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Reform Initiative



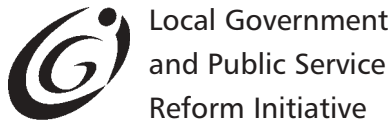
THE VICIOUS CIRCLE:

WEAK STATE
INSTITUTIONS,
UNREMEDIED ABUSE
AND DISTRUST

Reports from
Armenia, Bulgaria,
Georgia and Poland

EDITED BY
EDWIN REKOSH

LGI FELLOWSHIP SERIES



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LGI
Fellowship
Series

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LGI congratulates the Editor and policy fellows on the publication of this study.

THE VICIOUS CIRCLE:
WEAK STATE INSTITUTIONS, UNREMEDIED ABUSE AND DISTRUST



Edwin Rekosh

Introduction

REPORTS FROM ALBANIA, BULGARIA, GEORGIA AND POLAND

The Vicious Circle: Weak State Institutions, Unremedied Abuse and Distrust

Introduction

By Edwin Rekosh¹

For most citizens, local administrative agencies serve as the primary point of contact with the government. Whether applying for a license, seeking information, or requesting a social benefit, these experiences shape public opinion. In order to instill public trust in state institutions, administrative procedures should be simple, clear, fair, and predictable. If an individual is dissatisfied with the result he or she received, an effective remedy should be available. The availability and effectiveness of remedies is essential to ensuring good governance and efficient administrative functioning.

With these concerns in mind, Columbia University's Public Interest Law Initiative and the Local Government and Public Service Reform Institute (LGI) of the Open Society Institute engaged in an exploration of the functioning of remedies for administrative abuse in practice. The results of four separate investigative projects, implemented in Armenia, Bulgaria, Georgia, and Poland, are published herein.

The authors of these studies executed individualized research plans within a common conceptual framework developed to define administrative abuses and remedies. While each study emphasizes different aspects of this framework, all examine the relationships among public trust, client satisfaction, and the effectiveness of remedies. Each study proposes a set of recommendations for improving remedies to abuse.

1. THE CONTEXT

One of the cardinal features of a state governed by the rule of law is that there is a legal remedy for every conceived wrong, including those that may be committed by agents of the state. Remedies are provided through the institutions, norms, and procedures created by constitutions, as well as by ordinary legislation

and other normative acts. In limited circumstances, remedies are also provided under international law.² While both rights and remedies for violations of those rights have developed rapidly within the changing legal systems of the post-communist context in Eastern Europe, their application within the framework of public administration has been slower to evolve.³

A key obstacle to administrative reform has been the large scale and scope of the state infrastructure developed under the socialist system in order to implement party policies, subject primarily to the control of party discipline. This presents a two-fold challenge: on the one hand, the sheer size of the administrative infrastructure leads to difficulties in bringing about significant changes; on the other hand, the administrative infrastructure retains by inertia a culture of internal political responsibility, with little or no common understanding of responsibility on the basis of professional norms, duty to the general public (taxpayers) or the rule of law. In other words, administrative agencies in Eastern Europe often fall short of their supposed overriding goal: to work in the public interest.⁴

Within this context, the question of abuses of administrative authority⁵ and the development of adequate remedies for those abuses take on significance beyond the technicalities of state administration, reaching the core of what it means to be a state governed by the rule of law and the very nature of the relationship between the citizen and the state.

2. ADMINISTRATIVE ABUSES DEFINED

Administrative abuses can include actions which are illegal (such as taking a bribe), which violate normal procedures (such as the preferential processing of

paperwork), or which involve impermissible exercise of discretion (based on, for example, nepotism, cronyism, partisan politics, or discrimination).⁶

In order to consider remedies for such abuses, it is useful to categorize administrative actions according to a conceptual framework. I will rely on a framework informed largely by the work of Denis Galligan et al.,⁷ based on two sets of opposites: individualized actions versus actions of a more general effect; and decisions versus other forms of action.

Examples of individualized actions used by the Galligan team in its multi-country study include: 1) deciding on the grant of a license to operate a private school; 2) the process for enforcing standards on the discharge of effluent into waterways; and 3) investigating the health and safety standards in restaurants. These examples differentiate actions that affect particular, individual physical or legal persons by: 1) conferring benefits; 2) imposing burdens; or 3) intruding into the private sphere of an individual or company (through investigation).

Examples of actions of a more general nature, affecting larger number of physical or legal persons, include: 1) deciding where to site a waste disposal plant; 2) making formal rules for the grant of maternity benefits where such powers are conferred on an administrative agency by legislation; and 3) making informal rules by the police for random checks of drivers or of alcoholics on the streets (Table 1).

In the case of individualized actions, when the administrative action concerns a benefit, the most common administrative abuse would be the withholding of the benefit because of an inappropriate exercise of discretion. Galligan uses the granting of a license to a private school to illustrate. But, there could be many examples: granting a construction permit, issuing a permit for a public assembly, providing a document pursuant to a newspaper's freedom of information request, or a variety of decisions relating to benefits for individuals—providing a maternity benefit, a pension, or a license to drive a car.

In all of these cases, the conferring of the benefit depends upon the discretion of an official. In some cases, the exercise of discretion is contemplated by the law. For example, legislation might require a local official to take into account criteria such as traffic patterns, public safety and other factors in considering a request for a permit to use a public space for an assembly at a

particular time and in a particular manner. Or, freedom of information legislation might require a local official to determine whether a specific request for information must be rejected because it falls under an exception to the rule of automatic disclosure for reasons such as national security or privacy.

Discretion

“Discretion means some degree of latitude regarding the decision to be taken within an area of power defined by law. Discretion connotes an element of choice where one or more possible decisions or courses of action are open. Discretion does not mean unlawfulness; on the contrary, legal discretion is a legitimate exercise of authority within a given context. Discretion should not be seen as entirely subjective; there is inevitably an element of subjective judgment, but the exercise of discretion must also meet certain legal requirements. It must be reasonable, it must take into account relevant considerations and avoid irrelevant ones, it must be conducted for the purpose set out in the governing law, and it must be exercised in good faith following relevant procedural requirements.”

Galligan, Langan, and Nicandrou (eds.). 1998. *Administrative Justice in the New European Democracies: Case Studies of Administrative Law and Process in Bulgaria, Estonia, Hungary, Poland and Ukraine*. Budapest: Centre for Socio-Legal Studies, University of Oxford and Constitutional and Legislative Policy Institute. p.14.⁸

In addition to areas of discretion anticipated by legislation, local officials exercise discretion in informal and less overt ways in applying what might otherwise appear to be technical procedural requirements.

A hypothetical example might reveal how inappropriate considerations can operate in administrative decision-making, even when there appears to be no discretionary action contemplated by the law. Imagine, for instance, a Romani woman who has migrated without papers to a neighboring country and seeks childcare benefits from the local government office in that country, where her baby was born. If the country's law provides that any baby born on its territory is a citizen, and that childcare benefits are available to any child who is a citizen regardless of the citizenship of his/her parents, then there should be no obstacle to the woman's claim.

Yet, it is easy to also imagine a local official who is prejudiced against Roma and especially unhappy about Romani migration refusing to grant the benefit because of a technical reason, such as the absence of the mother's identity card number or permanent address. It is even easier to imagine the official discouraging the applicant in more subtle ways, through brusque or intimidating behavior, by providing false or incomplete information, or withholding advice on how to fill out the paperwork appropriately.

The example above describes an abuse presumably based on discrimination against an ethnic minority. But the phenomenon of administrative abuse is by no means restricted to cases of discrimination against vulnerable groups. On the contrary, mistreatment by civil servants is commonplace and even expected by the general public.⁹ In part, this is a phenomenon related to corruption. As Alina Mungiu-Pippidi writes: "Corruption is commonly defined as the grease of commerce. The evidence . . . is that it is the grease, not of business, but of public service."¹⁰ In this context, bribes become a "supplementary tax" to pay for "normal public service."¹¹

Arbitrariness

"Abusive treatment by the various state administrations is not universal. It is simply arbitrary and unpredictable . . . One never knows what treatment to expect from an administration; usually it turns out badly if you do not have a personal connection, and a bribe will be required. But even a bribe does not ensure that the services sought will be made available. Then again, it may work even without bribing, if you are lucky. The state of affairs is like the weather or God's will: one never knows where one stands. And arbitrariness gives the civil servant power over the citizen, even more so than in communist times."

A. Mungiu-Pippidi. 2002/2003. "Culture of Corruption or Accountability Deficit?" *East European Constitutional Review*. Fall 2002/Winter 2003. p.83.

This phenomenon is perhaps even more pronounced in the Russian context. According to Vladimir Pastukhov, Russian bureaucratic procedures are often so complex and lengthy that they require hiring an "internal fixer" to move the process along: "[I]n an overwhelming majority of cases, it is necessary to pay not to obtain something contrary to the law, but in

order to defend one's lawful interests. It is not the violation of the law but its fulfillment that is paid for in Russia."¹²

So ingrained is this practice of paying a "supplementary tax" for public services, that it sometimes results, in Pastukhov's words, in the desire to express "gratitude" in the form of small payments to civil servants even after a service has been rendered.¹³ The author of the present article witnessed one such example recently at the Serbian border checkpoint on the road from Hungary: a motorist who had a longer than average discussion with the border guard concerning his travel documents attempted to hand him a 10 Euro note upon getting his passport back. The border guard made a clear indication that no money was expected or desired, but, undeterred, the motorist thrust the bill through the guard's window, saying something in Serb that translates roughly to "collegiality" before he drove off.

