



Local democracy in Armenia: Call to Government

*Prepared on the basis of the feedback and suggestions of
150 local elected representatives of Armenia*

Gyumri, Sisian 2014

The Context

This Call to Government gathers the results and main thoughts collected during two Regional Seminars held in Gyumri and Sisian (on 9 and 11 September 2014, respectively) and attended by over 150 local elected representatives from 70 different communities (10 marzes) of Armenia.

The seminars were organised in the framework of the Council of Europe project “Support to the consolidation of local democracy in Armenia”, and the aim was to disseminate the findings of the Recommendation 351(2014) on Local Democracy in Armenia,¹ adopted by the Congress of Local and Regional Authorities of the Council of Europe on 27 March 2014, and to foster a discussion about measures and policies that could help putting in practice these recommendations, thus improving the level of local democracy and decentralization in Armenia.

1. The principle of subsidiarity in Armenia

Armenia’s local self-government is characterized by fragmentation and a high number of smaller and smallest communities which lack the necessary resources and capacities for the exercise of their powers and functions. The resulting inequality in service provision contributes to migration from the periphery to the capital Yerevan.

According to the principle of subsidiarity, enshrined in art. 4 par. 3 of the European Charter of Local Self-Government (ECLSG), “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.” By definition, the principle requires a balance between the general preference in favour of decisions taken as close as possible to those who are concerned and efficiency criteria (e.g. regarding economies of scale in the provision of services). However, in general terms, the exercise of public powers shall be decentralised in order to facilitate political participation as well as accountability for decisions.

a) Legislative or constitutional reform aiming at introducing the subsidiarity-principle?

Considering the above, participating communities have discussed and came to conclusion that, unfortunately, it does not seem essential or a priority to formally introduce the principle of subsidiarity into the Armenian legal system by means of constitutional or legislative reform. Despite the symbolic value of such a reform, it is rather its spirit and the effective implementation of the principle which is of importance as a guiding principle and which can be equally ensured through a clear distribution of powers, in legislation and in practice, with a view of guaranteeing communities the management of a substantial share of local public affairs. By consequence, the discussion concentrated on how to overcome current difficulties in the area of allocation and effective use of local powers and functions.

Recommendation:

Use the principle of subsidiarity as political guideline for effective decentralisation in practice

b) Distribution and delimitation of powers: strengthen provision of local services

In numerous fields, powers of local communities are not full and exclusive, but assigned to levels, the State and the communities. Delimitation of the respective powers often appears as uncertain and therefore problematic. In the discussions, confusion emerged also regarding the distinction between mandatory and voluntary powers – in legislation and in practice. Service provision at local level is widely seen as either not sufficient or unsatisfactory.

Numerous examples of services, which are under jurisdiction of central government agencies, communities can deliver or manage have been provided, such as the issuance of birth and death certificates and the maintenance of schools. One particular and important problem related to differences in organizational capacities is garbage removal which is most often not carried out due to unpaid fees, lack of technical equipment.

¹ [Report CPL\(26\)2FINAL](#)

Recommendation:

Review legislation in order to clarify and rationalise the distribution of powers between local communities and the State with a view to strengthen local communities' capacities to provide a substantial share of local services.

Any decision in this regard clearly depends on the financial capacities and resources of local communities and/or the degree of inter-municipal cooperation or mergers of communities (see below).

c) Delegated powers

Currently there are many delegated powers, but clarification regarding scope, responsibility, and implementation and funding of delegated powers is needed in legislation. Discussions led to the conclusion to reduce the number of delegated powers and convert most of them to mandatory ones

Recommendations:

Review legislation in order to clarify delegated functions and their scope and responsibilities.

Leave discretion for adapting to local conditions and consider the transformation of delegated functions into mandatory local powers.

d) Development programs

Planning for the future and creating a local development strategy is a major expression of the self-management of local affairs. In Armenia, a statutory requirement to adopt four-year development programs exists, but budgets which "are for subsistence, rather than for development" as well as limited powers are a major obstacle for creative planning.

Recommendation:

Create the conditions for meaningful development in the responsibility of local communities.

Again, any decision in this regard depends on the financial capacities and resources of local communities and/or the degree of inter-municipal cooperation or mergers of communities (see below).

2. Finances and taxation for local authorities

It was general opinion that financial resources do not match current powers and responsibilities; often, funding does not even suffice for the exercise of the powers and functions prescribed as mandatory by law. Clarification in legislation, re-distribution of resources and opening-up of new sources of revenue at local level are needed as well as capacity-building for financial management at local level. Yerevan's share in the resources for delegated powers (over 90%) was intensively discussed as being disproportionate.

