budget, hearing and evaluation of the budget completion report; managing the budget funds, and carrying out treasury financial transactions and bank transactions as per Georgian legislation
2. management and disposal of municipal owned property as outlined in this law, and other legislative and sub-legislative normative acts
3. management of local natural resources, including water and forestry resources and municipality owned land resources, as per the legislation
4. introduction and abolishment of local duties and fees as per the legislation, determining their rates within the frames determined by the legislation; collection of local duties
5. space-territorial planning of the municipality and determining the norms and rules in the respective area; approving urban planning documentation, including rules for general plan for land usage, building regulation plan, usage of settlement territories and building regulations
6. arrangement of the municipal territory and development of respective infrastructure; cleaning of streets, parks, and other public areas on the municipal territory, planting trees, providing street lighting
7. collection and disposal of solid (household) waste
8. water supply (including technical water) and drainage; development of local melioration system
9. pre-school and extra-curricular education
10. management of local roads and organization of road signs on local roads; provision of parking lots for vehicle parking and regulation of parking rules
11. issuing of regular passenger transportation permit within the municipality territory; organization of public municipal transport service
12. regulation of street vending, exhibitions, and farmers’ and consumer markets
13. issuing construction permit on the territory of the municipality; carrying out construction supervision as stipulated in the Georgian legislative acts and within the determined frames
14. Regulation of issues regarding holding of public gatherings and manifestations.
15. giving names to geographic areas on the municipality territory, in particular to: historically formed neighborhoods, administrative units of self-governed cities, micro-districts within a particular zone, springs, squares, avenues, freeways, streets, turns, passages, embankments, esplanades, boulevards, squares, alleys, gardens, parks, local forests, cemeteries, pantheons, buildings, transportation system objects
16. regulation of outdoor advertisement placement

¹ Citizens’ satisfaction with public services in Georgia. By ACT for UNDP. 2015. p. 13.

http://www.ge.undp.org/content/georgia/en/home/library/democratic_governance/citizen-satisfaction-with-public-services-in-georgia--2015/

17. setting rules for having domestic animals, and resolving the issues regarding stray animals
18. arranging and maintenance of cemeteries
19. protection and development of local originality, arts activity and cultural heritage; maintenance, protection, reconstruction and rehabilitation of local monuments of culture; ensuring operations of libraries, clubs, movie theaters, museums, theaters, exhibition halls and sports facilities managed by the municipality, and construction of new ones
20. Development of respective infrastructure on local sites for people with limited abilities, children and the elderly, including equipping of public gathering areas and municipal transport with respective accessibility means.
21. providing shelter for the homeless and their registration;

CONTROL AND SUPERVISION

Relations of the Self-Government with the Central Government

The Local Self-Governance Code determines the following types of State supervision over the municipal administration: legislative supervision and field supervision of implementing the delegated authorities. The legislative supervision is competence of the Prime Minister of Georgia and the field supervision is competence of ministry which delegates own competences to the municipalities.

Legislative supervision is concerned on the normative acts issued by the Municipal Assemblies.

Field supervision is concerned on the acts and decisions in the area of delegated competences and it covers both of the Municipal Assemblies and the Mayors/Gamgebelis.

When performing the supervisory function, the authorized organ or state official has the ability and competence to watch the process that was underway before issuing the normative act, as well as to influence and request to halt or terminate the normative acts that are not in line with the legislation.

Financial performance and external audit

The Law on the State Audit Service states that self-government budget and municipal property management monitoring is within the area of competence of the State Audit Service. At the same time, auditing authority of the Audit Service spreads over municipality organs, municipal enterprises and non-commercial legal entities. For this purpose, a department for auditing the budgets of local self-governed units is operating under the State Audit Service system. According to the Local Self-Governance Code, auditing of the activities of municipality organs is carried out in the form of (a) State audit, (b) independent audit, and (c) internal audit. State audit is performed by the State Audit Service; independent audit is carried out upon the Sakrebulo invitation by an independent auditor, while internal audit is a function of the municipal executive body. Joint analysis of the Law on the State Audit Service and the regulations of the Local Self-Government Code reveals that the State Audit Service is authorized to audit the management of self-governments own revenues (equalizing transfer), as well as that of special, targeted or capital transfers, because, when determining the competences of the Audit Service, the Law on the State Audit Service indicates to the municipality budget and not to any type of its revenues. This regulation might contradict the independence of self-governments and to financial independence guaranteed to the municipalities by point 3 of the article 95 of the Local Self-Government Code.

Public Administration Reform

With active engagement of EU, SIGMA and USAID Government adopted main documents for the reform of PAR: Strategy of Public Management, Policy documents and action plans, the Law on State Service, different procedures and manuals. Active phase of implementation of reform of public service will start in 2017, but before state agencies and municipalities have to conduct serious preparatory work: study and analysis, adoption of regulations, training for servants. This is a serious challenge, because Georgia still has a lack of expertise, enough for the change of whole the system of Public Administration on the central and municipal levels. There are signs that PAR reform will face serious difficulties on the municipal level. The municipal resources are very limited to

conduct studies or trainings. Lack of experienced personnel is additional problem on the road of PAR reform in municipalities.

Moldova

Decentralization

Since 2009, in the Republic of Moldova, specific actions have been carried out for power decentralization and ensuring local autonomy. Thus, in 2012, together with the approval of Law No. 68 on the approval of the National Decentralization Strategy and action plan for 2012-2015, a new reform of local public administration was launched. The objectives of the Strategy have been established in accordance with the principles of the European Charter of Local Self-Government, ratified by the Republic of Moldova in 1997. At the same time the provisions of the Strategy have been correlated with the relevant policy documents, with the central public administration reform and other reforms representing a continuity of the National Development Strategy.

The National Decentralization Strategy was aimed at creating democratic and autonomous local public administrations, which would equitably ensure provision of quality public services and effective management of the local authorities. The action plan of the Strategy for 2012-2015 includes 7 specific objectives: (1) allocation of responsibilities; (2) financial decentralization; (3) property decentralization; (4) local economic development, urban and regional planning; (5) administrative (administrative territorial) capacity; (6) institutional capacity; and (7) democracy, participation and ethics.

According to the report of the evaluation of the Strategy implementation, developed at the end of 2015 (by an independent international company), 6 of the 7 specific objectives are considered to be implemented “to the limited extent”, and only financial decentralization was implemented “to a large extent”. These results were confirmed, also, through questioning of the 12 representatives of CPA, LPA and NGOs, and international experts which were asked to evaluate the level of strategy implementation by providing one of the following assessments: (i) to a very limited extent; (ii) to a limited extent; (iii) to a large extent; and (iv) to a very large extent. At the same time, the interviewees were asked to evaluate the implementation stage of the Strategy activities with one of the assessments: (i) implemented; (ii) partially implemented; or (iii) not implemented. According to the answers received, 8 activities of the action plan are “deemed implemented”, 15 activities – “partially implemented”, and only 1 – “not implemented”. Therefore, the reform may be stated as about 40% implemented. That is why in early 2016, at a meeting of representatives of central and local public authorities, in the frame of the Joint Commission for Decentralization, the decision was taken to extend the implementation period until 2018.

Administrative-Territorial organization and administrative capacity

According to the Constitution of the Republic of Moldova (art. 110), the territory of the country is organized administratively into villages, cities, districts and ATU Gagauzia. Under the law, some cities may be declared municipalities. Territorial administrative units are divided into two levels: 1st level - villages (communes) and cities (municipalities); and 2nd level – districts, Chisinau mun., Balti mun. and the Autonomous Territorial Unit of Gagauzia. Territorial administrative reform in 1998-2002, which provided for the reorganization of the 40 districts from the Soviet era, in 11 counties, failed in 2003, were formed 32 districts working till present.

Although according to art. 17 para. 2 of Law on territorial organization, the minimum population of a territorial administrative units is 1500 inhabitants, but in reality 251 or 28% of total ATU level I do not meet this criterion. Much of these communities are in immediate proximity or adjacent to larger towns which could be annexed. The average size of UAT level I RM is 2895 inhabitants , being the lowest, after Ukraine, Eastern Partnership countries in the standings.

However, according to the Art. 11 para. 1 of the Law nr.435/2006 on administrative decentralization, a UAT is considered viable if it has material, institutional and financial resources necessary for the management and efficient execution of skills, in other words, has the administrative capacity and if its population is greater than the minimum number stipulated in art. 17 para. 2, the Law on Administrative-territorial organization of Republic of Moldova. Paragraph 2 of the Article 11 of law 435/2006 defines administrative capacity as a situation where administrative expenses of the LPA do not exceed 30% of the total own revenue. Analyzing the information on the execution of administrative territorial units for 2014, only 5 ATU of 1st level have the administrative capacity (Chisinau mun., Cahul, Comrat, Rezina and Floresti), which represents 0.6% of total ATU of 1st level (898 ATU). The rest of ATU, under the law, are not viable.

Competencies of Local Authorities

The essence of local autonomy is reflected in the provisions of European Charter of Local Self-governance. That is why allocation of competences is a key aspect of the National Strategy of Decentralization in Moldova.

The legal framework governing the competences and responsibilities of local public administration authorities in Moldova is quite impressive, includes a wide range of acts, from constitutional regulations, laws and normative acts of the Government to other central public authorities. This large number of legislative acts regulating a wide range of issues empowers local authorities with hundreds and thousands of competences and responsibilities.

The legislative framework that sets the competences of the LPA, in the majority of relevant normative and legislative acts do not make difference between public authorities of different levels and do not observe the provisions of Law on administrative decentralization, which stipulates the LPAs' own fields of activity of 1st and 2nd levels and the delegated from the state. Thus, a series of legislative acts and Governmental Decisions specify the LPA competences, which do not comply with the Law on administrative decentralization. In this multitude of laws are established: 1) a number of other competences that are not stipulated by the basic Law (the Law of administrative decentralization); 2) competences for local authorities that are similar both for level one and level two; 3) are established competences to be carried out by local authorities but without indicating the source of funding; 4) competences listed in a general way without being specify who de facto must realize this competence - the mayor or council – the authorities of second level or the first level.!

The competences of the first level administration authorities were established only formally, without determining the source of financial resources in order to be performed. **Thus, the local public authorities were vested with competences for the realization of which have no patrimony, financial resources and/or necessary human resources or appropriate capacities.** The fulfillment of the competences of the local public administration are in high dependence on the transfers from the state budget that reveals the low degree of autonomy of the local public administration, as well as the reduced capacity to meet the citizens' needs at local level. The legislation in force still does not clearly describe the legal mechanism that would ensure the territorial administrative units with the necessary financial resources for carrying out tasks delegated by the state.

The confusions admitted in the normative framework of the local public administration determine the poor awareness of the local public administration authorities and officials regarding their competences, as well as the inability to identify their proper competences from that are delegated by the state.

Fiscal Decentralization

Financial decentralization is one of the key pillars of decentralization, and the field that recorded the most progress. During the years 2011-2012, the Ministry of Finance, with the support of UNDP Moldova, has developed a series of economic models and simulations, which were aimed at increasing the financial autonomy and improve the system of transfers. Thus, in 2013, was amended the Law No. 397/2003 on local public finances and Tax Code No. 1163/1997. In 2014, the new system creating local budgets has been piloted in 74 UAT of 1st level and 4 UAT of 2nd level, and since 2015 has been implemented in all territorial administrative units in the Republic. The main advantages of the new system creating local budgets are presented in the table below:

Up to reform	After reform
<ul style="list-style-type: none"> • The volume of transfers was based on the difference between expenditure per capita and LPA income, estimated at central level 	<ul style="list-style-type: none"> • Transfers are allocated directly based on formula, distinctive for LPA of 1st level and 2nd level
<ul style="list-style-type: none"> • LPA does not have incentives to increase their income, any increase automatically decrease the number of transfers 	<ul style="list-style-type: none"> • LPA is encouraged to collect more efficient sources of own revenue, transfers not dependent on collected sources (how much more can collect much rather can spend)
<ul style="list-style-type: none"> • Sharing system of taxes and State fees, had no importance because with the increase automatically decrease the number of transfers 	<ul style="list-style-type: none"> • Breakdowns quotas from taxes and State fees are set by law on types of budgets of LPA of 1st and 2nd level
<ul style="list-style-type: none"> • Financial dependence of LPA of 1st level to LPA of 2nd level, which set the volume of balance transfers and breakdown quotas of taxes and State duties 	<ul style="list-style-type: none"> • LPA of 1st level does not depend of LPA of 2nd level, formula for calculating the transfers is established by law, and have direct relations of subordination to the Ministry of Finance
<ul style="list-style-type: none"> • The system is characterized by a low level of transparency in the allocation of transfers by LPA of 2nd level, as well as a low level of predictability of revenues in budgets of LPA of 1st level 	<ul style="list-style-type: none"> • The new system is characterized by a high level of transparency and a high level of predictability for strategic planning (formula for transfers and breakdowns quotas from taxes and state fees are stipulated in the law, so LPA can unaided to calculate them)

The new system is characterized by a high level of transparency and a high level of predictability for strategic planning (formula for transfers and breakdowns quotas from taxes and state fees are stipulated in the law, so LPA can unaided to calculate them)

Although the new system creating local budgets contributed to significant local autonomy, transfers transparency and breakdowns of general state taxes, the level of predictability of LPA income, both political instability, delaying approval of the state budget for 2015 – 2016, the economic crisis as well as the fraud in the banking system, significantly diminished the expected impact of implementing the new system of public finance.