3. BEYOND BENEFITS

The foregoing analysis relates to just one particular kind of administrative abuse: a refusal to confer a benefit according to proper practices. Going back to the conceptual framework for administrative actions, there is similar potential for abuse in the context of an individualized decision relating to a burden, as in the case of a company that must meet certain conditions regarding the discharge of effluent into the waterways. Here, the most common form of abuse might be inappropriate leniency in setting the conditions, rather than withholding of a benefit.

There is similar potential for abuse in the context of an individualized action to conduct an investigation as well. One distinction, however, is that in addition to abuses prompted by inappropriately favorable or unfavorable treatment of the subject of investigation (including through the solicitation of bribes), there is potential for abuse at the behest of a third party.

For example, a company owner could use influence or bribery to induce civil servants to investigate a competing restaurant for a violation of health and safety standards, or in the context of tax administration, to audit the accounts of a competing company. Initiating an investigation can also be the product of partisan politics. Government agencies might investigate the

financial dealings of particular companies because of their formal or informal affiliation with opposition political formations rather than for politically neutral reasons. In some countries, authorities might initiate investigations of NGOs motivated by a perception that they are working in opposition to the government.

When it comes to implementation of policies having more general effect, abuses are of a different nature. In such cases, whether the abuse relates to a decision such as where to locate a waste disposal plant or to the development of formal or informal rules, the abuse will have an impact on a large number of persons. Like any policymaking process, these actions require a balancing of competing interests.

The potential abuse lies more in the breach of an appropriate process for balancing legitimate interests than in the actual result. (In the case of police checks, some rules might conflict with human rights guarantees, but this article will not address that situation, as developed human rights remedies would apply.) Policymaking processes which are closed and non-participatory tend to exclude the consideration of legitimate interests which are not well understood or accepted by public officials, lead to gaps between state interests and the public interest, and are conducive to administrative actions motivated by partisan politics and cronyism. Policymaking under such circumstances could in itself be considered to be an abuse.

Standards of Abuse in Policymaking

“In a society that is based on democratic principles and that respects the rights and interests of individuals and groups within it, two . . . fundamental standards are readily identified. One is that policymaking is not just a matter of the administrative authority imposing its own preferences, but rather, while the authority must finally decide the best course of action, it should do so for good reasons and should take account of the interests and views of those affected. Consideration of these interests and views becomes an essential element in determining the public interest. A second fundamental standard follows from the first. If the views and interests of those affected are essential elements of good policy, then the best way of ascertaining what those interests and views are is to allow the parties to participate in the process. These two standards are buttressed by a third. If the policy process is to be acceptable and legitimate, especially to those whose interests are not served by it, it ought to be open and transparent, based on evidence and reason, and generally accompanied by an adequate explanation as to why the particular decision has been reached.”

Galligan, Langan, and Nicandrou (eds.). 1998. *Administrative Justice in the New European Democracies: Case Studies of Administrative Law and Process in Bulgaria, Estonia, Hungary, Poland and Ukraine*. Budapest: Centre for Socio-Legal Studies, University of Oxford and Constitutional and Legislative Policy Institute. p.349.

Taking into account the analysis above, a working definition of “administrative abuse” might be the following:

Administrative abuse is:

- an act of enforcement,
- promulgation of a norm,
- taking of a decision, or
- denial of a benefit,

by a state official, which is:

- illegal,
- a result of inappropriate exercise of discretion, or
- procedurally improper, irregular, or erroneous.¹⁴

Within the context of formal and informal rule-making (promulgation of normative acts and issuing of less formal guidance), an expansive definition of administrative abuse would further define “procedurally proper” to always require a transparent and open process involving public participation.

4. REMEDIES TO ADMINISTRATIVE ABUSE

In order to rectify administrative abuses—wrongs committed by state officials—there need to be remedies. In considering how to strengthen these remedies, it may be useful to think of them in several categories: internal remedies, external remedies, and preventive remedies.¹⁵

In considering these types of remedies, it is important to note that there is a strong conceptual overlap with notions of accountability: the internal remedies discussed below overlap with accountability within government (horizontal accountability); the external remedies below overlap with accountability outside government (vertical accountability).¹⁶ The preventive remedies described below overlap with “transparency,” which is distinct from accountability,

but is one of the preconditions for it and, according to Derick Brinkerhoff, combines with accountability and responsiveness to form the three core components of good governance.¹⁷

A reason to reformulate notions relating to accountability in terms of remedies is that it shifts the focus to the individual and his or her legal rights. A focus on remedies answers the question: what are the mechanisms available to the individual in order to have some recourse after suffering an administrative abuse or which provide a means for avoiding abuses? Remedies do provide a means of holding state officials accountable for their actions, but there are many other important means of improving accountability, which do not necessarily provide individuals with remedies to specific wrongs committed against them. Examples of the latter might include elections, inter-agency oversight and auditing, internal performance reviews, user surveys, and so on.

4.1 Internal Remedies

There are usually a variety of internal remedies available to individuals who have suffered an administrative abuse in the form of an individualized decision withholding a benefit or imposing a burden. The individual's first recourse might be to complain to the supervisor of the civil servant who committed the abuse, often through a formal, written process.

The primary difficulty with this remedy in practice is that it depends on: 1) the supervisor having a good understanding of his or her own responsibility to the general public; 2) a supervisor who is not complicit in the abusive practices of his or her subordinate; 3) a willingness to challenge the behavior of a subordinate based on a "customer" complaint; and 4) the absence of a culture of "collegiality" favoring the status quo.

Other internal remedies might include an appeal to an internal, quasi-judicial process or to a supervisory board, such as an ethics panel. Such mechanisms offer the possibility of overcoming the difficulties outlined above because they are more removed from the day-to-day collegial environment, but they are somewhat susceptible to the same drawbacks.

Since the key obstacles to the effectiveness of internal remedies relate to the attitudes and behaviors of staff, efforts to strengthen internal remedies should rely

primarily on reforming personnel policies. While there is no easy recipe for doing this, some of the elements might include: 1) transparency in the appointment process (advertising of openings, publishing lists of candidates, etc.); 2) training of new employees that includes practical exercises relating to public service, ethics, the duty to disclose information, privacy, conflict of interest, confidentiality, exercise of discretion, documentation of reasons, due process, etc.; and 3) performance evaluation based on clear job descriptions that includes criteria relating to respect for the general public, client satisfaction, etc.

4.2 External Remedies

In cases of administrative abuses in the conferring of benefits and imposing of burdens through individualized decisions, there are external remedies as well, the strongest of which is judicial review. Sometimes there is a formal requirement to seek an internal remedy before a court will hear a complaint about an administrative abuse. Often, it is not within the court's purview to examine the merits of the administrative decision, but only to determine its "legality": whether the proper procedures were followed and whether the decision was consistent with the law.

Among the obstacles to the effectiveness of judicial remedies are procedural barriers, such as high court fees, along with the complexity of the proceedings and relevant law, insufficient public understanding of how to initiate legal proceedings, lack of legal assistance for persons who can't afford to hire a lawyer, and low public trust in the courts.

The establishment of ombudsman's offices as an alternative external remedy has helped to overcome some of the limitations of judicial remedies in many countries. The application procedures are generally informal, usually requiring nothing more than a simple letter of complaint, but the remedy is a bit "softer," since an ombudsman's office usually does not have any power of enforcement, but rather uses its standing and influence to negotiate solutions to administrative problems directly with the relevant agencies.

The actual effectiveness of ombudsman offices depends a great deal on the characteristics and reputation of the individual holding the office as well as the overall political culture. Unfortunately, this remedy tends to

function least effectively in countries where governance problems are the most pronounced, and where administrative abuses are often at their worst.

Efforts to strengthen external remedies might include supporting the activities of NGOs that assist individuals in bringing legal complaints about administrative abuses. NGOs often have the necessary knowledge, sophistication, and access to professional expertise to make effective use of judicial remedies. Further, they usually have the resources to publicize their successes, promoting public trust in the remedy and enhancing understanding of how to make use of it. Similarly, legal aid programs, including state-funded ones, could target the provision of assistance on administrative matters. The organized bar has a role to play in providing such legal assistance and in advertising its availability. NGOs, courts, state agencies, and the organized bar could produce plain language explanations of the legal remedies available and the most common legal arguments that might be made.

4.3 Preventive Remedies

In abuses relating to administrative actions of more general effect, the principal remedies are preventive ones: transparency, freedom of information, and public participation. In the environmental context—such as a decision on the location of a waste disposal plant (or even the imposition of conditions on a factory discharging effluents into waterways)—a principal means of providing for public participation is to allow NGOs and individuals access to, and an opportunity to contribute to, environmental impact assessments. Holding a public hearing to allow all points of view to be expressed is another effective means for allowing public participation.

In the case of formal rule-making, transparency and public participation might include publicizing draft rules, receiving written comments from interested members of the public, and holding public hearings. In the case of informal rule-making, less formal means of communicating with particular representatives of the public, such as NGOs and academic institutes, might be employed.¹⁸

One possibility for strengthening this kind of transparency and public participation is to use Internet technology to more widely disseminate draft normative

acts and policies. Another means of promoting transparency is to promulgate and implement effectively a comprehensive freedom of information law.¹⁹

But securing effective implementation of a freedom of information law most likely requires, in turn, the strengthening of both internal and external remedies. At the same time, transparency is also one of the means for strengthening other remedies: for example, making the hiring of civil servants more transparent, making complaint mechanisms more transparent, etc. In general, the various types of administrative remedies tend to have reciprocal relationships with each other, which if strengthened, have the potential to be positively reinforcing.

One final note on remedies: abusive investigation by administrative authorities—one of the categories of abuse defined earlier—exemplifies an abuse with few remedies. When it involves the solicitation of a bribe or other forms of extortion, some of the remedies relating to corruption (an ethics complaint, a police complaint) would at least theoretically pertain. However, one of the most common forms of abuse relating to this kind of administrative action, the abuse of discretion in the decision of whether to investigate, does not generally have adequate remedies at law.