During both seminars debate on local finances and taxation has been most lively and numerous concrete proposals have been made. In particular, the following suggestions for improvement measures emerged from the debate.

a) Enlargement of communities' own financial resources is the main priority, as 80-90% of the budget of smaller communities is spent on running costs and for staff which means that services are not provided in these communities. An increase in resources can be achieved by means of:

- Amendments to the RA Laws on Land Tax and on Property Tax, giving local self-government bodies the right to define land tax and property tax rates. Pre-established limits or a range defined in the same legislation can address concerns regarding too much differentiation.
- Adoption of the draft Law on Hotel Tax.

- Provision for a share in State taxes, such as a certain percentage of income tax and profit tax. The environmental fee is an example, but not all communities seem to apply it (as the benefits of collecting environmental fees are not recognized).
- Reassessment of lands should be carried out, including a re-definition of categories and an update of cadastre values (last time this occurred in 1999). Land measurement could be carried out (cheaper) by specialists in local authorities instead of private companies.
- Clarification of tax administration issues related to the collaboration of state and local government bodies (e.g. police and LGs related to the vehicle property tax base).

b) In the area of **transfers from the RA State Budget** to the community budgets the following measures promise to improve the rational allocation of financial resources:

- Development of criteria for calculation of the financial equalization system beyond the current ones (population size and tax base, i.e. property and land tax) in order to guarantee a secure base for fair distribution. Thus, the draft RA Law on Financial Equalization, which is currently in circulation, should be reviewed before its adoption, taking into consideration also expenditure indicators, such as the financial needs of communities.
- Creation of a statutory basis in legislation for the allocation of subventions and other grants and clarification of procedures and criteria introducing a clear distinction between block grants (purpose-free transfers) and earmarked grants (purpose-specific, i.e.) while specifying the application-criteria for the latter.
- Reduction of delegated powers and guarantee of corresponding financial resources for the exercise of delegated powers.
- As regards communities infrastructure, provision of funds under “emergency programs” administered by the *marzpetarans* and to community concerned (in the form of subsidy, earmarked grant).

c) **Accessibility to the national capital market** could be improved for communities by means of:

- Amendments and modifications to the RA Law on accessibility of the commercial bank credits to communities (procedures, pledge-obligation); establishment of financial institutions for communities; creation of more favorable credit conditions;
- Introduction of a system of Community Bonds.

d) The efficiency in **financial management** of communities can be increased through:

- Simplification of procurement processes in communities, especially for low-value procurement.
- Simplification of real procedures for capital programs and costs of communities.
- Introduction of ICT systems and guarantee of their coordination and operation on a legal basis.
- Full implementation of internal and external audits in local self-government bodies (it appears from the discussions that audits are operational only in urban communities).

3. Territorial Organization

Starting point for any consideration on territorial (re)organization in Armenia is the high degree of fragmentation and the high number of smaller and smallest communities (about 50% of communities have less than 1.000 inhabitants). The current fragmentation of local government affects fiscal capacity (see above) and is a huge obstacle for development and for the provision of services. Participants even stated that in many communities there is no meaningful self-governance at all; even in larger communities providing services is difficult as budgets are mostly used for administration and salaries.

There are two major options for overcoming fragmentation: structural amalgamation, i.e. mergers of communities (“consolidation”), or inter-municipal cooperation (IMC); the advantages and disadvantages of both options have been controversially discussed.

a) Information

While all participants reported problems resulting from the small size of communities, there is a general lack of information concerning the consolidation or mergers of communities among community representatives.

The current pilot reform-projects have been commented with scepticism and often considered as too isolated an experience for creating a true multiplier effect for further reform.

Recommendation:

Inform about the options and consequences for overcoming territorial fragmentation.

Information can be provided by specific material as well as through seminars which might include the experiences of the pilot projects in order to use their experience. Information is the first step towards acceptance which is essential for sustainable implementation of reforms.

b) Consolidation, i.e. mergers

Many comments from participants were based upon the assumption that amalgamation is without alternative: for efficiently providing services, communities have to be (come) bigger – despite widespread resistance, in particular by councillors. However, some also opposed the presumed resistance of the population to this view. Representation in new, bigger communities was seen as a key issue for the acceptance of any merger; the historical experience of “village councils” (until 1996) was often mentioned in this regard.

Regarding the general approach to territorial (re)organization, the “German model” was often invoked, where a combination of financial incentives (e.g. new infrastructures) as well as guaranteed representation of the former independent municipalities in the new, bigger one have been essential in a first phase of voluntary aggregation. Only after this voluntary phase had expired, some further communities have been merged by decision of the legislator.

Some participants underlined that other models than Western European experiences should also be examined, for instance the former Soviet Rayon-model; others recommended clarifying the relationship with regional governments (*Marzes*) in the new territorial design with fewer and bigger communities.

Recommendations:

Raise awareness and create acceptance **for mergers** by informing about the advantages, in particular for smaller communities, as well as about instruments for guaranteeing influence of the population of merged communities in the new, bigger community.

Consider concerns of populations and councillors **in the approach to amalgamation** (incentives for voluntary mergers) as well as **regarding the representation of the merged villages** in the new setting.