Control and supervising

According the legislation in force, territorial offices of the State Chancellery exercise retrospective administrative control of acts of local authorities. Are subject to mandatory control of legality the following administrative acts: a) decisions of local municipal and rayon councils; b) the provisions of the mayors and the district presidents; c) documents concerning tenders; d) employment acts; e) provisions involving expenditures or financial commitments exceeding 300,000 lei; f) documents issued in exercise of competences delegated by the State local authorities.

A copy of any document referred above must be sent within five days to territorial office of the State Chancellery. Likewise, it is necessary to send for control the minutes of the meetings of local council within 15 days after the meeting. Territorial Office within 30 days expounds on its legality. If it considers that the document is in contradiction with legislation, the territorial office of the State Chancellery notify the local authority about the illegality of the act, asking him to amend or repeal all or part. If the local authority maintain its position or

has not reviewed the act, territorial office notifies the administrative court within 30 days of receipt of the notification of refusal to amend or repeal the contested act or If silence issuing local authority within 60 days of notification. At the same time, the territorial office may refer the matter to the administrative court, if it considers that the act can have serious consequences (especially financial one). Optional control of the territorial offices of the State Chancellery law requires verification of any act by the local authorities, not subject to compulsory control.

The Law on Local Public Administration established that the control of legality may be initiated by the territorial office of the State Chancellery, when the local council intervenes with a request regarding verification of the legality of any act of executive authority if it considers that it is illegal. However, if mayor or district president or secretary of council considers that the decision of council is illegal, they may request the territorial office of the State Chancellery to examine legality. The request for control of legality must be made within 30 days from the issue date of the act.

The procedure exercising the review of administrative acts by any injured persons is identical to that required by the LPA. In this case, the control is requested by any physical or legal persons who consider themselves aggrieved in his legitimate right by an administrative act. The period for request processing by the territorial office is 30 days from the date of receipt of such request.

The LPAs' acts which are most often appealed in administrative court concern: land relations and patrimonial issues 40% of cases, labor relations and service - 15%, the local public finance 13.6%, constructions 12%.

Regarding the control of LPAs' acts, in the opinion of LPAs' representatives there are not any major problems. The situation in the field was improved much in last period of time. Moreover, starting with the March 2016 local authorities may address directly to the Constitutional Court on all cases of violation of the principles of local autonomy by laws adopted by Parliament, Presidential decrees or decisions of government. In this way, Moldova fully comply with the principles of the European Charter regarding the legal protection of local self-government.

Public administration reform

Functional public administration is a precondition for a democratic, transparent and effective government. The public administration system in Moldova has experienced radical transformations in the transition period. Since 1990 there have been attempts to reform the public administration. But every time it was not properly implemented.

During the years of independence a number of specific actions were taken for reorganization of the administrative mechanisms at the central level, which aimed at optimizing the number of public officials, improving the process of personnel selection, but most of them have sought to minimize spending of budgetary resources, and the main motivation lies in existing barriers to payment of salaries and pensions of civil servants. CPAR started in 2006 and was based on the Strategy of CPAR, approved by Government Decision No. 1402 of December 30, 2005. The reform aimed at the establishment of a modern and effective system in accordance with the principles of good governance, and which would contribute to meeting the needs of society, including better quality of life for the citizens, characterized by transparency, predictability, accountability and efficiency. However, at the end of 2008 it was found that the reform has not reached the targets set and was considered necessary to continue the reforming activity horizontally. Regrettably, but reform' actions continued in the same style as in the previous period - more formally. There were approved a lot of different programs, concepts, policy documents and action plans. It was obtained funding from international donor institutions. However, by early 2016, the new government found that in large part CPA reform has not reached the goals and initiated elaboration of a new strategy of Public Administration Reform for the period of 2016-2020 that was approved in early July 2016. This strategy aims to reform the following components: (i) Administrative accountability; (ii) Public policies elaboration; (iii) Public services modernization; (iv) Public Finance management; and (v) human resources management. The strategy is oriented to reform both central and local levels of administration.

From the legislative point of view, competences and responsibilities of LPAs' reform included five distinct stages described in Annex. The last reform started in 2000 and it is still under implementation. The approved

legislation, for example: Law No. 397 on local public finances 16.10.2003, Law on the status of local elective official of 02.02.2000, Law on the administrative court of 10.02.2000, Law on administrative decentralization of 2006, the new Law on local government of 2006 brought significant improvements in the reform of local public administration, but this process was not yet completed with good results. During the whole period of independence, the attempts to reform the local public administration, to make public services closer to the population, has not been fully implemented, due to the lack of a strategic vision and political will, lack of well conceptualized strategic reform document, the lack of an authority to monitor and coordinate the reform and to the lack of awareness of the need for local public administration reform.

Public service and human resources

According to the conclusions of the Baseline Measurement Report “The principles of Public Administration”, prepared by SIGMA in 2015, which fully subscribe, Moldova achieved remarkable successes in restructuring and improving of public service and HRM. In the same time as the Report attesting on this area is still a lot to be done, the main issue being the implementation of rules and norms that have already been approved. Thus, the civil service in Moldova is regulated by the Civil Service Law 158/2008, which has been amended 13 times since its approval. The definition of a civil servant is clear and in line with the international standard. The material scope of the public service is covered by the CSL and developed in detail in different pieces of secondary legislation. But, the horizontal scope of the civil service, as regulated in the CSL, does not cover all necessary institutions and groups of civil servants. There was an attempt to improve the vertical scope of the civil service by introducing the position of state secretaries recruited on merit, but the legislation does not provide the necessary managerial power for state secretaries and is not fully applied.

There is currently no strategic document containing clear and coherent policy and concrete implementation measures to indicate that public service reform is a priority for the Government. Primary and secondary legislation is complete, but some issues regulated by secondary legislation exceed the authorization in primary legislation. The HRMIS system does not function properly, mainly due to incomplete data and limited scope.

Open competition in recruitment is hampered by the composition of competition commissions (formed only of members of the hiring authority and headed by its deputy manager), the high proportion of non-competitive processes used to fill vacancies, and the fact that civil servants were nominated to some vacancies in violation of the Law. Conditions of termination of service are regulated in the Law but it allows for subjective dismissals.

The salary system of civil servants is established in the CSL, but it does not work well in practice, as some elements of pay have not been implemented. There is no maximum limit on the share of all the elements of variable pay, leaving too much room for managerial discretion.

In the area of professional development there is room for improvement. The compulsory number of hours of training per civil servant each year has not been realized. Training needs to be planned with a more strategic approach. Performance appraisal has not yet yielded the expected results because the inflation of scores makes it difficult to link appraisal with other management decisions affecting civil servants (such as promotions).

Considerable efforts have been exerted to promote integrity in the civil service and avoid corruption. However, civil servants are only moderately familiar with some key concepts of the legislation, and perception of corruption in the system is very high.

Accountability

As in the case the previous Chapter, the Baseline Measurement Report sets out very clearly that appropriate mechanisms to ensure accountability of state administration bodies, including their liability and transparency still need to be greatly improved because:

- The legislative framework on the organization of state administration exists, yet it is inconsistent and fragmented. The classification of administrative bodies is clear. Separation between policymaking functions and executive tasks also is clear, but the rationality of the state administration’s structure and the creation of new administrative bodies are not based on consistent criteria.

- The right of access to public information is generally enshrined by the Constitution and legislation in force but there is no institution responsible for monitoring implementation of the guarantees of access to information and aggregating statistical data on the number of public information requests submitted, accepted or refused by state administration bodies. In the case of a refusal to share information, the applicant usually does not know what to do and is not informed of the grounds for refusal and the right to appeal.

- Legislation on the People's Advocate institution meets international standards. The Ombudsman enjoys extensive powers. The level of implementation of the Ombudsman's recommendations is increasing but the reform of this institution has not been completed yet.

- Trust in the judiciary is very low. The Gallup World Poll 2013 shows that only 11% of Moldovans express confidence in the judicial system, while 70% of them do not trust the courts.

- The legal framework for public liability is in place and establishes general rules and the procedure for seeking compensation for wrongdoing by the state administration. However, there is no data available to allow assessment of progress on the implementation of public liability (for example, on requests for compensation or payments made by public institutions).

Decentralization

Ukraine has a constitutional framework for local self-government in place. The European Charter of Local Self-government has been ratified. A number of basic legal acts that constitute the legislative and financial framework to support it, have been adopted.

The Ukrainian local self-government system comprises the following elements:

- **Local (territorial) Community of Citizens.** There are village, town and city local communities in Ukraine. Pursuant to the existing legislation it is the local community that holds the right to local self-government. A local community stands for people who permanently reside in a village, a town or a city, which are independent administrative-territorial units or it can also mean a voluntary amalgamation of citizens from several villages that have the same administrative center. In addition to that, the administrative-territorial system includes three tiers, in particular, a local community – a district – an oblast.

- **Representative Bodies.** There are representative elective bodies at all three levels of the administrative-territorial structure such as councils (can be village, town and city (district in the city council) – district council – oblast council. These councils are elected by members of the local communities at the general election by popular vote. There are also elective posts of village, town and city mayors as well as of chiefs (starosty) of amalgamated local communities. The majority voting system is deployed in villages and towns that have population under 90 thousand people. Elections of people's deputies to the Supreme Council of the Autonomous Republic of Crimea , oblast, district, city and district in the city councils are conducted in line with the proportional election system in the multi-mandate electoral constituency on the tickets of local organizations of the political parties. City mayors are elected by absolute majority (50% plus 1 vote) in cities with the population over 90 thousand people. There might be a second round of elections for these mayors. The rest of mayors are elected by the majority of voters who have come to the elections.

- **Legislative Bodies of Local Councils.** These bodies are established only at the city and town and village councils. It is the local public administrations that act as executive authorities at the oblast and district levels. According to the law, oblast and district councils do not have own executive bodies. They delegate their powers, except for the powers reserved solely for them, to respective local public administrations.

The current local self-government system fails to meet the needs of the society in Ukraine nowadays. Local self-government does not deliver what it originally was supposed to, in particular, to create and maintain favorable environment essential for comprehensive development of an individual, to provide .accessible public services of high quality to citizens in these local communities. These services should be based on the community's sustainable development.

The first attempt to address the issue comprehensively and to conduct the reform of the administrative-territorial structure and to introduce decentralization took place in the period of 2000-2010. In 2009 the respective reform concept was adopted. But due to the lack of necessary political support, institutional capacity and integral and untied vision of the end result, the reform was finished without even being started. And the following government simply abandoned all previous undertakings.

Only in 2014 yet another reform was declared. The government adopted the respective Concept for reforming local self-government and territorial division of powers in Ukraine. The big focus was now on large-scale decentralization. As of today decentralization has had a good start in Ukraine. However, gaps and shortcomings of the Constitution of Ukraine have to be eliminated in order to ensure the successful ending of the reform. Unfortunately, introduction of changes to the Constitution as regards decentralization and local self-government is connected to the issue of granting a special status to local self-government bodies on the territories occupied by Russian troops and terrorist groups in the eastern parts of Luhansk and Donetsk oblasts. There is no political consensus on the latter issue and consequently other changes cannot be voted for as well.

Perhaps decentralization of public administration is number one reform on the country's agenda. The first steps have already produced good results. The strategic goal of this reform is to create safe and comfortable environment for people in Ukraine. The proposed model of decentralization of public administration is based on several essential aspects related to identifying a new territorial basis of the local self-government, e.g. changes to be made in the administrative-territorial division, and a transfer of powers and resources to the local level.

The Concept for reforming local self-government and territorial structure of public authorities in Ukraine has the following key priorities:

- Creation of an effective public administration that envisages a three-tier administrative-territorial structure, in particular, oblast/region-rayon/district-community and a clear-cut division of powers between local self-government bodies and public authorities and between local self-government bodies themselves where the most important powers are transferred to the level of public administration, which is the closest level to the general public
 - Creation of proper physical and organizational conditions to enable adequate performance of local self-government bodies and allocation of relevant resources for them
 - Ensuring openness, transparency and citizen's participation in addressing local issues.

Already in 2014 basic laws on local communities were adopted and since then the work on creation of vibrant local communities has started. Changes to the Budget and Tax Codes introduced in December 2014 served as a basis for fiscal and financial independence of local budgets.

Competences of Local Authorities

Local communities exercise local self-government in Ukraine directly or through the Mandate of local self-government bodies in line with the current Constitution of Ukraine and the Law of Ukraine on Local Self-government in Ukraine. These powers and authority can be divided into three categories: 1) own powers of local self-government bodies (self-governed); 2) delegated powers, in other words, certain powers of the executive authorities delegated by the state in compliance with the law; 3) powers delegated on the contract basis. It should be mentioned that the local self-government in the cities of Kyiv and Sevastopol have somewhat unique features.

As for the own powers of the local self-government bodies, they are designed, first and foremost, to ensure implementation of rights and freedoms of local citizens and to contribute to the social-economic development of the local community. Local self-government bodies bear responsibility for school and pre-school education, primary healthcare, cultural institutions, municipal infrastructure improvements, in particular, street lighting, roads condition, cleaning, public order and many other important mundane/routine issues. Taking into consideration the lack of local communities in the districts and oblasts, district and oblast councils focus their powers and authority on addressing common problems of communities located in these administrative-territorial units.