A key obstacle to finding an abuse of discretion in the decision to investigate would depend on proving an inappropriate motive on the part of the individual who ordered the investigation—for example, whether the motive was discriminatory, or based on partisan politics. There would probably be a legal remedy if such proof was available, but a motivation is a fact particularly difficult to prove with legal certainty. The decision to launch an investigation is an area of discretion with few limitations.

5. STUDY FINDINGS ON PUBLIC PERCEPTIONS

In each of the four countries—but perhaps less so in Poland—citizens are generally dissatisfied with the quality of administrative services, distrust state agencies, and have little confidence in remedies for abuse.

According to an opinion poll concerning public perceptions of government accountability carried out by the Romanian Academic Society in Slovakia, Bulgaria, and Romania, low public trust in the state

administration correlates with low “civic competence” and “insufficient participation on the part of the governed.”²⁰

According to the survey, 16.5 percent of Romanian, 15.1 percent of Bulgarian, and 25.9 percent of Slovak respondents believe that “civil servants and/or central government work in the public interest”; the numbers concerning local government are not very much higher, at 33.8 percent, 18.4 percent and 34.2 percent respectively.²¹ In the same poll, when asked their reaction to mistreatment by a civil servant, a significant number of Romanians said they “offer him/her something for fairer treatment” (23.0%) while significant numbers of Bulgarians and Slovaks said they would “complain to the proper authorities” (25.4% and 35.2%). But the largest group in all three countries said they would “let it rest” (39.3%, 40.4% and 41.7%).²² In sum, the surveyors conclude, one of the key underlying problems in governance is the low “civic competence” among the governed.²³

The findings of the studies included herein corroborate this analysis. According to the Bulgarian study, only 15.4 percent of survey respondents believed that administrative appeal procedures were effective. Further, in Armenia, only 36 percent of respondents declared that they were “interested” in the activities of local government. The principal reason given by those who said they were not interested was “I don’t believe I can influence local government decisions” (57% in urban areas; 35% in rural areas). (Other common reasons were that local government is “weak and dependent on central government” and “I am not interested in politics at all.”) In responding to a question about the main means for influencing local government officials, the most common answer (38%) was through “meetings and demonstrations.” The second most popular answer was “there is no way” (35%). Twelve percent of respondents mentioned bribes, while only 2 percent mentioned courts and other legal instances.

In Georgia, despite high levels of dissatisfaction with local government services (92% to 100% of respondents in the four cities studied), few individuals filed administrative complaints (4% to 7%). The most prevalent reason given for not filing a complaint was that “it does not make sense,” meaning that no outcome was expected (42% to 100% of respondents). The second most common reason was the “difficult and time-consuming process” (0% to 35% of respondents).

Furthermore, Georgians seek court review of administrative matters even less frequently. Only two out of the 386 respondents surveyed had appealed an administrative decision to a court.

Public trust in local government is high in Poland, but perception surveys cited in the Bulgarian and Georgian studies ranked trust for local government toward the middle of a range of public institutions. Although courts are in theory a principal provider of external remedies for administrative abuse, they are even less trusted in Bulgaria than local government, ranking third lowest in the survey. Similarly, in Armenia, perception surveys rank the judiciary as the second most corrupt institution, and overwhelming majorities of survey respondents do not believe it is independent from the state (96%) and think it cannot be trusted (88%).

The low levels of trust for courts appear consistent with the other results; indeed, they may offer a partial explanation for the infrequency of court appeals of administrative decisions. What may be surprising, however, is that Georgians exhibit a great deal of trust in the courts even though court actions are similarly rare. Following extensive reforms begun in the mid-1990s, the Georgian judiciary ranks as third most trusted institution out of 10 institutions. Moreover, survey results show only community initiative groups and NGOs receiving higher levels of public trust than the courts. Taken together, these facts suggest that supporting a greater role for NGOs and the courts in remedying administrative abuse may prove particularly effective in Georgia.

6. STUDY RECOMMENDATIONS ON IMPROVING REMEDIES

The studies provide a wide range of recommendations on how to improve remedies to administrative abuse, each one emphasizing a different aspect of the problem.

In a country like Armenia, where trust in the judiciary—the principal mechanism for providing external remedies—is extremely low, the study’s recommendations focus especially on preventive remedies. In particular, the study recommends improving decentralization and establishing greater transparency: publicizing policy targets, using focus groups to help set policy,

and engaging the media. The Armenian study also emphasizes the potential role of NGOs through projects designed to improve both administrative practices and civic competence.

One innovative approach, which has been partially implemented in Georgia, is to establish Legal Information Centers that: 1) serve as resources (as walk-in centers and through websites) for individuals to obtain information about available services, eligibility criteria, procedures, and standards; 2) support participatory procedures by disseminating information about public hearings, council meetings, and budgetary procedures to the media and the general public; 3) collect citizen feedback and provide it to local government; and 4) promote partnerships among local government, civil society organizations, and the private sector. The Centers' functions combine facilitation of more effective internal remedies with strengthening of preventive remedies such as transparency and public participation.

The Georgian study also recommends the development of Central Referral Bureaus, as either an alternative or supplement to the Legal Information Centers. Central Referral Bureaus provide a single local government office for receiving individual requests for services and information as well as for receiving complaints and other feedback, performing a coordinating role for the various state agencies that are involved. A similar system has been initiated in Bulgaria, under the name of "one-stop-shops," in order to streamline the provision of services by the state administration. One-stop-shops have to date focused primarily on providing information about administrative services, rather than facilitating the services themselves. In order to realize fully the benefits of an integrated approach to providing services, the author of the Bulgarian study suggests that such a system would require a re-organization of administrative competencies and procedures.

As the Georgian study suggests, Central Referral Bureaus or one-stop-shops also offer the promise of creating a capacity to collect data systematically about the administrative needs of the population. Such data can assist in troubleshooting problems of administrative efficiency and can provide an evidentiary basis for policymaking. This is especially helpful in a country such as Georgia, which does not otherwise have a centralized computer system at the disposal of local administration.

Legal Information Centers function most effec-

tively as NGOs—according to the Georgian study—because they are less subject to political pressure, enjoy a high level of public trust, and can benefit from a diversity of funding sources. Non-governmental Citizens Advice Bureaus in Poland perform a similar role. In Bulgaria, however, NGOs are ranked last among institutions trusted by the public, an attitude stemming from the beginning of the transition to the market economy when high levels of fraud and abuse were associated with NGOs. As a result, the Bulgarian study's recommendations focus more on improving the legal framework for administrative appeals and increasing communication between government and citizens.

In Poland, where public confidence in local government is high, the study's recommendations emphasize internal remedies, including: developing more detailed performance standards; providing greater transparency and objectivity in hiring and procurement decisions; and separating executive functions from decision-making procedures. The study also emphasizes the need to improve the elaboration and enforcement of ethical standards for fighting corruption, principally through establishing mechanisms to better enforce requirements for public officials to make asset declarations, and developing regulations more clearly limiting the acceptance of gifts.

7. CONCLUSION

As mentioned at the outset, an essential problem in improving good governance and reducing corruption in Eastern Europe is the difficulty in overcoming the inertia of a deeply ingrained, inward looking, and politicized sense of responsibility among civil servants. Another essential obstacle, which is both a product of and contributor to the first problem, is the low "civic competence" of the general public, generated in large part by low expectations.

One way out of this vicious circle would be to strengthen the remedies available to the governed and to encourage their use, through measures recommended in the studies contained herein and through other means. If successful, such efforts will gradually build up the public trust essential to a well functioning system of governance.

NOTES

- ¹ The author is the Executive Director of Columbia University's Public Interest Law Initiative (PILI).
- ² The European Court of Human Rights, for example, provides remedies for violations of the European Convention on Human Rights. But these remedies, like most international remedies, are available only after domestic remedies have been exhausted.
- ³ See, for example, Denis J. Galligan, Richard H. Langan and Constance S. Nicandrou (eds.). 1998. *Administrative Justice in the New European Democracies: Case Studies of Administrative Law and Process in Bulgaria, Estonia, Hungary, Poland and Ukraine*. Budapest: Centre for Socio-Legal Studies, University of Oxford and Constitutional and Legislative Policy Institute. pp.17–19. Galligan uses the term “administrative justice” to capture a concept similar to what the author is referring to as “administrative remedies.”
- ⁴ See, for example, Alina Mungiu-Pippidi. 2002/2003. “Culture of Corruption or Accountability Deficit?” *East European Constitutional Review*. Vol. 11/12, No. 4/1. Winter 2002/Spring 2003. p.80 (referring to “failure of politicians in these societies [Romania and Bulgaria] to construct a public-interest space, a failure that leaves blatant partisan interests to reign over every aspect of life, from privatization to the regulation of public broadcasting.”)
- ⁵ This article will address those abuses that may occur at the local level, either by local governmental authorities or by local representatives of central authorities. Abuses can and do occur at the central level as well, but they are generally of a different nature, as the interaction of the citizen and the state—a primary theme of this article—most often occurs at the local level.
- ⁶ General standards for determining the permissible boundaries of discretion have been formulated by the Council of Europe in Recommendation No. R (80) 2 Concerning the Exercise of Discretionary Powers by Administrative Authorities (1980).
- ⁷ Galligan, et al., op. cit. 31–32.
- ⁸ The Council of Europe Recommendation No. R (80) 2 Concerning the Exercise of Discretionary Powers by Administrative Authorities defines “discretionary power” as “power which leaves an administrative authority some degree of latitude as regards the decision to be taken, enabling it to choose from among several legally admissible decisions the one which it finds to be the most appropriate.”
- ⁹ Alina Mungiu-Pippidi, op. cit. p.83.
- ¹⁰ Ibid. p.80.
- ¹¹ Ibid. p.81.
- ¹² Vladimir Pastukhov. 2002. “Law under Administrative Pressure in Post-Soviet Russia.” *East European Constitutional Review*. Summer 2002. p.68 (including many rich examples of how the complex Russian bureaucracy invites abuse).
- ¹³ Ibid.
- ¹⁴ This definition was developed collaboratively by the author and the project team that produced the studies contained herein.
- ¹⁵ The framework was developed by the author for the PILI/LGI project on Administrative Remedies and revised based on discussions with the project team.
- ¹⁶ See Derick W. Brinkerhoff. 2003. “Accountability and Administrative Abuse: Definitions, Options and Dilemmas.” *Local Governance Brief*. Summer 2003.
- ¹⁷ Ibid.
- ¹⁸ The Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998), which entered into force in 2001, guarantees through treaty obligation many of these practices in the environmental field.
- ¹⁹ See Council of Europe Committee of Ministers Recommendation No. R (2002) 2 on Access to Official Documents, for some of the important features of a freedom of information law.
- ²⁰ Alina Mungiu-Pippidi, op. cit. p.83.
- ²¹ Ibid. p.81.
- ²² Ibid. p.83.
- ²³ The author of the study defines “civic competence” as “a citizen’s awareness of his or her rights and a correspondingly active attitude in ensuring those rights are respected.” Ibid.

