

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Self-Government Reform, against Self-Government

On December 20, 2017, the Georgian Young Lawyers' Association (GYLA) and the International Society for Fair Elections and Democracy (ISFED), with the support of the Open Society Georgia Foundation, held a presentation of two studies related to the abolition of the self-governing status of seven cities [Self-Government Reform, against Self-Government and Hasty Reform of Self-Government and Existing Challenges.

The studies contain an analysis of the processes related to the abolition of the self-governing status of the seven cities (Zugdidi, Ozurgeti, Ambrolauri, Gori, Akhaltsikhe, Mtskheta, and Telavi), conclusions, and recommendations.

The main problem identified in the studies of both organizations was the accelerated examination of the issue by the municipal councils and taking the decision in violation of the procedure provided for by the Local Self-Government Code.

As is known, on May 15, the Ministry of Regional Development and Infrastructure of Georgia sent a proposal to seven self-governing cities and seven community municipalities, after which *the municipal councils approved the Ministry's proposal in an accelerated manner at extraordinary sessions held at intervals of several days. At the same time, the Governmental Commission on Regional Development failed to hold consultations with the local population, which is a necessary requirement of the Local Self-Government Code.* In spite of this, the Parliament, on the basis of the Government's initiative, abolished the self-governing status of the seven cities on June 15, 2017.

The studies also established that the arguments put forward by the authorities in connection with the abolition of the self-governing status of the seven cities didn't correspond with the real situation in these cities. For example, the Government didn't state concretely on what basis it declared that citizens' involvement, the quality of services, and people's access to services had not improved. In addition, the argument that the division of the municipalities had not increased their own revenues is also false – the analysis of the budgets of Telavi, Zugdidi, Ozurgeti, and Gori prove the contrary. As for other arguments about the doubling of administrative expenses, deterioration of the efficiency of spending, and other issues, in this case, too, the Government failed to present properly confirmed information.

The organizations believe that the aforementioned process has:

- **Brought under question the democratic nature and fairness of the local self-government elections of 2017**, because political parties and initiative groups had already started nominating candidates for the positions of heads of municipal administrations/mayors in the electoral districts created in the

municipalities to be abolished by the CEC, and observer organizations had started nominating themselves for registration. *And in this situation, election administrations and courts had to take unsubstantiated decisions, posing risks of restriction of the passive suffrage and creating a non-competitive electoral environment.*

- **Created problems related to governance.** When the Parliament resolution of June 15 took effect at the end of August, 14 self-governing units (legal entities of public law) that existed at that time ceased to exist and seven united municipalities were created. Due to this, *officials of the abolished municipalities members of municipal councils, mayors and heads of municipal administrations together with the relevant administrations - operated without a legal basis.*
- **Created budget-related problems**, because, as of the end of August, the *budget law of this year still provided for separate equalization transfers for 14 municipalities, while the legal entities of public law entitled to receive and administer them - municipalities - were no longer in existence.*

The organizations believe that the abolition of the self-governing status of the seven cities is going to deteriorate the quality of local democracy, hinder the development of cities and villages, create unequal conditions for cities, and weaken the public consensus and international support.

On the basis of the problems identified during the research, the organizations made the following recommendations:

- All changes in the area of local self-government should be made in view of the basic principles of self-government and with active involvement of citizens; the authorities should encourage and support citizens involvement in the activity of self-government bodies, in order to raise the level of civic consciousness;
- The State should have a long-term vision/strategy directed at increasing the degree of independence and decentralization of local self-government bodies;
- It is necessary to support the formation of small and average-sized cities as urban centers, which will create various spaces necessary for human development and hinder the concentration of the population in a single location;
- **It is necessary to make amendments to the Local Self-Government Code which will:**
 - revise the procedures of territorial optimization;
 - determine the periods during which it will be prohibited to carry out

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territorial optimization;

- adopt a legal definition of public discussion;
- make it mandatory to hold consultations with at least 1% of the population registered in the municipality concerned during territorial optimization.

As the process was conducted in violation of the procedure established by the Local Self-Government Code, on June 30 the GYLA, together with partner organizations, filed a claim in the first-instance court, demanding the abolition of the resolution. It is noteworthy that the court session has yet to be scheduled.

It is also possible to file a claim with regard to the abolition of the self-governing status of the seven cities in the Constitutional Court, although the law only entitles members of the Parliament of Georgia to file such a claim. For this reason, the NGOs working on the issues of self-government call upon opposition parties in the Parliament to appeal the authorities' decision in the Constitutional Court. □