At present the powers of local executive authorities and local self-government bodies have not been properly divided. At times they are unnecessarily centralized, overlapped and delegated for no good reason. All these factors make the governing system complicated, lead to conflicts between representatives of these state institutions, create parallel governing structures, trigger excessive financial expenditures and consequently result in less effective performance.

Current decentralization envisages the transfer of powers to the grassroots level, i.e. the community level. It means that the local issues will be addressed locally. It also stipulates for allocation of financial resources that will enable these bodies to solve locally pertinent problems effectively.

The creation of new amalgamated communities continues. These communities are expected to be bigger in terms of the area they occupy. They will receive additional mandate and resources to exercise their powers. At present there are 11338 rural, town and city communities. Some of them include several villages. As a result of the administrative-territorial reform, there will be 1500 sustainable communities, sustainable in a very wide and comprehensive way that envisages resources, high living standards, proper living conditions for people and

provision of a large majority of services delivered both by the local self-government bodies and the state. As of September 2016, Ukraine has 177 amalgamated communities.

Fiscal Decentralization

Since 2014 a new system of intergovernmental fiscal relations has been introduced. It is based on a completely new mechanism of horizontal equalization of taxpaying power of territories. The main elements of this mechanism are basic and reverse subventions. The basic subvention is a transfer provided from the national budget to the local budget to ensure horizontal equalization of taxpaying power of a territory. The reverse subvention stands for funds transferred from the local budgets to the national budget to ensure horizontal equalization of the taxpaying power of territories.

The system of total balancing/compensation/balance-sheet of all local budgets was replaced by a system of horizontal equalization of taxpaying power of territories, depending on income level per capita. This being said, the equalization is applied only for one tax, e.g. an individual income tax. The rest of the payments remain at the disposal of the local authorities.

New subventions have been introduced to the national budget to be then given to the local budgets. They are educational and health care subventions. These subventions will make sure that funds for the implementation of the government's mandate in these areas are allocated.

At the same time, thanks to the changes made to the Tax Code, local self-government bodies enjoy a higher degree of fiscal independence when it comes to local taxes and fees; in particular, they are entitled to decide on the taxation rate and respective tax incentives on their own.

The study on local budget performance in 2015 has shown that the implementation of the intergovernmental fiscal relations reform produced good results despite pessimism that accompanied the initial phase when changes were originally introduced. The increase of receipts of the general fund has amounted to 42.1% when compared to 2014. The revenue base of the local budgets has been increased by transferring some taxes and fees to the local budgets. The cost structure of the local budgets has also undergone changes. The share of expenditures related to the implementation of self-government mandate has gone up. This is an indication of a higher spending autonomy of the local budgets and more effective utilization of public finance at the local level. **It should be noted that local budgets have adequate financial resources to meet the real needs of the local budgets as regards allocation of funds required for the implementation of powers delegated by the state.** Another positive aspect of the intergovernmental fiscal relations reform is increased investments to the local budgets. In 2015 capital expenditures amounted to 11.5% of expenditures of the general and special funds of the local budgets. That's up 136.8% from the year of 2014.

Control and Supervision

Local self-government bodies and officials are accountable, controlled and responsible to the local communities. At the same time local self-government bodies and officials are liable for breaching the Constitution of Ukraine or the laws of Ukraine. When it comes to their performance and implementation of powers delegated to the executive authorities, they are accountable to the respective executive bodies. Local public administrations ensure monitoring and control over implementation of delegated executive powers by the local self-government bodies. The state also ensures financial control over the implementation of the local budgets.

Decentralization stipulates for the introduction of an updated mechanism of state control over decisions made by local self-government bodies and their compliance with the Constitution of Ukraine and the Ukrainian legislation and over the quality of public services rendered to people. It is expected to ensure this control via the institute of prefects that will represent the interests of the state at the regional and local levels.

If and when regulations of local self-government bodies and officials are qualified as the ones that do not comply with the Constitution of Ukraine or the laws of Ukraine, then they shall be taken to court to be qualified as illegal.

Public administration reforms

The strategic framework for public administration reform

Ukraine gained its independence in 1991 and since then the country has made several attempts to reform its public administration system and civil service as the old institutions and the Soviet school of public administration failed to fit into the new environment and were unable to ensure good governance. The public administration reform entered a new phase after the Revolution of Dignity. In 2015 the Government of Ukraine adopted a Strategy for Civil Service Reform until 2017. In 2015 the Parliament adopted a new law on public service that stipulated for major changes and introduced new approaches to setting up the civil service in the country. Besides, in 2016 the Government adopted a Strategy for Public Administration Reform in Ukraine for 2016-2020. The Anti-corruption strategy has been approved as well. These are three key documents that define the legal and political framework of the current public administration reform.

The current government of Ukraine has outlined the priority of its programme. The priority is to improve the quality of public administration and public services. The implementation of this priority envisages the achievement of a strategic goal, which is to build the system of public administration on the basis of the European principles of the respective system. Taking into consideration the European choice and the European perspective of Ukraine, the implementation of the public administration reform shall be based on common values declared by the Association Agreement, such as adherence to the democratic principles, rule of law and good governance.

Therefore, the current public administration reform is aimed at improving the public administration system and boosting country's competitiveness growth. The reform has the following priorities:

- Strategic planning, policy making and coordination (public policy)
- Civil service and human resources management
- Accountability – establishment/implementation, transparency, monitoring/oversight
- Administrative services delivery
- Public finance management.

In order to enact key decision, to ensure monitoring and evaluation of the implementation of the public administration reform, a Coordination Council for Public Administration Reform was established under the Ukrainian Government. The representatives of various executive authorities and civil society organizations are members of this Council. The Vice-Prime-Minister for European and Euro-Atlantic Integration of Ukraine is in charge of the coordination of the public administration reform. A separate department responsible for the implementation of the Strategy for Public Administration Reform was formed at the Secretariat of the Cabinet of Ministers of Ukraine.

Public Service and Human Resources

Changes aimed at creating professional, viable/sustainable/consistent and politically neutral civil service were introduced together with a new law on civil service that came into effect in May 2016. When implementing the civil service reform it is planned to initiate a position of a Secretary of State at the ministries, thus separating political and administrative positions. The Commission on Senior Public Servants has been already set-up. The Commission will play a key role in selecting candidates to the top positions of the civil service and will handle dismissal of top officials. Individuals will be appointed to the civil service positions only on the basis of the competition. A transparent, clear and fair remuneration system has been introduced to the civil servants. This system brings down/minimizes the value judgment/subjective judgment when defining the financial incentives for the civil servants. A gradual salary increase is expected until to 2020. Clear criteria of political neutrality (nonpartisanship/no-party affiliation) have been set for all public servants, including top officials. The work on setting-up the "reforms teams" is under way in the line ministries. This process is accompanied by introduction of extra financial incentives in order to ensure competitive salaries at the overall labor market. Therefore, highly-qualified professionals from business and non-governmental sectors are expected to get engaged in the reform process to guarantee speedy, effective and qualitative implementation of reforms in certain areas.

Accountability

Good public policy making, strategic planning and coordination of the public policy call for institutional capacity building within the Cabinet of Ministers of Ukraine, advancement of policy making practices and introduction of a strategic planning system. Besides, an effective monitoring and evaluation system is expected to be introduced, including ministries' performance assessment.

In order to ensure proper accountability of ministries and to avoid overlapping of their functions, clear-cut performance indicators will be introduced. In addition, the head of the executive body will be obliged to report on the progress made by his/her ministry or state agency that he/she runs. The proper public control mechanisms have been introduced for the competitions of the civil service positions.

The anticorruption policy and civil service integrity are important aspects of the public administration reform. With the help of the international donor community the electronic declaration system of income and spending of civil servants was introduced in 2016 thus giving a start to monitoring of the civil servants' lifestyle.

The respective legislation on access to public information was adopted. Each and every citizen has a right to file a request for public information. Public authorities shall facilitate the request and provide such access. A web-portal of open data held by the public authorities was created.

Decentralization

The territorial administrative reforms in Armenia began in late 1995 after the adoption of the Constitution. It became the legal foundation for the territorial administrative reforms. This was followed by new laws and legislative acts which led to the organization of new systems, territorial administration and local self-government in a short space of time. The logic of public policy was: the solution of local matters should be found closer to home and the big regional issues should be solved by the state territorial administrative organs by enlarging the administrative territorial units.

After adoption of the Constitution in 1995 decentralization and local self-government reform has started. New local self-government system has been established, political, fiscal and administrative decentralization have been implemented, and new territorial administrative division of Armenia is established. These are happened till 2000. Then decentralization reform takes place slowly.

At the beginning of decentralization and creation of a new local self-government fiscal decentralization also took place but the process was stopped and there were no any development related to the fiscal decentralization. The same is related to the competences of local governments. Only minor administrative competences have been transferred to local governments but not delivery of public services.

New administrative territorial units were formed: Marzer (regions) and Hamainkner (municipalities). A territory covering 29800 square kilometers of the Republic of Armenia was divided into 10 regions and the capital city of Yerevan was given regional status. State government covers the regions and local self-government covers the municipalities. Marzer are further divided into rural and urban municipalities, and Yerevan into districts. Marzer vary greatly in territory, population, number of municipalities and level of economic development. The largest region is Gegharkunik Marz, whose 5,348 square kilometers also includes Lake Sevan (1,256 square kilometers). Shirak Marz has the most municipalities, with a total of 119. In the regions the Government appoints regional governors, who with the help of the territorial administrative bodies carry out their activities.

There are 896 municipalities in Armenia now and Yerevan received status of municipality in 2009. Average number of population per municipality is 3290 people; this indicator with Yerevan excluded is 2122. Average area per municipality is 33.3km².

The RA legislation stipulates the norms of social protection and social guarantees of civil servants, which are mostly consistent with the norms of labor rights. The Law shall stipulate the regulations of social protection of civil servants and make sure that those are fully consistent with the norms applied for the labor law.

Recent developments of local democracy in Armenia related to the Municipalities Amalgamation program of the Government of Armenia and ratification of the Additional Protocol to the European Charter of local Self-government on the right to participate in the affairs of a local authority by the Government of Armenia.

Municipalities Amalgamation program has been in the agenda of the Government of Armenia since 2008. The Government of Armenia has taken into consideration the Concept of Municipalities Amalgamation and Formation of Inter-Municipal Unions in 2008 and 2009 and approved it only in November 10, 2011. The principles and criteria of enlargement have been defined by the Concept. There were two options for amalgamation;

1. According to the rayon soviet time and
2. According to the clusters.

It was decided to base in the clusters option and implement amalgamation in pilot municipalities. 14 pilot clusters have been chosen and study of them was implemented in 2013 and 2014. It was decided to nominate local referenda in 3 clusters out of 14 by the Government Degree on March 19, 2015. These 3 clusters include 22 municipalities. Local referenda took place in May 17, 2015. This referenda has advisory nature and results can't be taken into account by the Government. Only 6 municipalities voted against the amalgamation out of 22. The government of Armenia submitted to the Parliament of Armenia the package of draft laws on municipalities'

amalgamation at the end of 2015. Local elections in the new formed 3 municipalities took place on February 14 2016 and these 3 new established municipalities started function as multiple settlements municipalities.

The government of Armenia is continuing municipalities' amalgamation process. Municipalities 15 clusters of amalgamation in the agenda of the government. Elections in these amalgamated municipalities will take place in September 18 and October 2 4016. There are 136 settlements in these 15 clusters. It means that there will be 9 average settlements in each municipality. There were average 8 settlements in the first pilot 3 clusters.

Ensuring implementation of laws is as important as their adoption. Many provisions of the European Charter of Local Self-Government are also reflected in the Armenian legislation. Yet their application is far from being satisfactory. The assessment of the actual application of principles of European Charter of Local Self-Government is presented below.

Subsidiarity. The essence of this principle is the implementation of those powers of public administration by the local self-government bodies, formed at the lowest levels (municipalities, districts, etc.), that are more appropriate to be implemented on those levels. This stands for an appropriate delegation of public administration powers from the top level (national government) to the lowest level (municipalities). This principle is not fully effective due to the lack of the necessary conditions. First, there is a legislative gap. The local self-government system is single-tier, and many of its powers are performed by state or central authorities (secondary education, healthcare, public order, etc.). Second, this single-tier system has many small municipalities, whose LSGs are unable to perform the powers defined by law. Thus, the local self-government is not fully effective in Armenia.

Competences of Local Authorities

The essence of the principle of European Charter on Local Self Governance is that the self-government bodies have a right to deal and solve any issue which is of the interest of municipality, if it is not beyond the mandate of state bodies. Yet, the capacities of LSGs are so small, that they are actually unable to utilize this right. This principle practically doesn't work.

Independence and responsibility. The degree of independence of local self-government bodies mostly depends on the country's democratic condition. In this regard the situation is far from being satisfactory. 2000-2016 years were unprecedented setback to the independence of LSG bodies. They were not independent before that either, however, during the parliamentary elections of 2012 and presidential elections of 2013 they were turned into the implementers of orders from the incumbent authorities.