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THE VICIOUS CIRCLE:
WEAK STATE INSTITUTIONS, UNREMEDIED ABUSE AND DISTRUST



Araksya Margaryan

Administrative Remedies for Abuses
in Local Government:
Armenia

REPORTS FROM ALBANIA, BULGARIA, GEORGIA AND POLAND

Administrative Remedies for Abuses in Local Government: Armenia

Araksya Margaryan

1. INTRODUCTION

Decentralization and the formulation of a local government system are both parts of the broader reform process in the Republic of Armenia. The current status of the decentralization of power and, more specifically, of local governance in Armenia is a result of the political, economic, and social factors of transition. For the purposes of this study, decentralization is broadly conceived of as a comprehensive, radical process related simultaneously to structural economic and administrative reforms, and to changes in society and the state. Local self-government is understood as a form of governance by interested citizens, rather than by state or centralized powers.

The previous (pre-transition) system was hierarchical, with local councils functioning as units of the central administration. Local activities were vertically connected to centralized ministries, and local planning functioned more as a lobbying tool for central subsidies than as a governance activity. Recent reforms have made management at the local level possible, while endowing local governments with the capacity to design and implement strategies independently.

The Constitution of the Republic of Armenia has established the principle of direct democracy at the local level. As a result of accession to the Council of Europe, the government of Armenia is now undertaking a complete restructuring—including the effective distribution of powers to the local level. In this context, the government has made a public commitment to initiate purposeful and complex reforms for the purpose of creating a new administrative system—by outlining a modern vision of the distribution of government powers and the role of public participation, trust in local governmental bodies, transparency, access to information technologies, client satisfaction, and so

on. A problem that will require particular attention in coming years is the promotion of “good governance,” which might be achieved by administrative remedies against existing administrative abuses.

This chapter is based on a project conducted in Armenia. Based on this project, the following sections explore existing administrative abuses at the local government level, and possible remedies for effective local governance—by building a legal framework for participation, increasing local government capacity, and stimulating grassroots mobilization in Armenia.

1.1 General Objectives

This study presents a framework for examining the consistent involvement of the public sector in the process of decision- and rule-making in local government, based on analysis of factors influencing public trust and client satisfaction. It identifies existing inefficiencies of practices, such as how to bring the public closer to the “core” of decision-making, and how to make greater use of controlling and redressing mechanisms.

For the purpose of analysis, a set of indicators is used. This set concentrates on the political performance of local governments, their relationship with the environment, and the state of local civil society (media and NGOs).

Other than traditionally examined legal, institutional, and election characteristics, the research project discussed here aimed at developing a framework for evaluation, gathering data, and drawing a picture of the quality of Armenian local governance and public administration. As such, it uncovered existing problems and obstacles in restructuring the relationship between local government and citizens, and promotes

the development of administrative remedies and methods to overcome these shortcomings.

1.2 Methodology

The focus of the research project was the study and analysis of standards for delivering administrative services by local authorities—the performance of internal and external control—through the juridical system and the public. Since administrative services delivered by local authorities vary and affect both personal and business interests, it was necessary that the focus of the research was detailed and the study centered on a particular type of administrative service. This ensured project feasibility, as well as the possibility to summarize the results.

Each of the main administrative services, delivered by the local authorities, was studied—namely, services for economic agents or social services provided to individual citizens. Research covered the working cycles, flows, and mechanisms (including the administrative and operative functional structure) of local administrations, especially legal and normative regulations; internal and external systems of control, information and communication; and the availability and accessibility for the monitoring and assessment of organizational, technical, and other resources.

Consultations and discussions on organizational and legislative policies were held with managers and representatives of local institutions and with NGOs—particularly those that have expressed interest in the improvement of the service delivery system.

The analysis of laws pertaining to the field of local self-government administrative policy comprised the most important aspect of this project. This research covered not only the legal sphere (regulating mutual rights and obligations of local authorities and public representatives), but also included ratified treaties, intended to promote more effective governance.

Analytical, informational, and statistical materials were collected that pertain to local administrative service delivery and client satisfaction. Publications on local government and theoretical literature were also used, few of which dealt specifically with Armenia. Comparison and cross-analysis helped to design objective conclusions, policy options, and recommendations.

In order to conduct a more objective, practically oriented project, a survey in select urban and rural areas was conducted: Yerevan (the capital of Armenia, population 1.2 million), Artashat (35,000) and Vedi (14,000), Abovyan (61,000), and the villages of Agav-nacor (1,000) and Areni (1,500). This survey involved 285 respondents and focused on perceptions and knowledge of current administrative procedures at the local government level. Respondents included: community activists, representatives of local and voluntary sector organizations and NGOs, businessmen, local government officials, politicians, senior public service managers and practitioners, policy-makers, and academics. Questionnaires were designed within the framework of the project with the aim to generate an “objective” view “on the ground” of the main aspects of local government development. Results of previous surveys and information from various sources also contributed to this analysis.

Indicator data are based on following variables:

- size of the municipality (number of inhabitants);
- geographical position (region, distance from the capital);
- legal status of the local government (village, town, city with county rights, capital district);
- heterogeneity of local society (social, ethnic, and religious divisions); and
- level of socioeconomic development (composed of statistical data).

1.3 Administrative–Territorial Background of Armenia

According to the Constitution and the Law on the Administrative-territorial Division of the Republic of Armenia, Armenia is divided into ten regions and the capital city of Yerevan, which is accorded regional status. Regions are further divided into rural and urban communities.

A *marz* is an administrative subdivision that has some characteristics of a Local Governmental Unit (LGU), but is not classified as such because there is no provision for *marz* officials to be elected by local constituents. The executive head of a *marz* is the regional governor, or *marzpet*. The Government of Armenia

appoints marzpets to carry out different duties with the assistance of regional administrations. Regional administrations, or councils, are advisory bodies, composed of a governor and all community heads from the region. The functional responsibilities of the marzpet are limited to the coordination of activities of government ministries conducted within the marz. However, technical knowledge, combined with the informal political power of an individual marzpet, may increase his or her effective authority far beyond its purely legal basis.

According to the Constitution and legislation of Armenia, regional governors (marzpets):

- coordinate activities of territorial representation of the central government;
- implement territorial policies of the government; and
- supervise of the activities of local self-governments.

Yerevan has regional status, and the local self-government and state administration possess special features. The twelve city districts function as units of local government. The districts themselves vary greatly with

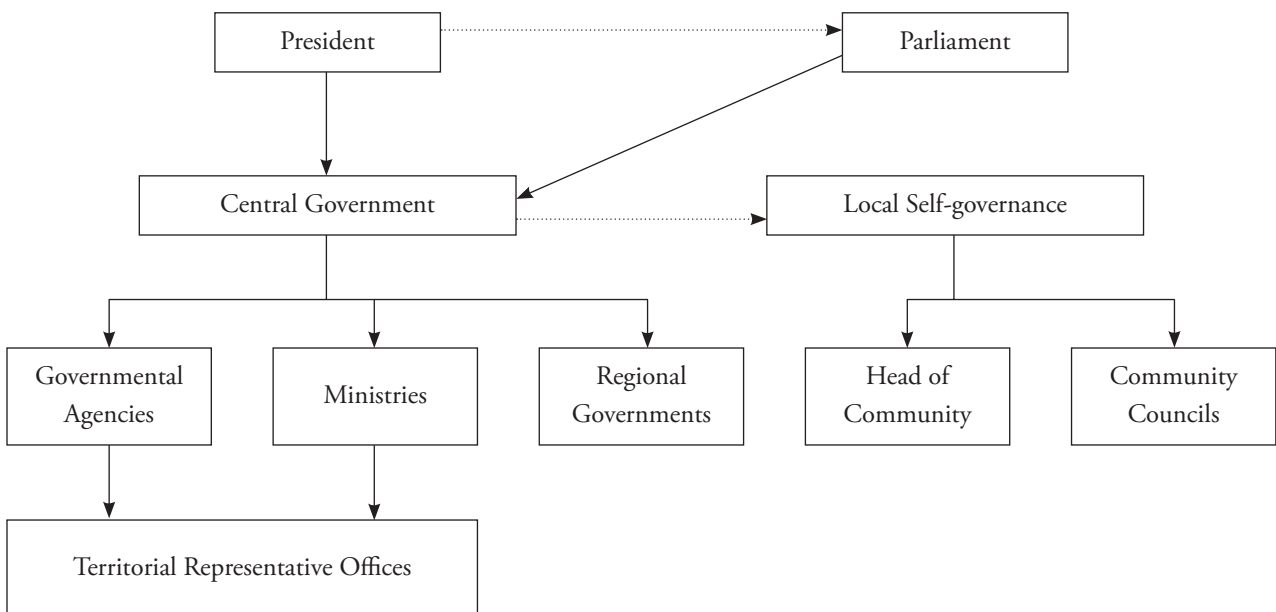
respect to territory, population, infrastructure, public parks, and other characteristics.