In legislation: establish criteria for mergers as well as procedures for consulting the concerned population (in line with the constitutional requirement and in conformity with ECLSG).

c) Inter-municipal cooperation (IMC)

Inter-municipal cooperation and Inter-municipal Unions have been considered as acceptable and useful for the improvement of the provision of services. A draft law on IMUs of 2006 has been mentioned more often. Various areas with potential for improvement through cooperation of communities have been mentioned, such as garbage-disposal, schools and education, local police.

Recommendation:

Create a clear legal basis for IMC and IMUs as well as incentives for their use in practice.

d) Specific issues: Yerevan and frontier villages

The issue of equal regional development was discussed, It was mentioned that Yerevan was privileged in terms of resources thus distorting the whole local government system by its sheer size raising the issue of equal territorial development. The difficult situation of the periphery is confirmed by reports from frontier villages which are facing the emigration of their population.

Recommendation:

Discuss and adopt specific measures for promoting territorial development of the periphery, in particular of frontier villages.

4. The role of municipal councils and citizens' participation

Numerous issues have been discussed regarding local institutions and citizen participation in the communities. These ranged from elections, selection of leadership to the payment of councillors, the establishment of commissions and instruments of direct participation of citizens in local affairs.

As a general tendency, the need of strengthening the council's position and capacity vis-à-vis the head of community emerged as well as the difficulties in motivating citizens to engage more directly and also in the period between elections.

a) Institutions: the role of the council

Despite different opinions in detail (in particular regarding the election of council and head of communities: at the same time or in different moments), participants agreed that the 4-year **community development plan** shall be(come) the focus of pre- and post-electoral debate and basis of councils and head of communities after each election for next 4-year governance of a community.

Institutional balances: many participants stressed the need to strengthen the role of the council vis-à-vis the head of community. In order to permit the council to exercise its impulse and supervisory functions, its capacities as well as those of its members have to be strengthened, particularly, through relevant legislative amendment the community council should be enabled to elect its leadership out of councillors, should conduct specific training for (newly elected) councillors and raise the minimum age for being elected.

In this context, also **commissions** within councils are widely considered as a useful instrument for strengthening the capacity of the council through a specific thematic focus and building-up of councillors' expertise. Depending on the communities' size, there are standing and temporary commissions; in smaller communities no commissions exist due to small number of councillors.

Logistics: councils should have own administrative resources, e.g. staff, room and equipment.

Recommendations:

Give central importance to the 4-Year Community Development Plans as the communities' fundamental programmatic document by giving importance to the role of the Community Council in discussing and adopting the Plan.

In order to have balanced local government bodies – community head and community council – capacities of community Council and community council members should be strengthened:

- introduce the institution of a community council leadership,
- make conduction of special training courses for newly elected council members mandatory,
- conduct training courses for each community council member at least once in 2 years,
- **Strengthen the role of the council members vis-à-vis the head of community through capacity building** of (newly elected) councillors; **consider a higher minimum-age for councillors** (e.g. 25 years).
- **Consider introducing a mandatory requirement for the establishment) and deliberation in commissions** (for larger communities only: "shall establish", for smaller communities it may be discretionary).

Consider mandatory and differentiated compensation and payments for the public works implemented by community council members.

b) Citizen participation

Apart from elections, citizens do not frequently and actively participate in local affairs, although councils inform them through information boards and websites. This is partly linked to the powers exercised at local level: the interest in active and direct participation will increase with the

impression that the latter can effectively influence important matters and decisions. A local referendum is already foreseen in the legislation, but no referendum has taken place in Armenia, so far also because of absence of sum regulations and implementation mechanisms.

Citizens need to be made aware of opportunities and motivated for using instruments of direct participation. Considering the value of the introduction of some instruments of direct participation in legislation (June 2013), the public should be more informed about them. Sometimes, logistical problems are obstacles, too (no suitable rooms for community councillors for meetings with citizens).

Recommendation:

Create practical tools for citizen participation.

Launch an awareness-raising campaign on the opportunities of citizen participation.

Conclusive Remarks

Across all sessions, the importance of **regular consultation and information** between central government and representatives of the local level (in particular with the associations) has been stressed. Consultation and information are rightly considered as means for achieving effective cooperation of communities with State government bodies and for the sustainable implementation of reforms.

Thus, the creation of formal consultation procedures should be considered with:

- the National Assembly (the Commission on Territorial Administration and Local Self-Government);
- the Government, in particular with the Ministry of Territorial Administration;
- territorial administration bodies (*marzpetarans*).

The mentioned institutions should have a general legal obligation to inform local self-government bodies and their associations as well as to consult and cooperate with them regarding planned reforms, so that local self-government bodies would be able to feed in their comments, recommendations and opinions in the reform process.

General Recommendation:

Create formal consultation procedures with representatives of local communities.