Comprehensive and exclusive competence of local self-government. This means that none of the public administration bodies have a right to interfere with the powers that are transferred to the local self-government. Besides, powers must be precisely specified without possibility of equivocal interpretation. In reality, the state authorities do not only often interfere and guide, but also sometimes impose certain actions (that are of the interest of the state authorities) on the local self-government bodies. **Financial independence.** The Armenian authorities did not take measures to enhance the financial independence of municipalities. The share of expenditure of municipal budgets remains very small in the expenses of the consolidated budget and GDP (in 2015 – 8.9% and 2.6%, respectively). To compare, in the Central European and Baltic countries these indexes are 20-30% and 7-13%, respectively. Around 40% of municipal revenues are official grants. No steps were taken to foster municipalities' entrance to the loan capital market.

Financial equalization. A significant shortcoming of the existing mechanism of financial equalization is that the number of population of municipality and, to some extent, financial capacities, are its main indicators, however, the needs of the municipalities are completely neglected. Besides, the equalization subsidy is provided to all municipalities, not only those that are in greater need. As noted above, the Government approved the new draft on financial equalization and submitted to the National Assembly. The shortcomings of the current law are improved. But the law is expected to come into force on January 1, 2017.

Control and Supervision

According to the European Charter of Local Self-Government, the administrative supervision over the activities of local self-government bodies should only include the legal domain, i.e., the correspondence of the adopted decisions by LSGs to the Constitution and laws. The scope of supervision can be more only over the delegated powers. Yet, in practice, the supervision over local self-government is far beyond the legal frames and is implemented by different high-level representatives of the government.

Public Administration Reform

Currently the EU is implementing the “Support to Civil Service Reforms in Armenia” project and involving local and international experts to support the Civil Service Commission. The main purpose of the project is development strategy and new draft law on civil service. Civil service reform strategy has been adopted by the government of RA protocol decision N57 on 29 December 2015. Civil Service reforms are crucial components of sustainable and long-term development of the public administration system policy; this strategy aims at the fulfilment of Civil Service Reforms

The current processes of the implementation of the Civil Service reforms have been stipulated also by the Memorandum of Understanding signed in 2014 between the European Union (hereinafter EU) and the Republic of Armenia on assistance provided by EU to Armenia in 2014 2017. One of the three key areas of assistances provided to Armenia is public administration reforms.

During the development of the draft reforms strategy seminars and consultations have been organized and carried out with international organizations (e.g. UNDP, OSCE, EU/OECD SIGMA and WB experts , chiefs of staffs of Civil Service system authorities and other stakeholders, including the representatives of non-governmental organizations.

Since 2010, the Civil Service system has stepped into a new stage of development, which was conditioned by strategic priorities of ensuring long-term results: enhancement of cooperation with international organizations and EU member states and similar structures, reduction of corruption risks, reforms of Civil Service competition, attestation and training procedures, capacity building of the RA Civil Service Council as the body in charge of managing and organizing Civil Service system, etc.

To create a unified database in the Civil Service system and for the opportunity to exchange that information, since 2010 Information Electronic System for Human Resource Management (IESHRM) has been operating. To improve the processes of hiring for work and of recruitment in the Civil Service system, a unified certification for junior position candidates as well as a point based assessment system of candidates at the interview stage for recruitment to vacant positions was introduced. To make the Civil Service system competitive and attractive, to increase motivation and work efficiency of the civil servants, to increase the flexibility in recruiting professional personnel and in promotion, to form a new assessment system and to abolish the attestation process, a new scale of requirements for work experience was adopted, which significantly narrowed down the circle of differences in requirements for civil and non-Civil Service experience. By the Government Decision N1510-N dated 20 October 2011, to review the attestation process of the civil servants, a performance assessment and performance related bonus system was introduced in the state governing bodies, based RoA on which not only the performance of the state body, but also the performance of each employee is assessed. By the RoA Government Decision N 1691-N dated 27 December 2012, the procedure for allocation of social packages to public servants, including civil servants, as well as the content of the services in the social package was defined (social package). Since 1 July 2014, a unified remuneration system for public officials, including civil servants, has been functioning in the republic, which is regulated by the RA Law “On Remuneration for Persons Holding State Positions” adopted on 12 December 2013.

The priorities of Civil Service Reforms include:

- 1) Implementation of internationally acknowledged system of Civil Service job evaluation;
- 2) Improvement of the management of Civil Service system;

- 3) Improvement of Civil Service personnel roster and classification grade system;
- 4) Recruitment of Civil Service positions (selection and appointment);
- 5) Mobility (promotion opportunities), evaluation and training system;
- 6) Comprehensive system of rights and duties, including disciplinary procedures;
- 7) Reorganization and liquidation of Civil Service bodies, termination of employment relations, and social security.

The main actions necessary for implementation of Civil Society reforms are:

Legal

- 1) By the end of 2016 to have the Draft Law on Civil Service, as well as, upon necessity, draft laws on making amendments and supplements in other laws related to it.
- 2) By the third quarter of 2017 to have the by-laws ensuring the enforcement of the Law.

Systemic

- 1) By the end of 2018 to have new questionnaires, tests and programs necessary for the recruitment, assessment and training in the Civil Service system.
- 2) By the end of 2018 to provide for the respective trainings of the chiefs-of-staffs of the respective bodies and human resources management units' servants included in the Civil Service system.
- 3) By the end of 2016 to have a center in the RA CSC, the main goal of which shall be to ensure the reform process.

Technical

By the end of 2018, to have an improved electronic HRMIS software, and by the end of the first quarter of 2019 to provide for necessary trainings.

Public service and human resources

Civil Service Reform Principles include legality, equal access, merit-based recruitment and promotion, de-politicization, integrity and ethical conduct, impartiality, sustainability, citizen oriented service, responsibility and accountability, and stability.

The main principles included in the Law on Civil Service are consistent with the international best practices of public administration. Nevertheless, some principles are not properly formulated.

The Law on Civil Service shall stipulate the Civil Service principles. In particular:

- 1) Effective and impartial/objective service provision with regard to both the citizens and common interest;
- 2) Civil servants' responsibility for effective implementation of political programs defined by the institutes elected in a democratic way;
- 3) Principles based on merits and capacities during the professional promotion of civil servants;
- 4) Accountability of the Civil Service.

The rights and obligations of civil servants are broadly defined by the Law on Civil Service; however, at the same time the definitions of some crucial rights and obligations are missing. The Law on Civil Service, as well as other respective legal acts shall define all the rights and obligations of civil servants, which are outlined by OECD benchmarks and consistent with best EU experience. The Law shall also define the civil servants' key ethics principles, the types of disciplinary violations, and shall clearly state the disciplinary penalties thereof, as well as the main provisions protecting the rights of civil servants.

Decentralization

Azerbaijan ratified the European Charter of Local Self-Government in 2001 and by this, it has taken a number of commitments to foster decentralization process in the country. The Republic of Azerbaijan declares its commitment to fulfilling the following Articles under the 2nd paragraph of the Article 12 of the European Charter: Article 2; Article (I, II), Article 4 (I, II, IV, V, VI); Article 5; Article 6 (I, II), Article 7 (I, III); Article 8 (I, II, III); Article 9 (I, II, III, IV, VII, VIII); Article 10 (I, II, III); Article 11²

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).

The conflict of the Nagorno-Karabakh region still remains a sensitive issue. The Government of the Republic of Azerbaijan declared that “it is unable to guarantee the application of the provisions of the European Charter of Local Self-Government in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation” .

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. The Nakhchivan Autonomous Republic (NAR), a constituent part of Republic of Azerbaijan, is comprised of 63 administrative districts, 78 cities, 261 towns and 4248 villages . 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 subordinate to the city executive authority.

Under the constitution, Azerbaijan is a unitary state. The NAR retains legal and administrative status within the country and is the only autonomous state. Nevertheless, the constitution, laws, executive orders and decrees of the Cabinet of Ministers are mandatory for implementation in the area of NAR.

The highest official of the NAR is the chairman of Supreme Parliament of the NAR. The heads of local executive bodies of the NAR are appointed by the President of the Republic of Azerbaijan upon a recommendation of the chairman of Supreme Parliament of the NAR.

Competences of Local Authorities

The scope of action of local executive bodies, its organisational structure and competencies are regulated by the Presidential Decree No. 648 called “Charter of Executive Bodies” dated on 6 June 2012. After this decree came into force, the authority and area of influence of heads of executive bodies appointed by the president have expanded. And most of the authorities and services that were recommended by the European Charter to be transferred to local self-governance bodies were acknowledged as a part of the responsibility of heads of executive bodies. In acknowledging this, all locally raised issues, including public services, are now exceptionally concentrated in the hands of local executive bodies. In addition to the authority of local executive bodies in providing public services, in many cases, they possess the authority to render control over institutions (private or public) who have the similar right.

² Law on adopting European Charter on Local Self Government, 25 December, 2001, № 238-IIQ

The possession of all important powers with regard to implementation of state power at local level and locally important public services as defined in the Regulation on “Local Executive Bodies” in the hands of local representatives of central governments and heads of executive bodies, who are appointed by the government, is legally contradictory to Article 4 (III) (the principle of subsidiarity) of the European Charter of Local Self-Government.

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.

Control and supervision

In addition to placing certain tasks in regard to accountability on local self-government institutions by Azerbaijani law, the latter also considers administrative control mechanisms over the municipalities, which is regulated by the law on “Administrative Supervision over the Work of Municipalities”. The supervision is carried out by the Center for Work with Municipalities of the Ministry of Justice, who also reports to the National Parliament about the results of supervision activities on an annual basis.

The administrative supervision of the Ministry of Justice should not limit the right of municipalities from undertaking locally important tasks independently and freely under the jurisdiction of the law. Moreover, the supervisory intervention to the municipalities’ work during the monitoring process should be corresponding to the objectives enshrined in the law. Unfortunately, in practice, there are many interventions by the central government to the work of local self-government institutions.

In 2009, as a result of the referendum, the new changes were made to the Constitution and it also reflects the accountability of municipalities before the National Parliament. This amendment contradicts the Article of the European Charter of Local Self-Government in a terms that the Recommendation 326³, adopted in 2012, by the Monitoring Group of Congress of Local and Regional Authorities of the Council of Europe (CoE) stressed the lack of clarity on the supervisory procedures over municipalities in the law on “Status of Municipalities”, and especially reporting issue about municipality activities before the parliament. Although there were appropriate amendments to the legislation regarding the accountability mechanism in the parliament, no practice of such reporting has been observed so far.

Fiscal decentralisation

Although the centralization in public administration has been conducted as a result of oil revenue increases, a tendency towards initial decentralization process in the background of oil revenue drop is being observed in Azerbaijan. The government has taken first steps to amend the law in favor of decentralization in 2016 and these steps were carried out as a part of government’s institutional reform. A new legal institution has been established in this process and this has led to the adoption of the law on “Public legal persons” with the Presidential Decree, adopted on 29 December 2015. This has helped to clarify uncertainties that were applicable to some state institutions and the new law brought clarity to the issue. According to the law, the public legal persons are the institutions who engage in activities of state and public importance and non-state or non-municipal body. Unlike government agencies, the public legal entities are granted the right to participate in entrepreneurial activities. They will not be funded by the state budget, but rather through self-funding principle. However, it is expected to get some financial aid in early years. At present, the Central Bank, the Financial Markets Supervision Chamber

³ Local and regional democracy in Azerbaijan. Recommendation 326 (2012). Strasbourg, 16-18 October 2012. 23rd SESSION of Congress of Local and Regional Authorities of the Council of Europe

and the State Examination Centre operate on the basis of a public legal entity. The transfer of certain responsibilities of the state to the public legal entities can be estimated the first step in the field of decentralization. However, in spite of all these steps, it is too early to make an estimation of decentralization results, particularly fiscal decentralization.

When assessing the level of fiscal decentralisation in Azerbaijan, we need to consider three levels of the budget system: the central government budget (state budget), the 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.

The central government budget. The central government's budget is defined as "state budget" in the legislation. Under the current legislation, the budget of the central government itself is divided into 2 levels: local revenues and expenses; centralized revenues and expenses.

Each year, the budget composition of centralised and local income/expenditures for the next financial year is approved in the parliament. All of the incomes formed in the regions from tax and charges and a small portion of taxes and payments in the capital are labelled as local incomes. The share of local revenues in the state budget revenues ranges between 3-5%, in general. Local expenditures include tax and non-tax revenues collected in the regions and cities, as well as other expenses pre-determined from the central budget for execution in the regions. The share of these expenditures does not exceed 10% of the share of total spending. According to the budget law, the remaining costs are considered as the centralized cost.

The local structures of central governments (both the local executive bodies as local representatives of the president and local departments of the ministries and state committees) are not locally autonomous authorities in the field of formation of local revenues (taxes and fees calculation, as well as the purchase of the budget) and spending (determination of expense norms and expense fields). Therefore, the ratio of central government's local and centralised revenues and expenditures can not be used as an indicator for reflection of fiscal decentralisation level.