In Armenia, local self-government is exercised only within the community unit. Each urban or rural community may consist of one or more settlements; there are 1,000 settlements in Armenia, but only 930 communities. Of these communities, 47 are urban, 871 are rural, and 12 are Yerevan districts.

Within a community, a council of elders and a community head comprise the local decision-making body. Community elders act collectively as a representative body, providing guidance on community development, improvement of community life, public service delivery, and other issues. Communities vary widely in regard to population, territorial size, property, and social and economic structure.

A city or village is a corporate and political body (legal entity) with jurisdiction over a definitive geographical territory. It is an LGU under Armenian law, and has specified powers and responsibilities. Executive authority in Armenian LGUs is vested in the mayor and his or her appointees. Legislative authority is vested in the Council, which may range in size from five to fifteen members, based upon the population of the respective community (Figure 1).

Figure 1.
Public Administration Structure in Armenia



Source: South Caucasus Regional Program 2003.

Current administrative and territorial divisions have both negative and positive aspects. New divisions have increased the role and importance of local self-government as the basis for the development of democratic institutions. They also have provided relevant redundancy measures in public administration. Negative aspects have become apparent over the last decade, for example:¹

- The enlargement of administrative units (creation of marzes) was not supported by the allocation of a larger scope of authorities to local self-governments;
- Numerous communities were created, which are small, weak, and incapable of rendering services to their population; and
- The declarative nature of the powers attributed to marz administrations accompanied an absence of implementation mechanisms and legislation on territorial administration.

The Constitution of the Republic of Armenia (1995) initiated the formation of a local government administration system. Further development of the decentralization process was grounded in a number of important documents:

- The Treasury Law contains elements of devolved power consistent with the Law on Local Self-government. It refers to the powers of the local governments to allocate their own resources.
- The Law on Local Self-government (July 22, 1996) delegates certain powers of the state to local self-government bodies, with the right to carry on activities related to the interests of the community. The list of property transferred to local governments was published in Government Decree 51, March 1997.
- The Budget Law (July 21, 1997) defines the procedures of the budgetary system. The Law confirms the State Budget and the process of implementation of the Budget for specific fiscal periods. Community budgets are defined as those administered by the self-government bodies of urban or rural communities.
- The Financial Equalization Law (November 24, 1998) promotes harmonious development by reducing financial disparities between communi-

ties and enabling the implementation of their mandates. However, the Law does not encourage local governments to maximize revenue collection. Subsidies and subventions are allocated to local governments that are least well-off and targets for revenue collection are not set.

- The Law on Territorial Administration (December 1995) describes the regional marz system and the appointment of marzpets.

The principles in the Law on Self-government fulfill the commonly recognized requirements of a modern (Western) system of territorial administration. In addition to mandating transparency, the Law upholds the notions of autonomy from the central government and accountability and democracy through the election process. However, there are some practical deficiencies that adversely affect an LGU's ability to perform as a significant provider of public services.

Armenian legislation on local self-government is largely based on the European Charter of Local Self-government. In its *Report on Local Governance in Armenia*, the Bureau of the Congress of Local and Regional Authorities of Europe (CLRAE) noted that "the chief requirements of the Charter are thus fulfilled by Armenian law, which does not contain any provision conflicting outright with a principle of the Charter." However, the report goes on to mention that "the fact remains, as the Armenian authorities are themselves convinced, that the functioning of local government at present is not without defects and shortcomings that will have to be rectified" (2002).

2. PUBLIC PERCEPTIONS AND PARTICIPATION

2.1 Public Perception of Local Governance

There is no single, widely accepted definition of "government performance" in the social sciences. Consensus on the measurement of local government performance, in particular, is conspicuously absent in the relevant literature. Performance has been identified with several concepts and configurations, for instance:

effectiveness, efficiency, productivity, economy, appropriateness and accessibility of services, smoothness of decision-making processes, service quality, client satisfaction or satisfaction of the strategic constituency, responsiveness, and respect for political freedoms.

Agreement on three core principles of local governance and administration can be deduced:

- “liberty” (autonomy), referring to the existence of local government to prevent the concentration of political power in one center, and to allow for making political choices in different locations;
- “effectiveness,” regarding the ability of local governments to deliver various services more effectively; and
- “participation,” meaning that the existence of local government allows for wider inclusion of citizens in self-governance.

As Swianewicz writes, “One may expect that in countries in which more attention is paid to both territorial representation and the democratic values of local government, the type of relationship between municipal authorities and local citizens will be different

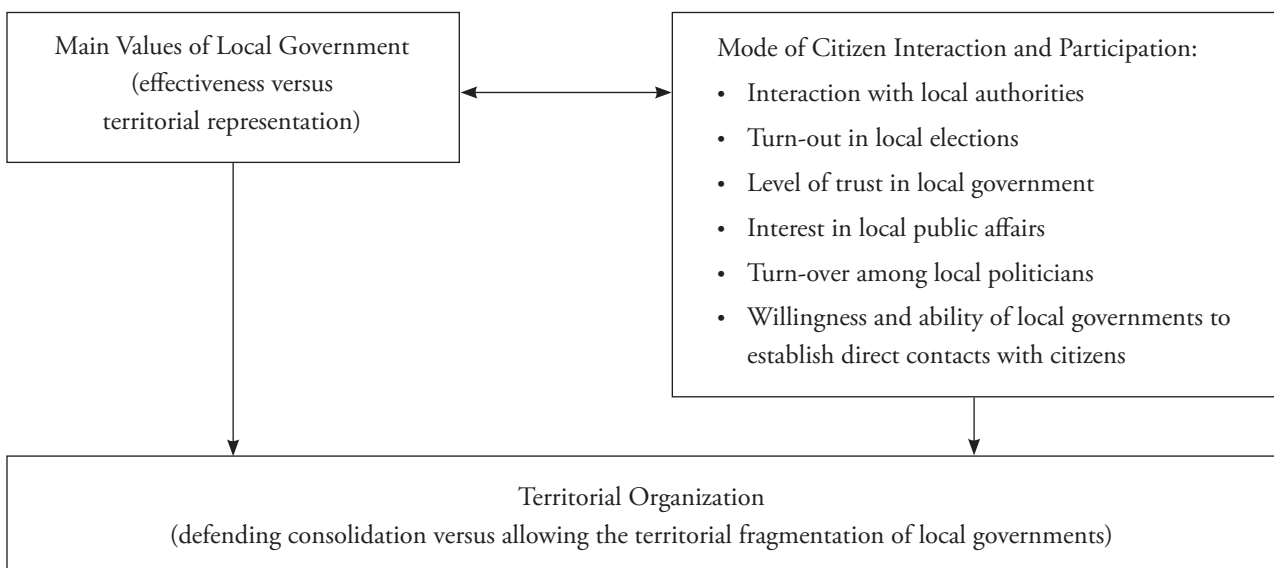
than in countries that concentrate on effectiveness and efficiency values” (2001) (Figure 2).

In light of decentralization and development, the current social, economic, political, civil, and cultural situation of Armenia cannot be seen as separate from active public participation in the public administration system.

2.1.1 Public Participation in Decision-Making

Important factors for evaluating “good governance at the local level” are public participation in decision-making and rule-making, and representation of all population groups at the local government level. Citizen participation in governance is a fundamental right that enables individuals to contribute to the development of their society. At the same time, citizen participation guarantees that governance objectives are indeed the objectives of a society or community. It is an essential factor of successful governance, as it makes governance more legal, transparent, efficient, and democratic.

Figure 2.
Interactions among Local Authorities and Citizens



Source: Swianewicz 2001.

Democratic performance is understood here as the capability of a local government to be open and to include citizens in the decision-making process. It is measured by several indicators:

- Citizens: number of forums and public hearings (2002–2003). The number of such meetings with local citizens indicates the openness of local government and the willingness of local leaders to involve citizens in the decision-making process;
- Civil organizations: number of civic organizations involved in local government decision-making; and
- Media: frequency of initiation of contacts with journalists and media representatives.

Apart from electing local government representations and the mayor, the Law on Local Government defines three ways to foster the expressing of the interests of local government constituencies: local referenda; public hearings and discussion forums; and popular initiatives.

Table 1.

Citizens’ Participation in Local Government

Guarantees for Participation	Types of Participation
Based on the Constitution of Armenia	<ul style="list-style-type: none"> • Local elections • Right to organize meetings • Participation in parties’ activities • Legal defense
Opportunities provided by law	<ul style="list-style-type: none"> • Meetings • Discussion hours • Right to complain
Offered by local governmental bodies	<ul style="list-style-type: none"> • Informative work of local bodies • Questions and answers, advises • Civil experts, public functions

Source: Gevorgyan 2000.

The most fundamental legal principles for government/citizen relations are provided by the Constitution of Armenia. On this basis, a new quality of legal regulations should be achieved to fix a precise and clear understanding of the function(s) of local governmental organizations, as well as to elaborate on their relation with citizens. This is a very complicated task in Armenia; thus far, it has proven to be less democratic than bureaucratic. Under an extremely centralized system of governance, the main indicator of success is understood often as authoritativeness. Officials’

responsibilities are very often described in a rather vague and unclear way.

However, in terms of legal regulation of government/citizens relations, one should not underestimate the weight of laws. Any official act of a local governmental unit is accepted as a “legal” act. This means that any governmental organization is “above the law” in its relations with citizens. Amending this requires depriving most local governmental units of their power to issue regulations governing government/citizen relations and/or concerning citizens’ rights and freedoms.

Citizen willingness to participate in public activities is an important factor in the public’s ability to influence local government. It can also serve as a measurement of the effectiveness of citizens’ influence, and of the multiplicity of opportunities to exert such influence. Attendance at local council meetings by the public and involvement in decision-making processes are essential when citizens’ interests are to be protected.

Our recent research focused on the level of interest of community members toward local governmental units. This survey indicates that during the last year, interest in local governmental bodies has increased. Generally, evidence suggests that during election years, interest in politics and governmental activities grows (IFES). Interest in local governmental bodies is lower than interest in politics and governmental activities. Place of residence (rural/urban) appears to affect interest in, or intention to learn more about, politics and governmental activities (Figure 3).

Of note, interest in central governmental activities was high in 2002, when the President of Armenia and members (deputies) of Parliament were elected.

A main reason for disinterest in the activities of local governmental bodies is the lack of trust in officials. Among the 64 percent of respondents not interested in local governmental issues the following reasons were given:

- I don’t believe that I can influence LGU decisions (57% urban, 35% rural);
- LGUs are weak and depend on the central government (24% urban, 2% rural); and
- I am not interested in politics at all (19% urban, 26% rural).

The general assessment of local governments is much better in smaller communities. The level of trust varies from 38 percent in cities to 62 percent

Figure 3.
Questionnaire: Are You Interested in Local Government Activities? (Answer “Yes”)

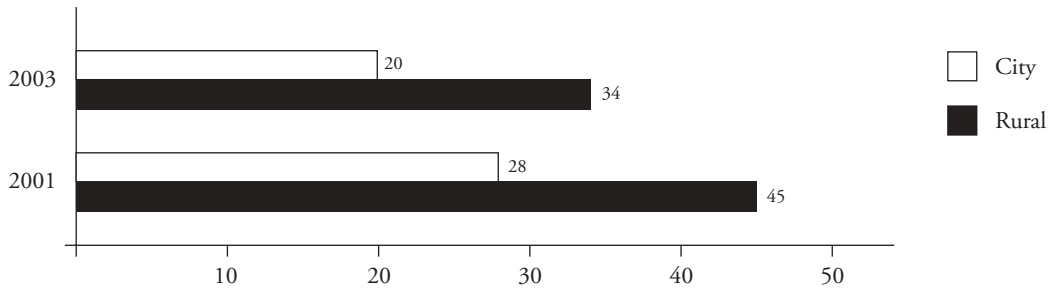


Figure 4.
Questionnaire: Reasons for Disinterest in Local Affairs (January–July 2003)

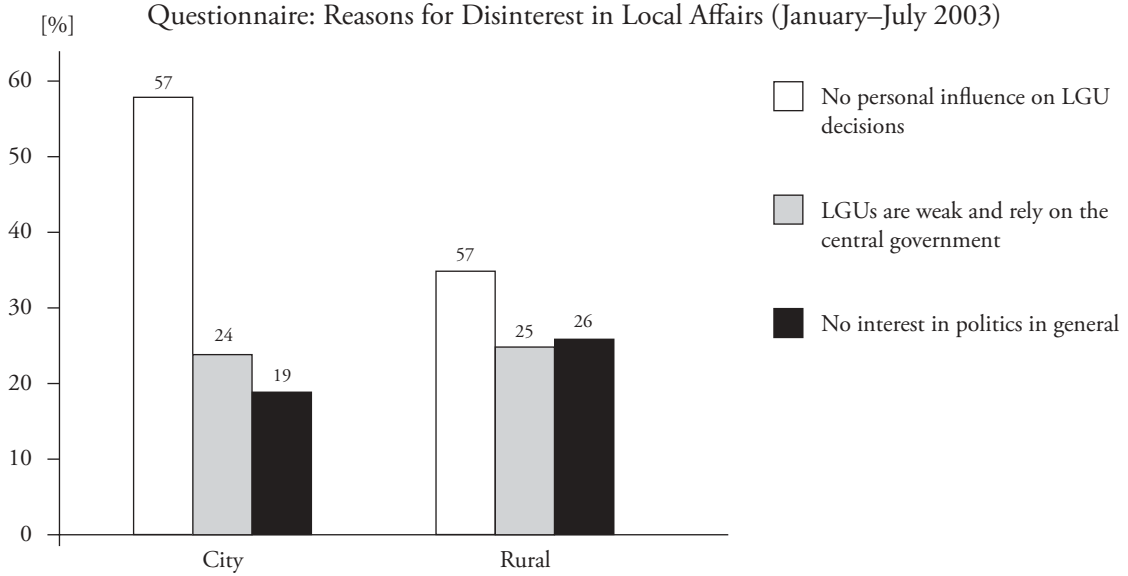
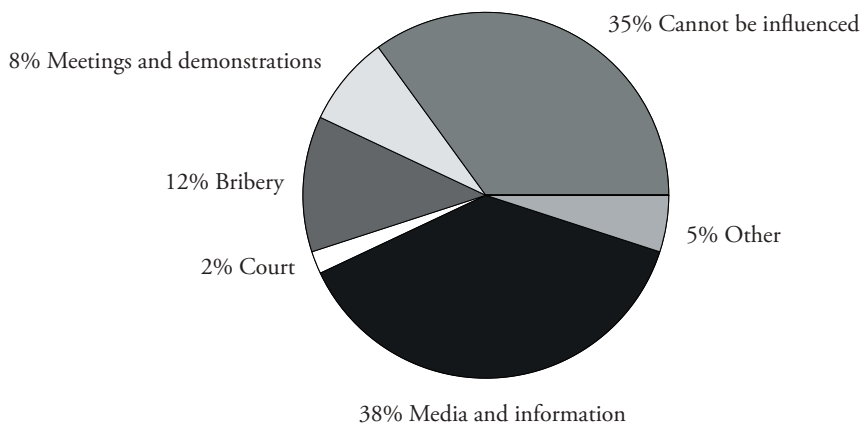


Figure 5.
Questionnaire: Primary Means of Influencing Local Government



in rural localities. When asked to consider the main means to influence local political officials, 35 percent of respondents believed that “there is no means.” Just over 40 percent thought meetings and demonstrations were effective means of influence, while 8 percent mentioned the media and other means of distributing information. Interestingly, 12 percent pointed to bribery as a way to influence on local officials. Only 2 percent mentioned the court and other legal measures. Finally, only 4 percent suggested letters to officials and officials meetings (Figure 5).

This research found that current developments in internal politics create a less favorable situation for citizen participation in local governmental bodies’ decision-making. Citizens do not believe that their opinions are taken into consideration.

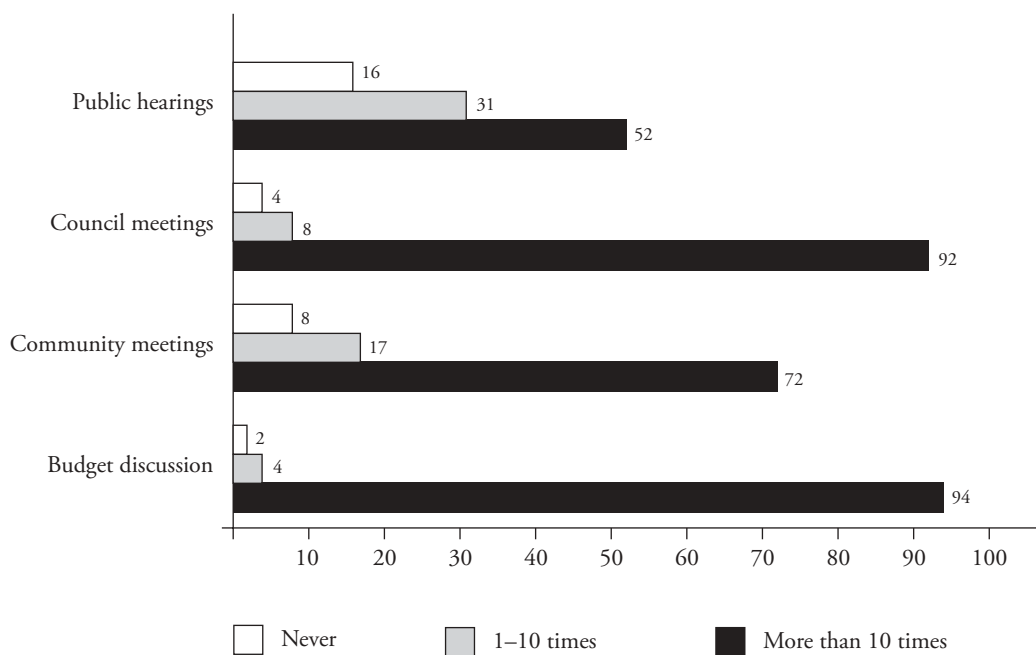
According to the survey, for almost 75 percent of respondents, community heads do not organize meetings, hearings, and surveys. Only 3 percent of respondents participated at least once in council meetings, and 14 percent mentioned that they voluntarily participate in activities (benevolent, social, political) aiming to support community affairs. Among respondents, men tend to be more active than women, and the inhabitants

of Yerevan more frequently participate in such civic activities than those in rural areas. Respondents also complained that governmental officials rarely communicate with their constituents: 92 percent could not remember a single case when their local self-governmental body attempted to gauge community opinion about their work. Only 2 percent answered that they had, at some point, been asked to complete a questionnaire on these matters; 4 percent had participated in public hearings; and 1 percent had participated in meetings with experts for advice about particular problems in their community (Figure 6).