According to the law on "Status of municipalities", there are a sufficient number of functions being entrusted to local self-governance institutions. The article 4, 5 and 6 of the above-mentioned law envision areas of activities for municipalities that include preschool and school education, health, culture, use of local water sources, planting and renovation, waste collection, transportation, construction and maintenance of local roads, social protection of the people in need and protection of cemeteries. But in reality, all of these activities remain under the authority of local executive bodies and other government-led institutions. And those activities that were entrusted to municipalities in an exceptional manner (for example, the construction and maintenance of roads in the municipality area) are not financed enough from the central budget to execute the duties in full scale. Nevertheless, both the European Charter of Local Self-Government and law on "Status of municipalities" reiterates the necessity of allocating sufficient funds to municipalities to execute their commitments.

Under the current law, all budget levels are independent. According to the Article 3 of the law on "Budget System", independence of the budgets implies the right to determine income and expense directions in line with existing legislation and budget classification. Azerbaijani legislation enshrines the right of municipalities independently to determine 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 the implementation of its plans.

One of the most popular indicators used in international practice to assess the level of decentralisation in spending is the ratio of local governments' spending against total government spendings and GDP. These indicators are significantly low in Azerbaijan (**Table 1**).

Table 1: Main quantitative indicators outlining the level of expenditure

Decentralisation in Azerbaijan⁴

Indicators	2010	2011	2012	2013	2014	2015
Shares of local and regional budgets in state budget spending (%)	2.6	2.1	2.0	2.0	2.14	2.3
Spending shares of local and regional budget (% of GDP)	0.68	0.59	0.56	0.66	0.68	0.75
Revenue shares of local and regional budgets in the state budget without allocations from the state budget (%)	0.65	0.47	0.45	0.50	0.60	0.57
Shares of local and regional budget revenue in GDP without allocations from state budget (%)	0.18	0.15	0.14	0.17	0.19	0.16
Revenue share of municipalities in state budget without allocations from the state budget (%)	0.22	0.19	0.18	0.22	0.24	0.13
As % of share of transfers in the regional budget allocated from the state budget	8.2	8.5	8.6	8.3	8.0	8.0
As % of share of transfers in local budgets allocated from the state budget	1.3	1.0	1.1	1.2	1.0	1.6
As % of share of total transfers in local and regional budgets allocated from the state budget	7.5	7.7	7.7	7.4	7.3	7.5

As Table 1 shows, the local and regional government share of the total central government expenditure (2-2.6%) and GDP (0.56-0.75%) is very low. Although there was slight growth between 2011 and 2015, overall, local and regional government expenses have remained modest.

The local self-governance institutions are not even financially independent to carry out their limited liabilities. The existing legislation - the Tax Code, laws on "Local (municipal) Taxes and Fees", "Financial Basis of Municipalities", "Budget System" have indicated a high number of income sources for municipalities. However, a significant proportion of these sources are not sustainable and does not form high-income basis for municipalities to operate with dignity. The total budget revenues of all municipalities in the country were 30.9 million AZN (27.1 million in EUR) in 2015 and per capita income of local budgets made up 3.3 AZN (2.9 EUR)⁵.

The intergovernmental transfer system is also weak. The Law on Budget System envisages transferring of special funds ("targeted funds") and general-purpose funds to the budget of NAR and local budget. Moreover, only general (general-purpose) transfers are practiced in Azerbaijan. The purpose of transfers to NAR is to prevent the budget deficit and to balance revenue and expenditure. The purpose of transfers with respect to local budget is uncertain as a whole.

At present, the legislation in force authorises municipalities to receive conditional (subsidies and subventions) and unconditional (dotation) financial aids from the state budget. However, in the past 15 years since the establishment of local self-government institutions in Azerbaijan no any conditional financial aid has been allocated to municipalities. Moreover, there is no adequate legal ground yet to transfer conditional financial

⁴ The table reflects the expenses breakdown of the state budget, the local budgets and the NAR's budget between 2010 and 2015 based on official data that were compiled and analysed by the author. www.budget.az

⁵ Bələdiyyə orqanlarının büdcəsinə dair statistik bülleten, yanvar-dekabr 2015, Bakı – 2015, DSK

aid to municipalities and financial transfers form extremely small amounts in their local budgets. In 2015 the volume of transfers from the central budget constituted only 16.8% of the total income of all municipalities. At that time, subsidies, or so-called non-refundable financial assistance made up 5.2 million AZN (4.6 million EUR), an average of 3.23 thousand (2.83 thousand EUR) per municipality. And the share of unconditional funds in the state budget does not exceed 0.03%.

There were some steps taken towards an improvement of transfers of financial aids from state budgets to lower budgets in 2014. On June 20, 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 size of the municipality area; their weight in the formation of the country’s financial resources, revenues, and expenditures of municipalities; the 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 June 30, 2014, the mechanisms of the 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.

Yet, in practice, there is no any positive impact on improvements in the inter-budgetary transfer mechanism. The unconditional transfers for municipalities remain low and conditional budget transfers have not been successfully implemented in practice.

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 the central budget, in particular how municipalities can apply for these subsidies.

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

Public Administration Reform

Against the background of decreasing oil price in the world markets, there were certain initiatives by the government to reform public administration system. However, these reforms occurred within the framework of fiscal consolidation policy. And unfortunately, the decentralization reforms were not a part of the scheme that could contribute to decentralization process. The intended reform actions were aimed at further strengthening some central authorities and weakening the others.

A series of essential steps have been taken by the government since 2015 to conduct institutional reforms in the field of public administration. This action has been evident in elimination and amalgamation of some government agencies, as well as the establishment of new ones.

Moreover, additional steps have been taken towards the transition to regional governance system. Given the Presidential Order No 1932 on “Reforming the Ministry of Culture and Tourism of Azerbaijan Republic”, dated on March 29, 2016, the Ministry’s 64 district offices were closed down and 15 regional offices were established. In 2014, with the same order, the district offices of the Ministry of Education were closed down and regional offices were set up for coordination work. But the first step toward the transition to regional governance system

occurred in the Ministry of Taxes. Since November 13, 2003, the Ministry has liquidated its offices in 62 cities and regions and instead established only 12 new Regional Tax Offices.

The other component of the public administration reform was the expansion of the scope of e-services and improvements of people's access to it.

The public administration reforms have not been intended to create favorable condition for local and regional authorities to strengthen, nor does it favor minimizing central government's power. The reforms are mostly aimed at strengthening the authority of central government. And the participants, who took part in the survey, stressed that the reforms in the public administration sector are carried out, but very slowly. Moreover, the independent experts noted their concern over long delays in the process of reform decision.

Public service and human resources

Certain institutional change occurred in public administration field with regard to recruitment of personnel into public service. According to the Presidential Decree No. 860, dated on April 11, 2016, the Civil Service Commission under the President of the Republic of Azerbaijan and the State Commission for Student Admission of Azerbaijan Republic were abolished and the State Examination Center (SEC) has been established on their basis. The responsibilities of the Civil Service Commission, including the recruitment of personnel into public service, has been transferred to the SEC.

The recruitment into the civil service recruitment is carried out in a centralized manner. The law on "Public service" regulates the relationship between the state and civil servants in the public service. However, this law applies to civil services representing the executive, legislative and judicial bodies only. The admission to the civil service is arranged through competition and it consists of test examination and interview. The first round is comprised of test examination which leads to interview upon succession. In practice, the crucial role of the recruitment occurs in the second phase (interview) and subjectivity is dominant here. The recruiting agency gives preference to those candidates who are appropriate to the agency's work style.

Since the municipalities are not labelled as a part of public administration system, the municipality officials are not considered as public servants. The law on "Municipal Service" regulates the service relationship and under the law, the admission to the municipality service is arranged by competition. The financial fragility of local self-governance institutions make them less attractive for public services to apply for the job, therefore, the competition remains very low for the admission to the municipal public services.

Decentralisation

Division of Competence between Central and Local Authorities

The Republic of Belarus has seen insignificant progress in the sphere of self-government. The government of the country hasn't taken any significant action to approximate to European standards and reform the existing public administration system at the local level. The European Charter of Local Self-Government is still not signed and ratified; the previous recommendations of European institutions (incl. recommendations on fiscal decentralization, 2012) are mostly not met; the model of "subnational government" existing since 1994 has not undergone any major changes, and the state "vertical" of local government (Executive Committees) has only got stronger.

The existing legislation reproduces in practice the obsolete schemes and patterns of the Soviet period on the basis of state theory of local self-government "adopted" decades ago. In accordance with the Law «On Local Government and Self-Government», local government bodies in Belarus are part of the general system of government bodies.

Local Councils of Deputies of all levels are in fact representative bodies of state administration, although they are elected and have a status of self-government bodies.

Local executive committees are executive or regulatory state bodies and are formed by higher-ranking bodies of state administration.

In accordance with the Constitution of Belarus, both Councils of Deputies and executive committees deal with matters of local significance, guided by general state interests, and also implement decisions of higher-ranking state bodies.

Belarus' legislation distinguishes between general competence and exclusive competence.

Under the Constitution the following powers are the exclusive competence of a local Council:

- approval of programs of economic and social development, local budgets and reports on their execution;
- establishment of local taxes and levies;
- define procedure of the management and disposal of communal property;
- decision to hold a local referendums.

Several powers of organizational character mentioned in the Law «On Local Government and Self-Government» are classified as the exclusive competence of a Council of Deputies, which means these powers can be exercised only during a Council session.

Other powers of a Council of Deputies, the powers of the Presidium and the Chairman are defined by the Law as general powers, i.e. these powers can be exercised outside Council sessions or be passed on to local or central authorities.

The Law defines as general competence all powers of an executive committee or a local administration, the powers of the Chairman of an executive committee and the Head of a local administration. As executive committees and local administrations are included into the single system of state bodies, matters assigned to competence of local executive bodies, can taken care by higher-ranking bodies of state administration.

The proof of the serious problem in the delimitation of power between bodies of central and local authorities is in the Law "On the Council of Ministers", which includes article «The Council of Ministers governance of local executive and regulatory bodies».

In particular, the Government has the right to manage the activities of the executive committees on matters falling within its competence, to control their activities for the implementation of legislation acts, to receive their reports, to pass to local authorities and to perceive from them some of powers.

Moreover, the problem is rooted in the fact that the law relies exclusively on the functional principle of competence delimitation between local authorities of various levels. At the same time in the law is no principle of competence delimitation based on the object.

As a result, one and the same functions (for instance, healthcare, education, culture, social security, territorial accomplishment, law enforcement, etc.) are simultaneously assigned to bodies of local administration of different levels, and also in some cases to central state bodies.

At the same time, the Law does not specify which particular welfare objects are assigned to a local body of the relevant level (for instance, a chemist shop, a rural health post, an out-patient hospital, a general hospital, a specialized hospital, a medical centre, etc.).

Administrative-Territorial Division (ATD)

On January 2012 the Law «On Administrative-Territorial Division of the Republic of Belarus» was adopted in the new edition.

At the same time, Presidential Ordinance No. 128 on March 2014 «On Some Issues Related to the Change in the Administrative-Territorial Division of the Republic of Belarus».

The administrative-territorial division of the Republic of Belarus in 6 regions and the City of Minsk (a self-contained administrative-territorial unit) has remained unchanged since 1960. The division of regions in districts has been unchanged since 1966 (except one District, created in 1989.). Over the years of sovereignty, there has been a change only in the number of cities of regional and district subordination, township and rural Councils.

In the last years witnessed a considerable change in the number of administrative-territorial units, mostly at the primary territorial level. 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. As of 01.07.2016 the number of administrative-territorial units amounts to 1325.

Regions (regions, or 'oblasts' and Minsk) significantly vary in size, environmental and demographic conditions, production and socioeconomic potential.

Districts ('rayons') in each region vary considerably both in terms of population and area. With the average size of one district being 1.76 thousand sq. m. km, 10 regions cover the territory of up to 1 thousand sq. m. km., and 15 - more than 2.5 thousand sq. m. km.

There remains the issue of the organization of local government, in particular the transition from a three-tier to a two-tier governance system (by merging basic and primary levels).

At expert level, there are several options for the reform of the ATD, but they are not of any official status.

In the Republic of Belarus, there are two co-existing independent systems of local government in each administrative-territorial unit. And the system of local governance. Elected bodies of local self-government system (local Councils of deputies) are accountable to the citizens and responsible to them. Councils of deputies don't have their own executive bodies. Bodies of local government system (local executive committees) are formed by higher government bodies, they are accountable to them and under their control.

Below is the information about local Councils of deputies and local executive committees and local administration (as of 01.07. 2016).

Levels of local authorities	Kind of administrative-territorial unit	The number of local Councils	Number of local executive committees (local administrations)
Regional	Region	6	6
	Minsk	1	1
	Total regional	7	7
Basic	District	118	118
	Town in regional subordination	10	10
	Total basic	128	128
Primary	Town in district subordination	14	14
	Urban village	10	10
	Rural Council	1166	1166
	<i>District in town*</i>	--	(24)
	Total primary	1190	1214
	TOTAL	1325	1349

Local Finance and Budgets

The existing state financial management system remains centralized, very conservative and closed from the general public.

The logic of the Budget Code is that financial resources of the local authorities, referred to as 'local budgets' in the Code, are in practice cost estimates approved by the central government through strict regulation of utility costs.

Loss of the subsidiarity principle, manifested in the irrational and baseless division of jurisdiction between local government bodies of different territorial level finds its reflection in baseless distribution of local budgets among territorial levels.

For example, the primary level of local administration, the one closest to the citizens (Councils and executive committees of villages and district ('rayon')-subordinate towns) is completely lacking funds needed to carry out their objectives and functions. Not only that, but the functions and competences of local government bodies of the primary territorial level are very limited.