Another survey of 18 officials of local self-governmental bodies in Kanaker-Zeytun, Malatia-Sebastia, and Shengavit districts and in the towns of Vedi and Artashat indicates that community members do participate (and willingly) if a problem concerns communal services (water distribution, electricity) or the local tax rate and methods of collection. According to this survey, public administrators are convinced that citizens are either not interested in community affairs at all, or only engage in contact with authorities to offer criticism.

According to officials, most citizens are interested in the following activities: voluntary organizations

Figure 6.
Questionnaire: Participation in Select Activities (%)



providing public services, voluntary free-time activities (sport, culture, exchange of cultural groups among communities), and religious activities.

Finally, in regard to citizens' participation in local budgeting processes, one-third found the topic uninteresting. A respondent's willingness to be informed about municipal financial activities affects participation levels. The level of involvement of citizens in the local budgeting process is high among community members with a high educational background.

2.1.2 Voter Turnout

In 1996, the National Assembly of Armenia adopted the Law on Elections to Local Governments and the Law on Local Self-government. The first local elections were held in November of that year. Based on the European Charter of Local Self-government, the Law on Local Self-government established general principles of local self-government as well as the specific division of powers within local governments. Local government powers refer to responsibilities funded by the local budget, and responsibilities delegated and funded by the state. Local governments have some flexibility in implementing voluntary community-related activities within the framework of the law.

Heads of communities and councils are elected through direct, general, equal, and confidential elections for three-year terms. The number of members in a council depends on the size of the electorate. A community council is a representative authority, while the executive body of the local self-government serves as the community head.

Participation in elections is correlated with the size of the community and level of government; this has been true for local as well as presidential elections (recently held in February and March of 2003). Analysis of turnout in local elections suggests a gradual rise in electoral participation. Turnout in local elections in 2002 reached 53 percent of the electorate, up from 31 percent in previous elections. Interestingly, although citizens usually trust their local governments more than the central government, they do not see local politics as being as important as national politics. During both the first and second rounds of the presidential elections, nearly 60 percent of the electorate participated.

2.2 Client Satisfaction with Public Services

2.2.1 Service Delivery and Level of Satisfaction

Under the Law on Local Self-government, services are divided into three categories: mandatory, delegated, and voluntary (Appendix 2). One area in which the allocation of functions between central and local government remains particularly vague is social protection. Responsibility for this function is not usually assigned to local governments. However, as principal providers of certain services, local governments may become responsible for the payment of need-based allowances, such as housing, which are rational consequences of policies aimed at cost recovery. The introduction of such allowances is not discussed in the Law on Local Self-government.

More local services in Armenia are now delivered by organizations with largely or entirely non-elected boards: private educational facilities, colleges and universities, voluntary organizations, and primary care groups. An issue of growing importance is the need to develop a more responsive and better quality public administration for citizens. The overall goal is therefore to set out clear definitions of the roles, responsibilities, and accountability of local government in providing services.

In many communities, a large number of respondents were simply interested in better quality services, and not in answering surveys or expressing their own opinions on policy issues. This was more the case for larger urban centers (24%) than for smaller communities (15%). Although public opinion regarding local government is usually better than public opinion regarding central government institutions, there is, generally, a modest level of satisfaction among citizens regarding local government activity.

Empirical investigation has been conducted in several main fields of inquiry, namely:

1. the provision of services to citizens; and
2. the development of a supportive administrative framework for citizens.

In general, respondents were not completely aware of whom to approach in case of need for services—water supply, waste disposal, electricity, telecommunication,

reconstruction of roads, and so on. Most (68%) would apply directly to a water supply organization, and only 24 percent to public body—such as a mayor, head of a rural community or council. This indicates confusion, as the water supply previously was the responsibility of the municipality, while now, in many communities, it is provided by private entities. Similarly there is confusion over the level or institution that a citizen or organization should confront: to ask for assistance reconstructing a road, 50 percent address the mayor, council or community head. Only 10 percent suggested they should apply to the governor.

Applications to officials vary according to locality. Results from this survey were compared with an IFES survey (2001). In the latter, 17 percent of inhabitants of rural areas and 6 percent in urban areas had applied to one of their elected bodies (the mayor, community council or head). Current research reveals that this number has grown, as a result of more information about citizens' rights and responsibilities. Also, during election years, politicians and officials tend to be more responsive to the needs of community members. As a result, people often use this opportunity to solve a number of problems they previously could not. When asked if they had applied to an elected official during the election year (2002), 58 percent gave an affirmative answer; 36 percent of these were rural inhabitants, and 22 percent were urban (Figure 7).

A number of indicators were used for this study to determine overall levels of satisfaction with local self-government. These dealt with: general satisfaction and contentment; the performance of councilors and officials; and the level of satisfaction with local services.

In general, respondents voiced their dissatisfaction with local self-governmental bodies' activities. Dis-

satisfaction increased compared with previous years (2000, 2001, and 2002): 73 percent of respondents answered that they were very dissatisfied with their local council or mayor, compared to 48 percent in 2000, 54 percent in 2001, and 64 percent in 2002. The level of citizen satisfaction with local police performance is indicative of this distinctly negative trend. According to an IFES questionnaire, only 18 percent expressed satisfaction with their administration, compared to 38 percent the year before. The number of satisfied respondents was much higher in rural areas (38 percent) than in urban centers (23%) (Figure 8).

For this study, it was of particular interest to investigate especially problematic areas, issues, positions or individuals, and levels of administration and service provision. Questionnaires included different types of services in both rural settlements and cities. Respondents were mainly interested in services that are the responsibility of local governmental bodies.

Local government profiles and types, isolated through profiling, can be dependent variables even in quantitative studies. The components of local government performance profiles can also serve as dependent or independent variables in research designs. For example, the satisfaction rate of local citizens can be the dependent variable, explained by several independent variables (such municipality size or wealth) or other types of performance (the effectiveness or transparency of local governments). These research questions address both the profile and its components as dependent variables.

In general, the level of satisfaction with local councils is closely related to community size. A questionnaire was distributed in five localities (Yerevan, Artashat,

Figure 7.
Questionnaire: In 2002, Did You Apply to Your Local Elected Official? (Answer "Yes")

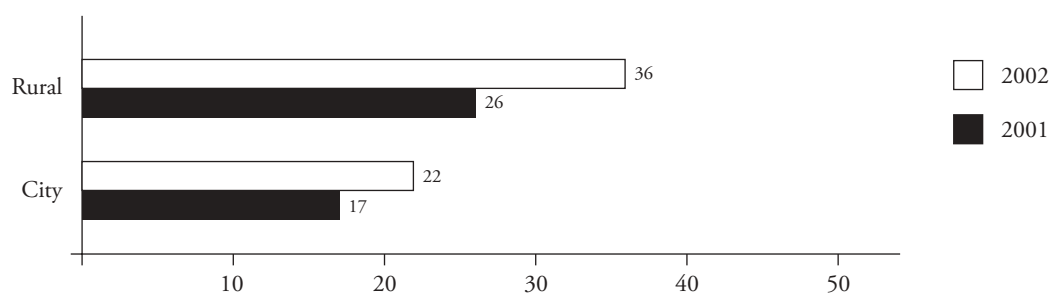


Figure 8.

Questionnaire: Satisfaction with the Performance of Local Council or Community Heads

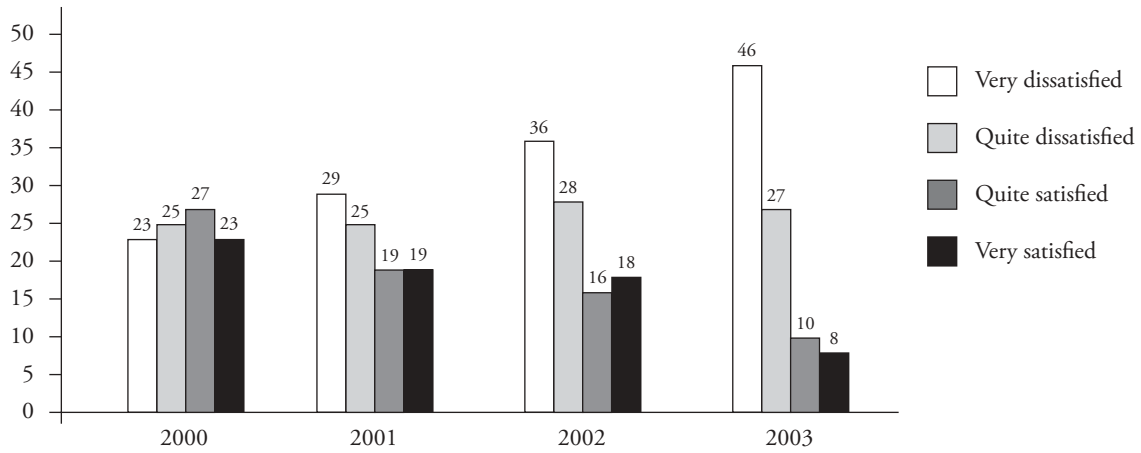


Figure 9.