According to the data of the Ministry of Finances, in the first half of 2016, local budget funds were distributed between the territorial levels in the following way:

- regional ('oblast') level – 48%;
- basic level – 51%;
- primary level – 1%.

The Code leaves little freedom to the local authorities in financial and budget planning and uses a regulatory approach in the assessment of budgetary needs of municipalities. In this case the cost of public utilities is determined by the state on a centralized basis and additional funds received by municipalities in excess of the income amount are forfeited in favor of the central 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.

According to the data of the Ministry of Finances for 2015 -- 3/4 districts receive less than 60% of their funding from the government budget, out of which more than half receive less than 40%.

Five out of seven regional units have budget coverage that doesn't cover 2/3 of their real budgetary needs.

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

The Budget Code foresees the formula for allocating transfers. However, it is not implemented in practice due to its complexity and high demands to data.

Communal property, on one hand, is an economic base of activity for local government bodies (both via its material and financial constituents). On the other hand, communal property (according to the Constitution and the Civil Code is a subtype of state property. It can be confiscated and redistributed by the central and higher-level authorities in the 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 in exclusive ownership by the state."

Based on this, it can be said that the land and other natural resources are, in reality, only used and operationally controlled by the local government bodies performing public administration functions on the local level on behalf of the central Government.

General and exclusive competences of local authorities

The Law «On Local Government and Self-Government in the Republic of Belarus» assigns general and exclusive competence over issues to local and general councils. It also contains a description of features of the competence of local Councils at various territorial levels.

31 powers lie within the scope of the competence of Councils of deputies, 24 of them can be realized exclusively at the Council session. 12 powers refer to internal organization of the work of the Council (adoption of the rules and structure of the Council, election of the Chair and Deputy Chair of the Council, approval of the Chair of the executive committee, the establishment of committees and the Presidium of the Council, reports of officials of the Council, the Council's membership in associations, etc.).

Councils have limited powers in addressing administrative-territorial issues (change of borders of rural councils, townships, villages and their names, as well as names of streets, squares, etc.).

Councils have the right to establish mass media, determine the rates of payment for hunting lands, fishing areas and bodies of water, maintain international cooperation.

The Law «On Local Government and Self-Government in the Republic of Belarus» fixes the features of competence of local Councils at various territorial levels (7 at the district level, 6 at the basic level and 6 at the primary level). Among the 19 powers 10 belong to the internal organization of the work of the Council and territorial public self-government bodies).

In this way, the total number of powers of Councils equals 50, with 22 powers focused on the internal organization of the Council and territorial self-government bodies.

However, in practice, these powers become a formality, since the major role in addressing the above mentioned issues is played by local executive committees.

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.

For comparison, the total number of the powers of executive committees is 130, and the vast majority of powers are related to providing everyday normal life of citizens, decision of the local municipal and economic problems. Living standards of citizens are directly dependent on the work of executive committees. At the same time executive committees in their work are accountable to citizens.

Councils may pass (the term "delegate" is not in the legislation) some of their powers to Councils of other territorial levels (in most cases - to higher-ranking Council), executive committees (the most common practice), their Chairs, territorial self-government bodies (in practice, this provision of the law is not implemented).

Control and supervision

Belarus' legislation allows for extrajudicial cancellation of decisions taken by local bodies of power. For instance, Belarus' Constitution says:

- decisions by local Councils of Deputies, which run contrary to the law, shall be cancelled by higher-ranking representative bodies.
- decisions by local executive and regulatory bodies, which run contrary to the law, shall be cancelled by relevant Councils of Deputies, higher-ranking representative bodies, and also by the President of Belarus.

It is a fact that speaks for itself that the President of Belarus, in accordance with the Law «On the President», is authorized to cancel decisions of local executive and regulatory bodies, if they contradict the law, and also suspend decisions made by local Councils of Deputies on the same grounds. Suspended by the President, decisions of local Councils of Deputies are not forwarded to court, but sent for consideration to a higher-ranking Council of Deputies, which is supposed to take a final (but extrajudicial) resolution.

The division of competence remains a topical problem and can be resolved by means of a complex reform of local self-government and state administration.

Under the Law «On Prosecution» the Prosecutor General and his subordinate prosecutors, shall exercise supervision over exact and uniform execution of legal acts, including government and self-government legislation, by all bodies, organizations and their officials.

Members of the General Prosecutor's office, have the right to participate in meetings of national bodies of state governance, local representative and executive bodies and other government organizations.

Under the Constitution, should a local Council of Deputies regularly or grossly violate the law, it can be disbanded by the Council of the Republic - the upper House of Belarus' parliament (by the Constitutional Court confirming).

In accordance with the Constitution and the Law «On Local Government and Self-Government», decisions of local Councils of Deputies, executive committees, which restrict or violate rights, freedoms and legal interests of citizens, can be appealed in a court of law".

However, this is a purely declarative provision, which lacks guarantees and mechanisms of legal implementation. Under of Resolution #11 of the Plenary Session of the Supreme Court of December 24, 2009, citizens are free to appeal in a court of law only those decisions, which were taken by executive bodies and which have an individual character.

By this token, any decisions by Councils of Deputies as representative bodies and all regulatory decisions by executive bodies remain outside the framework of judicial appeals. This testifies that it is impossible for citizens to exercise real and effective control over activities of local Councils of Deputies, local executive committees and local administrations.

The legal situation in the sphere of accountability of bodies of power and state officials demonstrates its imperfection and a failure to meet basic requirements for bodies of state administration and local self-government. A solution to this issue centers on a complex reform of Belarus' system of state administration, local self-government and administrative decentralization.

Strategic framework for reforming the public administration system

The topic of evaluating the efficiency of the public administration system has been raised in discussions of government bodies and Belarusian expert community for the last 15 years. The low marks it receives in international rankings are the cause of this.

The following factors of system inefficiency were usually noted:

- Excessive or redundant functions of public administration bodies;
- Insufficient resistance to corruption within the government;
- Bloated staff of public administration bodies;

At the same time representatives of Belarusian public administration kept stating that the public administration completes its stated objectives and goals, and if any changes are needed, they are needed in order to optimize and perfect the system, not to reform it.

This approach was reflected in the Programs of Socio-Economic Development (PSED) for 2001-2005, 2006-2010, and for Government Action Plans for the same years.

In particular, the PSED for 2001-2005 had such objectives as:

- Development of the system of coordination of activities of public administration bodies;
- Increase of the level and of the role of the state prognostics;
- Optimization of organizational management structure.

According to the PSED for 2006-2010, the following objectives were set:

- De-bureaucratization of state services and an increase of their quality;
- Implementation of the principle on the "single window";
- Usage e-technologies in making decisions;
- Enhancement of the local government and self-government system on the basis of strengthening the role local authorities of basic and primary-level;
- Perfecting administration of state property;
- Search for new organizational forms of administration.

The President issued a range of important legal acts, including:

- Ordinance «On Measures for Further De-bureaucratization of the Public Administration» (2006);
- Ordinances «On the Structure of the Government» (2006), «On Structure, Functions and Number of Workers of Local Executive and Administrative Bodies» (2006), «On State Program Against Corruption for 2007-2010» (2007), «On Certain Issues of Government Statistical Bodies» (2008).

The following Laws were approved or significantly edited:

Codes – Tax (2002), Administrative Offences (2003), Judically-Executive Code for Administrative Offences (2006), Budget (2008);

Laws - «On Public Service» (2003), «On Prosecution» (2007), «On Administrative-Territorial Division» (2007), «On the Internal Affairs Bodies» (2007), «On the National Assembly» (2008), «On the Council of Ministers» (2008), «On the Base of Administrative Procedures» (2008), «On Local Government and Self-Government» (2010), «On the State Control Committee and its Territorial Bodies» (2010).

The analysis shows that these legislative acts by the President and the Parliament were aimed at strengthening and enhancing the existing public administration system while creating an illusion of reforms.

Additionally, during the period of 2001-2010, despite the objectives of optimization and de-bureaucratization set by the government, the public administration staff has grown (according to National Statistics Committee, it increased by 10 000 people, or 6.6%).

It's worth noting that out of the objectives listed in the program documents, "single window" principle and a partial transfer to electronic state services were the ones that were implemented most fully. Currently these directions keep being perfected.

Unlike the PSED for years 2001-2010, which had an objective to "enhance and optimize the system of public administration", PSED had an objective to "modernize economic institutions and the system of the state regulation".

In accordance with the PSED for 2011-2015, a Program of Government Activities was approved for the same period. One of the goals of the Government was "increasing effectiveness of the public administration bodies, ensuring innovation development and competitiveness of national economy".

The following objectives were given to the Belarusian Government as part of this goal:

- dividing the functions of government and economic administration;
- Removal of redundant and extrinsic functions;
- limiting the government's ability to influence economic activity of subjects of the economy.

Starting from the end of 2011 and though 2012, with a systemic economic crisis as a backdrop, the topic of reforming the public administration was raised more and more often in the speeches of the President of the Republic of Belarus, as well as in documents issued by him.

In October 2011, the President had announced a need to reform the system of public administration, and had created a special commission led by the Head of the President's Administration, which should have prepared the concept of the reform.

As part of this tendency, Presidential Ordinance № 168 "On Certain Measures of Optimization of the System of Public Administration and Other Government Organizations and on the Size of Their Staff" (2013), was issued, which:

- defined the number of administrators and staff of central and local government bodies and other government institutions;
- dissolved Republican Labor Arbitrage;
- defined a typical structure of local executive committees of all territorial levels;
- planned a significant downsizing of government staff by up to 25%;
- planned loss of public servant status of notaries in government notary offices.

The same year saw a series of Presidential ordinances being issued that touched upon the activities of certain bodies and institutions of the public administration system, legal status of public servants, and so on.

Analysis of Presidential Ordinance №168 demonstrates that several statements of the document run contrary to the PSED and Program of Government Activities for 2011-2015.

The ordinance had increased the range of functions of several government bodies (for instance, Ministry of Trade, Ministry of Foreign Affairs and Ministry of Economy).

Moreover, the ordinance solidified the existing administrative structure. As a result, the factual downsizing only amounted to 15%.

Public service and human resources

Matters of civil service are regulated by the Law “On Civil Service in Belarus” (2003), which gives account of public service regulations and legal state of civil servants.

The Law defines civil service as professional activities of persons holding public posts, for implementing powers of authority and performing functions of public bodies.

It is provided by the law that upon enlisting for civil service or while performing duties as a public servant, there should be no restrictions and (or) advantages depending on gender, race, nationality, social class background, material position, religion, beliefs, affiliation with political parties and other public associations.

The Law lays down qualification requirements for persons enlisting for civil service: 18 years of age, relevant educational background, relevant length of service and job experience, good command of the official languages of Belarus, the knowledge of the Constitution of Belarus and law associated with the public servant’s official duties.

The enlisting for civil service is performed by appointment, approval or election and is formally represented by a ruling, order or other act of the relevant government body or public official.

Generally, a public office position is filled via assignment. For citizens gaining employment in a public office a probation period of three to six months can be instated. Filling a public office position by assignment can also be done on a competitive basis. The Provision for the competition for the job is ratified by the Government of the Republic of Belarus.

All citizens of Belarus, who meet the qualification requirements, are free to take part in an open contest, while a closed competition is held for civil servants standing on the staff register.

Decision of the competition commission is the basis for being chosen for the public servant position or for rejection of the applicant.

When filling a public office position via assignment, election, or competition, the preliminary trial is not performed.

Citizens that start civil service for the first time have to pass a qualifying exam as determined by the President of the Republic of Belarus.

A contract is made between citizens fulfilling a public office position and the head of the relevant public office. It is a written work contract for a specific term that defines differences from the general labor relations in applying for, working on, and leaving the public service position.

The Law specifies a minimum term for job contracts - at least 1 year, with no maximum term set. The contract forms the basis for a ruling, order or other act of the relevant government body or public official.

No job contracts are made with chiefs of local Councils of deputies. Civil servants swear an oath upon entering office.

The Law says that civil servants are obliged to take competency tests; lays down basic regulations for holding competency tests.

The total number of civil servants working in the system of bodies of state administration stood at 56,232 in late 2011, including 22,785 (40.5% of all civil servants) in the system of local authorities.

In 2012-2015 the number of civil servants in the system of bodies of state administration was reduced to 48,500. The number of civil servants in the system of local authorities reduced significantly: from 22,785 persons (as of 01.11.2011) to 19,220 (as of 01.07.2015), down 15.6%.

In late 2011 the number of civil servants in local executive committees stood at 22,512, or 98.8% of the total number of civil servants in the system of local authorities, with just 273 civil servants left in local Councils (1.2%).

By mid 2015 the number of civil servants in local executive committees stood at 18,950, or 98.6% of the total number of civil servants in the system of local authorities, with just 270 civil servants left in local Councils (1.4%).

Such an insignificant share of civil servants in local Councils in comparison with the total number of civil servants in the system of local authorities reflects the fact that the staff register of each Council of the regional and primary level provides for only 2 full-time staff positions. The Council has no staff positions on the primary level. The number of staff in the administration of a local Council is defined by the President of Belarus.

Accountability

The system of state bodies in Belarus has a vertical hierarchy: there are higher- and lower-ranking bodies on both central and local levels. Therefore, the accountability of state administration bodies all levels reflects their position in the hierarchy.

Local Councils of Deputies (three levels) are formed by citizens of each territorial unit by means of general election. In accordance with the Law «On Local Government and Self-Government», Councils of Deputies are accountable to citizens and report their activities to them.

A Councils of Deputies' accountability is complemented by each deputy's accountability to the citizens who elected him/her. The Law "On the status of a deputy of a local Council of Deputies" says that a deputy is responsible to the electorate and accountable to them. A deputy of a local Council of Deputies is supposed to regularly report to their voters, at least twice a year, on their activities, activities of the Council and its bodies.

Local executive committees (three levels) and local administrations (within districts of Belarus' largest cities) are formed by higher-ranking bodies of state administration, including directly by the President.

Bodies of local government have a lower position in the hierarchy than central bodies of state administration in the framework of the existing vertical line of executive power.

In accordance with the Law «On Local Government and Self-Government», local executive committees of the regional level are accountable and responsible to the President, and also to the Council of Ministers regarding issues, which are within the competence of the Government.

Executive committee of the base level and the primary level, local administrations are accountable and responsible to the President and higher-ranking executive committees.

Executive committees are accountable to relevant Councils regarding issues, which are within the competence of those Councils.

Although they are elected and formally authorized to take independent decisions, Councils of Deputies are part of the vertical line of representative government bodies. In accordance with the Constitution, local Councils of Deputies, local executive committees are supposed to implement decisions of higher-ranking state bodies and be guided state interests in their activities.

Combining central and local authorities under the unified system of state bodies, it creates a special extrajudicial procedure for abolition of their decisions.

In accordance with the Constitution, decisions by local Councils of Deputies, which run contrary to the effective legislation, shall be cancelled by higher-ranking Councils. Decisions by local executive committees, which run contrary to the effective legislation, shall be cancelled by relevant Councils of Deputies, higher-ranking executive committees and also by the President of Belarus.

In accordance with the Law «On Local Government and Self-Government», the Councils are authorized to overrule rulings of the Council Chairman and executive committee Chairman, rulings by the lower-level Council Chairman, if they are not in accord with decisions made by the Council and the Executive Committee or if they are out of tune with other legislation;

If Councils of different territorial levels have a dispute, such disputes shall be resolved by a higher-level Council or by the executive committee by order of the Council.

The executive committees are authorized to resolve issues pertaining to:

- disciplinary liability, suspension from work, dismissal of the heads and staff of organizations that are within the jurisdiction of the executive committee;
- application of legal responsibility, reimbursement for damages caused by decisions, action (inaction) of officials and citizens;

Executive committees are authorized to cancel rulings of chairmen of lower-level executive bodies if they are not in accord with decisions of Councils and executive committees or with other legal acts.

The Law «On Local Government and Self-Government» says that Councils are authorized to go to court to seek protection of right violated or contested, or interests protected by the law. However there is no legal mechanism in place to implement this norm, i.e. the procedure is not specified.

Common trends and main findings

The Republic of Belarus is the only country in Europe that has not signed the European Charter of Local Self-Government, and, de jure, is not obliged to enforce it. But despite that fact, the experts decided to take the Charter as a baseline in order to have the comparison of different elements of decentralization in EAP countries.

Ratification of European Charter of Local Self Governance in EAP countries

Country	Ratification Status	Year of ratification
Georgia	Ratified	2004
Moldova	Ratified	1997
Ukraine	Ratified	1997
Armenia	Ratified	2002
Azerbaijan	Ratified	2002
Belarus	Not ratified	Not ratified

Competences of Local Self Government

“The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law.

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.

Public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.

Powers given to local authorities shall normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law.”

As described in the reports the situation regarding the allocation of competences is quite diverse from country to country in the EAP region. If in Georgia the competences on the municipal property management is dominated by the central bodies of administration: Parliament and Government. Just few procedural competences are assigned to the municipal organs, in Moldova the legal framework governing the competences and responsibilities of local authorities is quite impressive, includes a wide range of acts, from constitutional regulations, laws and normative acts of the Government to other central public authorities, regulating a wide range of issues empowering local authorities with hundreds and thousands of competences and responsibilities. In Ukraine, where Local self-government bodies bear responsibility for school and pre-school education, primary healthcare, cultural institutions, municipal infrastructure improvements, in particular, street lighting, roads condition, cleaning, public order and many other important mundane/routine issues, the powers of local executive authorities and local self-government bodies have not been properly divided. At times they are unnecessarily centralized, overlapped and delegated for no good reason. In Armenia, Yet, the capacities of LSGs are so small, that they are actually unable to utilize this right. For Azerbaijan, According to the recommendation 326 developed by the council of Europe’s monitoring group in 2012, it is stated that:as a result of an unequal division of competencies between municipalities and local executives bodies majority of public services are fulfilled locally by the local executive bodies appointed by the government, thus creating ineffective local governance practice. The recomendation also highlights that holding identical competencies both by municipalities and government bodies in one territory results in parallelism of authorities in governance. Moreover, the authorities granted to local self-governance institutions are not complete and unique in nature.

In accordance with the Law «On Local Government and Self-Government», local government bodies in Belarus are part of the general system of government bodies. Although they are elected and have a status of self-

government bodies, local Councils of Deputies of all levels are in fact representative bodies of state administration. As a result, one and the same functions (for instance, healthcare, education, culture, social security, territorial accomplishment, law enforcement, etc.) are simultaneously assigned (in accordance with the Law «On Local Government and Self-Government») to bodies of local administration of different levels, and also in some cases to central state bodies. The division of competence remains a topical problem and can be resolved by means of a complex reform of local self-government and state administration.

Fiscal Decentralization

All the country experts report that the process of fiscal decentralization has been started but has been stopped or is developing very slowly.

In Georgia some piece of budgetary incomes is assigned/transferred to the municipalities, namely about 15% of total finances generated from the Income Tax is transferred to the municipalities/municipal budgets. Nevertheless of this progress, still absolute majority of municipal finances are managed and dominated by the Central Government: transfers to the municipalities (equalizing, targeted, special, capital), budgetary fund for the regional projects, and reserve fund of Government and municipal development fund are in the exclusive competence of Government. Despite the readiness to pass some of the budget revenues generated by the Income Tax to the municipalities, the central Government still maintains its dominating influence over the municipal finances.

In Ukraine, since 2014 a new system of intergovernmental fiscal relations has been introduced. It is based on a completely new mechanism of horizontal equalization of taxpaying power of territories. The study on local budget performance in 2015 has shown that the implementation of the intergovernmental fiscal relations reform produced good results despite pessimism that accompanied the initial phase when changes were originally introduced. The increase of receipts of the general fund has amounted to 42.1% when compared to 2014. It should be noted that local budgets have adequate financial resources to meet the real needs of the local budgets as regards allocation of funds required for the implementation of powers delegated by the state.

Financial decentralization is one of the key pillars of decentralization in Moldova, and the field that recorded the most progress. During the years 2011-2012, Moldova has developed a series of economic models and simulations, which were aimed at increasing the financial autonomy and improve the system of transfers. Although the new system creating local budgets contributed to significant local autonomy, transfers transparency and breakdowns of general state taxes, the level of predictability of LPA income, both political instability, delaying approval of the state budget for 2015 – 2016, the economic crisis as well as the fraud in the banking system, significantly diminished the expected impact of implementing the new system of public finance.

The government of Azerbaijan has taken first steps to amend the law in favor of decentralization in 2016 and these steps were carried out as a part of government's institutional reform. However, in spite of all these developments, it is too early to make an estimation of decentralization results, particularly fiscal decentralization.

The Armenian authorities did not take measures to enhance the financial independence of municipalities. The share of expenditure of municipal budgets remains very small in the expenses of the consolidated budget and GDP (in 2015 – 8.9% and 2.6%, respectively).

For Belarus the existing state financial management system remains centralized, very conservative and closed from the general public. In fact, the logic of the Budget Code is that financial resources of the local authorities, referred to as 'local budgets' in the Code, are in practice cost estimates approved by the central government through strict regulation of utility costs.

Control and Supervision

According to the European Charter of Local Self-Government, the administrative supervision over the activities of local self-government bodies should only include the legal domain, i.e., the correspondence of the adopted decisions by LSGs to the Constitution and laws. The scope of supervision can be more only over the delegated powers. In Armenia in practice, the supervision over local self-government is far beyond the legal

frames and is implemented by different high-level representatives of the government. In Georgia, the Local Self-Governance Code determines the following types of State supervision over the municipal administration: legislative supervision and field supervision of implementing the delegated authorities. The legislative supervision is competence of the Prime Minister of Georgia and the field supervision is competence of ministry which delegates own competences to the municipalities. When performing the supervisory function, the authorized organ or state official has the ability and competence to watch the process that was underway before issuing the normative act, as well as to influence and request pausing or termination of the normative acts. According the Moldovan legislation in force, territorial offices of the State Chancellery exercise retrospective administrative control of acts of local authorities. Are subject to mandatory control of legality the following administrative acts: a) decisions of local municipal and rayon councils; b) the provisions of the mayors and the district presidents; c) documents concerning tenders; d) employment acts; e) provisions involving expenditures or financial commitments exceeding 300,000 lei; f) documents issued in exercise of competences delegated by the State local authorities.

In Ukraine, decentralization stipulates for the introduction of an updated mechanism of state control over decisions made by local self-government bodies and their compliance with the Constitution of Ukraine and the Ukrainian legislation and over the quality of public services rendered to people. It is expected to ensure this control via the institute of prefects that will represent the interests of the state at the regional and local levels. If and when regulations of local self-government bodies and officials are qualified as the ones that do not comply with the Constitution of Ukraine or the laws of Ukraine, then they shall be taken to court to be qualified as illegal. In Azerbaijan, the current system of supervision contradicts to the principles of Charter of Local self-government and as stressed by the Council of Europe there is the lack of clarity on the supervisory procedures over municipalities in the law on "Status of Municipalities", and especially reporting issue about municipality activities before the parliament. Although there were appropriate amendments to the legislation regarding the accountability mechanism in the parliament, no practice of such reporting has been observed so far. The structure of local self-governance in Belarus includes regional, basic and primary levels with corresponding sub-national governments (SNGs) that exercise control over the activities of lower level governments accountable to them.

Public administration Reform

The European Neighborhood Policy (ENP) has been in place since 2004, aimed at supporting and fostering stability, security, prosperity and inclusive economic development in the countries closest to European Union (EU) borders. New streamlined work programme began to be implemented, focusing more on improving value-based public administration legislation in line with European best practices. This was done in conjunction with the initiative on support for improvement in governance and management (SIGMA), and with the Council of Europe. A well-functioning public administration requires a professional civil service, efficient procedures for policy and legislative development, well-defined accountability arrangements between institutions and citizens as well as among institutions, ability of the administration to efficiently deliver services to citizens and businesses, and a sound public financial management system.

Since 2014, the European Commission has defined the scope of public administration reform as covering six core areas:

- the strategic framework for public administration reform
- policy development and co-ordination
- public service and human resource management
- accountability
- service delivery
- Public financial management.

The Principles of Public Administration have been developed by OECD/SIGMA in close co-operation with the European Commission to define detailed requirements for a well-functioning public administration in each of these core areas.

In order to assess the process of public administration reform in six countries of Eastern Partnership as well as to have common ground for comparison, team of experts decided to analyze 3 main pillars, principles of Public administration defined by SIGMA:

- The strategic framework for public administration reform;
- Public Service And Human Resources Management
- Accountability

As the subject is very broad, the detailed description is provided in the overview section country by country. In this part of the document, main trends will be listed according to the principles.

The strategic framework for public administration reform

“The leadership of public administration reform is established, and the strategic framework and administrative resources provide the basis for implementing prioritised reform activities aligned with the country’s financial circumstances.”

In 2014, Memorandum of Understanding was signed between the European Union and the Republic of Armenia on assistance provided by EU to Armenia in years 2014-2017. One of the three key areas of assistances provided to Armenia is public administration reforms. The process is ongoing in Georgia also and from the 1st January, 2017 new regulations will enter into force regarding the public administration, therefore it is impossible for now to assess the framework. Also in Ukraine, The public administration reform entered a new phase after the Revolution of Dignity. In 2015 the Government of Ukraine adopted a Strategy for Civil Service Reform until 2017. In 2015 the Parliament adopted a new law on public service that stipulated for major changes and introduced new approaches to setting up the civil service in the country. Besides, in 2016 the Government adopted a Strategy for Public Administration Reform in Ukraine for 2016-2020. The Anti-corruption strategy has been approved as well.

In Moldova, the strategic framework of PAR&D reforms includes EU-Moldova Association Agreement, two strategies in the field, the Governmental Program, a lot of sectorial strategies, action plans and programs. As general overview PAR&D reforms implementation are lacking a comprehensive overview, as monitoring and reporting is not in place adequately. The available reports focus on implementation of activities rather than on analysis of the achievement of objectives and reform targets.

In Azerbaijan, series of essential steps have been taken by the government since 2015 to conduct institutional reforms in the field of public administration. This action has been evident in elimination and amalgamation of some government agencies, as well as the establishment of new ones.

Representatives of Belarusian public administration kept stating that the public administration completes its stated objectives and goals, and if any changes are needed, they are needed in order to optimize and perfect the system, not to reform it. This approach was reflected in the Programs of Socio-Economic Development for 2001-2005, 2006-2010, and for Government Action Plans for the same years.

Public Service and Human Resources Management

Public service is one of the key components of public administration. A well-designed and effectively-managed public service enables the state to reach adequate levels of professionalism, and sustainability and quality of public services, in all parts of the administration. As described in details in the country analyzes the situation with regards of this issue is also different from country to country. Three countries out of six- Georgia, Moldova and Ukraine are in the process of reforms – In Belarus it’s declared that there is no need for reform.

In Azerbaijan, certain institutional change occurred in public administration field with regard to recruitment of personnel into public service. According to the Presidential Decree No. 860, dated on April 11, 2016, the Civil Service Commission under the President of the Republic of Azerbaijan and the State Commission for Student Admission of Azerbaijan Republic were abolished and the State Examination Center (SEC) has been established

on their basis. The responsibilities of the Civil Service Commission, including the recruitment of personnel into public service, has been transferred to the SEC.

In Armenia, also the reform is ongoing, Civil Service Reform Principles include legality, equal access, merit-based recruitment and promotion, de-politicization, integrity and ethical conduct, impartiality, sustainability, citizen oriented service, responsibility and accountability, and stability. The main principles included in the Law on Civil Service are consistent with the international best practices of public administration. Nevertheless, some principles are not properly formulated.

Accountability

Accounting and reporting practices ensure transparency and public scrutiny over public finances; cash, assets and debt are managed centrally, in line with legal provisions.

For Georgia, Accountability components that includes the overall organisation of central government which should be rational, follows adequate policies and regulations, and provides for appropriate independent accountability-Needs some improvement to adopt and correspond to the new Law, Strategy and Action plan. For the the right to access public information Adequate legal framework is set up and practice is permanently improving. For Functioning mechanisms that should be in place to protect both the rights of the individual to good administration and the public interest-Newly adopted law on State Service corresponds to all terms of modern standards and good practice. The law will enact just in January of 2017. Therefore it is impossible to evaluate how it works and how effective are mechanisms.

In Ukraine, The respective legislation on access to public information was adopted. Each and every citizen has a right to file a request for public information. Public authorities shall facilitate the request and provide such access. A web-portal of open data held by the public authorities was created. Good public policy making, strategic planning and coordination of the public policy call for institutional capacity building within the Cabinet of Ministers of Ukraine, advancement of policy making practices and introduction of a strategic planning system. Besides, an effective monitoring and evaluation system is expected to be introduced, including ministries' performance assessment.

According to the conclusions of the Baseline Measurement Report "The principles of Public Administration", prepared by SIGMA in 2015, it is set out very clearly that appropriate mechanisms to ensure accountability of state administration bodies, including their liability and transparency still need to be greatly improved. As well as for Armenia, which is also in the process of wider reforms now.

For Azerbaijan and Belarus the issue of accountability still remains very challenging;

Suggestions and Recommendations

As described in the previous parts of the document, the situation in the EAP countries regarding PAR and Decentralization is quite different. The processes and trends are closer in three countries which have signed the Association Agreements – Georgia, Ukraine and Moldova and are in the process of implementation of its provisions, with the support of EU. The most stagnated country with regards of reforms and changes is Belarus. But overall, including Azerbaijan and Armenia, EAP region is today in the process of significant challenges, expectations and reforms.

Based on all above-mentioned, suggestions and recommendations were prepared also country by country basis in order to take into account all the local developments and be relevant to the situation.

Georgia

For Decentralization process as an obstacles can be named following:

- Pause of the decentralization
- Non-transferred property and finances
- Non-divided competences
- Lack of resources and expertise necessary to conduct PAR reform in municipalities

With active engagement of EU, SIGMA and USAID Government adopted main documents for the reform of PAR:

- **Strategy of Public Management,**
- **Policy documents and action plans,**
- **the Law on State Service,**
- **different procedures and manuals**

Active phase of implementation of reform of public service will start in 2017,

Before that, state agencies and municipalities have to conduct serious preparatory work:

- study and analysis
- adoption of regulations
- training for servants

This is a serious challenge, because Georgia still has a lack of expertise, enough for the change of whole the system of Public Administration on the central and municipal levels. There are signs that

PAR reform will face serious difficulties on the municipal level. The municipal resources are very limited to conduct studies or trainings. Lack of experienced personnel is additional problem on the road of PAR reform in municipalities.

Moldova

The main barriers and obstacles to real decentralization of power, according to expert opinions come from the development of political processes, political culture, lack of clear perception of the national interest and secessionist behavior of some political actors. The central government, ministries and government agencies do not accept sharing duties and powers of local public administration. In the view of some experts, namely the Ministries boycotted the National Strategy of decentralization in the period 2012 - 2015, which was achieved only 50%. In terms of achieving important successes related to the political situation, the remaining obstacles such as LPA capacity building, widespread corruption, and imperfect sectoral legislation can be eliminated much easier.

The main recommendations of the experts interviewed on how to improve the current situation in the public administration reform are:

- Open debates on political platforms to the issues of LPA and their relationship with the central government.
- To initiate a dialogue for territorial administrative reform and administrative territorial optimization models in society and its implementation before the next local elections
- To assign levers that will allow LPA strengthening the tax base, which is the next phase of financial decentralization
- To implement public administration reform as strategy, action plan and recommendations developed by the organization SIGMA
- Local economic development by providing a business environment with clear rules, according to the National Development Strategy MOLDOVA 2020
- To develop qualified human resources

- To institutionalize this process subordinated directly to the Prime Minister.

Ukraine

General public support and leadership are crucial for the successful implementation of the decentralization reform. Information support and professional coverage of the content, outcomes and progress of the reform have to be strengthened and various channels should be used for that.

The implementation of budget decentralization shall be based on the administrative-territorial structure reform in Ukraine and on the new ideology of public administration that defines the main idea of the public authorities and local self-government bodies' operations as the provision of effective services to people.

There is a certain degree of resistance to the decentralization reform displayed by heads of the district public administrations and heads of local communities that might lose their powers due to the reform and consequent amalgamation. The reason why district public administrations strongly oppose the reform is that these administrations, first and foremost, will be losing the majority of their powers. Big land owners and owners of agricultural corporations are also against the reform since they might lose their leverage in the rural areas as the communities will become less dependent on them and might not be that desperate for their support for further development.

The declared voluntary principle applied in the creation of amalgamated communities significantly complicates the process and virtually impedes the reform. This principle is often used by the reform opponents as a manipulation tool. In addition, procrastination of the process can potentially have a negative impact on the reform itself.

For public administration reform virtually there are no visible steps taken to reform ministries and central government agencies, in particular, the Cabinet of Ministers of Ukraine. The launch of the State Secretary positions calls for immediate changes to be made to the current legislation that should clearly divide powers of a minister and a secretary of state and improve the decision making procedures by the Government.

There is a lack of effective coordination between various state institutions implementing the public administration reform. Only in 2016 the Coordinating Council was established. It is headed by the Vice-Prime-Minister of Ukraine. The representatives of the civil society are members of the Council.

There is a lack of finance. Finance is scarce. The country needs approximately 140 million EUR to have a full and comprehensive implementation of the public administration reform. However, Ukraine does not have that much money. Therefore, the issue of international financial and technical assistance remains very pressing.

There is a permanent threat that changes are introduced to the new legislation on civil service and corruption prevention. With these changes various groups of political and business lobbyists might try to downplay a large number of positive changes that have taken place recently.

Armenia

The principles/norms of integrity, ethics and incompatibilities are not fully regulated in the current law and are not fully consistent with OECD and EU public administration principles. The Law on Civil Service shall clearly regulate the issues concerning the Civil Service integrity, norms of ethics, conflict of interest and exclusion thereof. Public or private activities not compatible with the exercise of Civil Service functions must also be clearly regulated. The integrity system of civil servants, including legal regulation on incompatibilities and conflict of interests must also be defined by the Law on Civil Service. The legal regulations of the Civil Service do not clearly define the principle of personal liability of the civil servant for his/her wrong action or inaction. This situation may lead to reduced sense of liability.

Introduce into Civil Service system the idea of personal liability of the civil servant, which shall be stipulated by the respective legal acts. The recruitment and selection processes in some cases lead to ineffective use of resources. Besides, the methodologies and poaches used in the recruitment and selection processes do not fully ensure an effective selection. The selection and recruitment process must in its all phases refer to the principles

of equal access, transparency and merit. The end result of the improved system must be the development of maximum optimal, flexible and improved mechanisms for assessing the knowledge and capacities of the contenders for the purpose of identifying the best candidate. The main principles related to recruitment and selection would be established by the Law on Civil Service. The necessary by-laws would be adopted in 2017. In 2019 all vacancies would be filled according to new regulations.

The Law on Civil Service deals very briefly with mobility. There is some mobility inside the same public body; however, the mobility of civil servants from one body to another is not a priority and is rarely practiced. On the other hand, it is used for promotion purposes in a way (out-of-competition procedure) that does not ensure merit-based recruitment. The mobility is hardly practiced as HRM instrument to improve the quality of the services, to develop the staff capacities and assess the workforce needs.

A well balanced system must be defined aiming at fairly protecting the right to tenure while looking at the needs of the public administration as well. It is necessary to ensure that each re-organization in the Civil Service system contribute to the improvement of the effectiveness of the public administration and to a better use of the already available human resources within public institutions. Activities will be performed to improve the effectiveness of the reserve management, the main purpose of which will be to retain the Civil Service human resources in the system, as well as the use of the reserve as an instrument to ensure the continuity of the Civil Service employment. In this process the RA Civil Service Council must give its conclusion about the reorganization. It is also necessary to create functional mechanisms for the employment placement of the civil servants in the reserve.

Recommendations on how to improve the current situation with regard of Public administration reform:

- To implement administrative territorial reform.
- To develop inter-municipal cooperation.
- To implement decentralization process.

- To develop new draft law on local self-government and organize discussions of the draft law.

- To transfer financial and other resources to local governments.

Some respondents participating in the project have mentioned in any other remarks the following:

- PAR and decentralization reforms take place very slowly. It is necessary speed up reforms. It is necessary to develop civil service and municipal service. These systems provide with professionals.

- To invest modern IT at central and local levels.

- To involve professional experts and large audience in the reforms.

- To invest in the systems high accountability requested processes.

- To change local self-government and territorial administration models.

- To implement fiscal decentralization.

The PAR and Decentralization reforms take place in Armenia very slowly. Recently there is the recorded progress in PAR reform related to the development of the new draft Law on Civil Service and in the local self-government system recorded progress can mainly be attributed to amalgamation of municipalities, development of a new draft Law on Financial equalization and new draft Law on Local Self-government. The process is speed-up by the adoption of a new Constitution on December 6 2015.

Azerbaijan

Accelerating reforms in public administration and decentralization would be advisable to carry out the following steps:

- Local government status should be granted to local self-governance institutions and incorporated into public administration system within the framework of constitutional reforms

- Government should develop a strategy on decentralization reforms

- 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;

- the law of the Republic of Azerbaijan on the status of municipalities should be reviewed with the aim of recognizing municipalities as decentralized institutions exercising public power as part of the overall public administration;

- Reforms should be made in the field of local governance, waiving parallelism in local level governance, granting exceptional and complete authorities to municipalities

- Transition to regional governance should be made through abolishing soviet-era administrative-territorial division and governance model

- Sustainable financial resources should be granted to municipalities to carry out their liabilities and shared tax system should be applied to legal changes

- Existing mechanisms facilitating state budget transfers to municipalities should be improved, both the conditional and unconditional budget transfers to municipalities should be provided with higher volume of financial aids

- abolish the obligation on local governments to report to the Parliament on their own operations and limit the supervisory authority of central government to the control of lawfulness of municipal acts

- Legal barriers to create single Baku municipality should be waived and the law on 'Status of Baku' should be adopted to regulate complexities with regard to its city status and administration

Belarus

The existing local self-government system in the Republic of Belarus has no opportunities to fulfill its goals of self-governance and doesn't allow local authorities to fully match the definition of 'sub-national government'.

In this situation, recommendations for development of certain components of local self-government system (fiscal decentralization, ATD, human resources, etc.) are irrelevant.

For real SNG to appear, both the organization and activity of local governing bodies in Belarus should be reformed based on the norms and principles of the European Charter of Local Self-Government.

In this regard, the following activities are recommended to be carried out:

- preparation of the Concept of local self-government development in accordance with the principles and norms of the European Charter and its approval at the highest state level, the development and approval of an implementation plan;

- the improvement of legislation in the sphere of local self-government based on the principles and norms of the European Charter (decentralization of power, the implementation of the principle of subsidiarity in the legislation, the improvement of ATD, fiscal decentralization, adding the concept of "community" to the legislation, etc.);

- Organization of democratic elections;

- Ratification of the European Charter of Local Self-Government;

- Creation of the National Association of local Councils;

- Organization of events aimed at implementing University programs in local self-governance, as well as training of specialists in this sphere;

- Development and implementation of criteria for evaluating the performance of local Councils;

- Implementation of the principle of transparency and openness in the work of local authorities;

- De-bureaucratization of the forms of direct democracy and the establishment of communication platforms for dialogue between local authorities, NGOs and citizens.