Questionnaire: Percent Satisfied with the Performances of Councilors and Officials

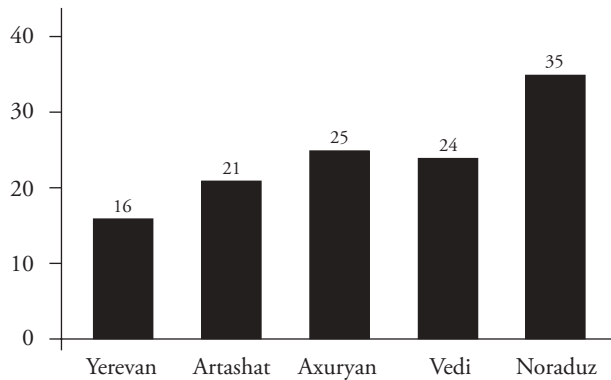
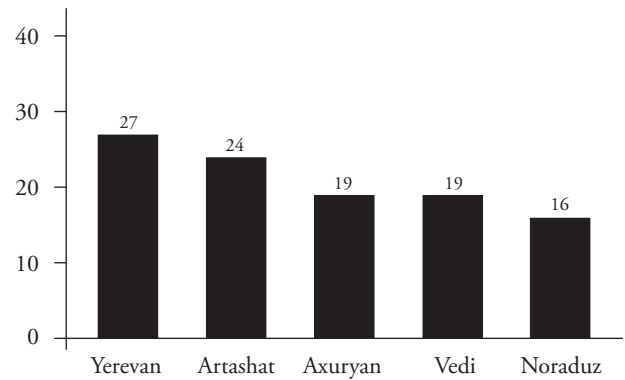


Figure 10.

Questionnaire: Percent Satisfied with Local Services



Vedi, Noraduz, and Areni) of different sizes. In each, 20–26 citizens were asked about their satisfaction with their local government (Figures 9, 10).

Respondents were particularly dissatisfied with issues connected with community infrastructure; social, economic, and educational spheres; and health protection. Mostly, respondents stressed unemployment (25%), and waiting for new administrative methods from the local bodies regarding direct investments. As well, there was significant mention of the need to enable local self-government with the powers to improve the social situation of pensioners, large families, and

disabled people (16%). The lack of water supply and irrigation systems were of considerable concern for rural settlements, particularly in villages dependant on agriculture (13%). The respondents living in suburbs of Yerevan mentioned water supply as the most prominent “unsolved” problem, about which they often apply to local officials. Energy is of particular concern in several areas and districts; in some, it is a “resolved” issue. Finally, respondents were generally satisfied with educational, leisure/sport and cultural activities (12%), and with the construction of schools, kindergartens, cultural centers, and sport facilities (7%).

Figure 11.
Questionnaire: For Which Issues Have You Applied and Remain Unsatisfied?

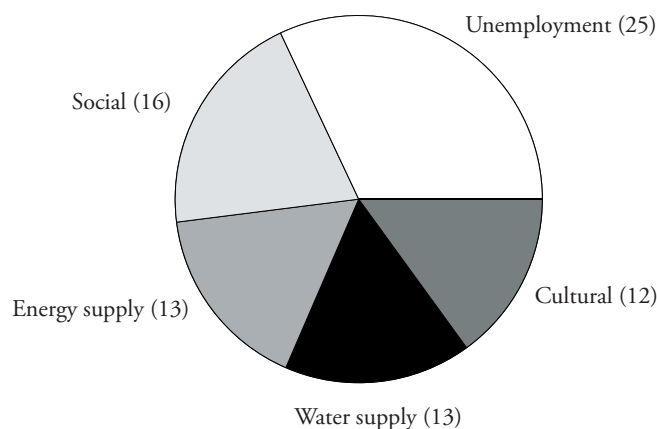
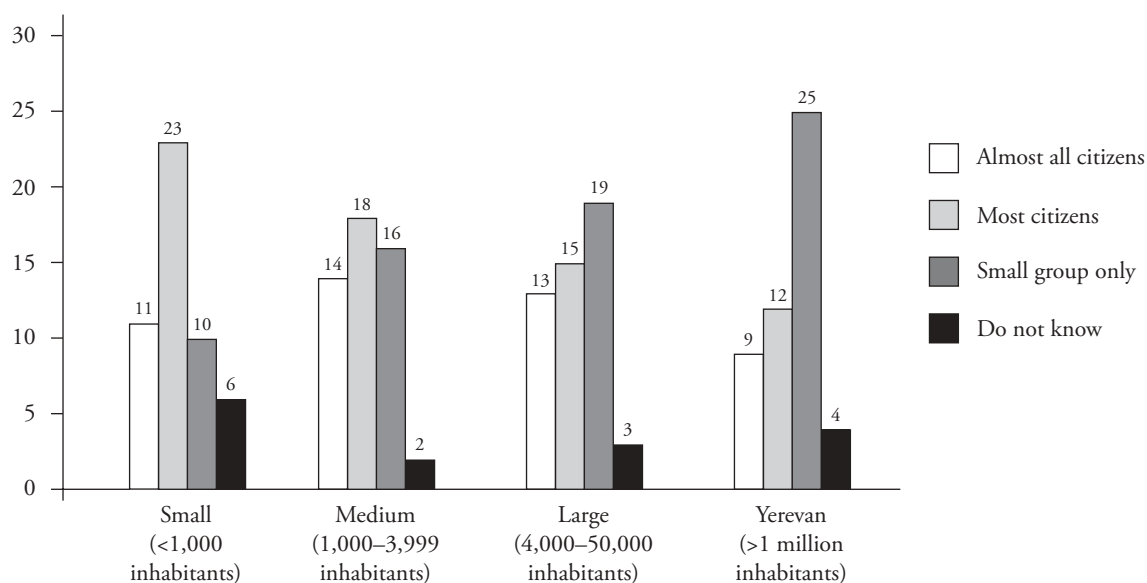


Figure 12.
Questionnaire: Local Self-governmental Bodies Act in the Interest of What Part of the Population?
(By Community Size)

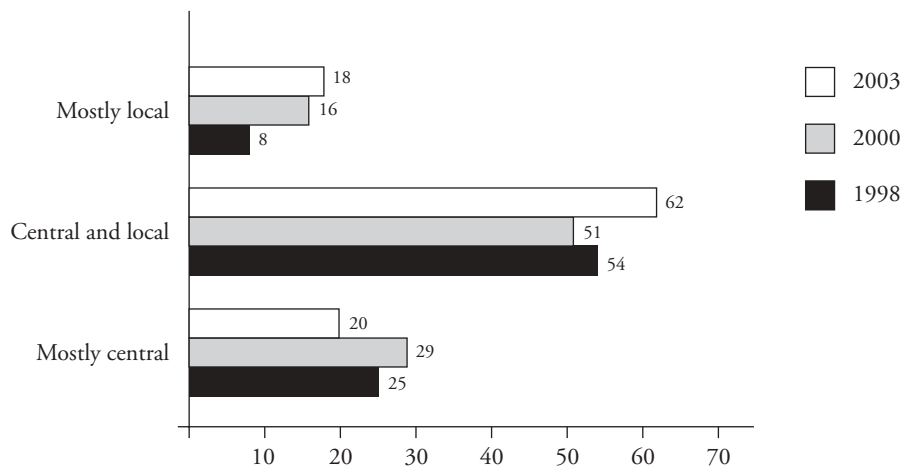


Asked whether various public institutions act in the interest of the whole society (rather than only in the interest of a small group), citizens in all 14 communities assessed activities of local governments as being much better than central institutions, such as the Parliament. In rural regions, citizens were much more positive about their local government than were inhabitants of urban areas (Figure 12).

Data suggests that the smaller the administrative unit, the more positive the opinion of citizens concerning local authorities' activities. In smaller communities, the more often citizens meet local councilors, the better citizens know their representatives, and the more active they are in local politics and civic events. In Armenia, over 30 percent of respondents believed that government at the local level improved in recent

Figure 13.

Questionnaire: Is Corruption More Prevalent at the Local or Central Level of Government?



years; 54 percent thought it had worsened. The high level of dissatisfaction, as well as on-going administrative abuses, have been attributed to crime and corruption within local governmental bodies, which leads to illegal activities and the abuse of official responsibilities.

Indeed, corruption in Armenia appears to be flourishing. According to a recent survey by Regional Development/Transparency International (RD/TI), 61 percent of citizens, 41 percent of entrepreneurs, and 54 percent of civil servants believe that corruption is “endemic.” Some suggest defining corruption broadly, to include the abuse of office and bribery. Analysts agree that all the key spheres in Armenian society and economy are experiencing extreme pressure from corrupt officials in the higher echelons of power.

Recently, research and consultancy on crime prevention and community safety measures by the police, local authorities and community-based organizations have been launched. A primary approach to crime prevention and community safety is that the involvement of residents and users is essential for problem-solving and for control. Regardless of the real situation, it is very dangerous for local democracy that many people believe that local government in Armenia is more corrupt than other political institutions. This opinion has been quite recently expressed by the media, in regard to local authorities’ significant and negative influence on the voting process during the presidential elections. Particularly during preparatory stages in local elections,

the involvement of corrupt individuals and actors in local governance has been high. Figure 10 shows citizens’ perceptions of corruption as an issue of local or central administration (Figure 13).

2.3 Administrative Control of Local Governmental Bodies

2.3.1 *Transparency and Access to Information*

Three main dimensions of transparency are necessary for a democratic system (Mather 1998):

1. Public access to information must be granted not only in theory, but also in practical terms. This requires not only that individual documents be accessible to the public, but also that the decision-making process be easy to follow, and that decisions be phrased in clear and understandable terms.
2. The thought processes, actions, and influences behind published documents and decisions should be publicly accessible. People should know why and how decisions have been made, so that those who have made decisions can be held accountable, if only as a last resort.
3. Transparency and access to information should empower people in general, and interested parties

in particular, to contribute to decision-making. People need information to know how to act effectively.

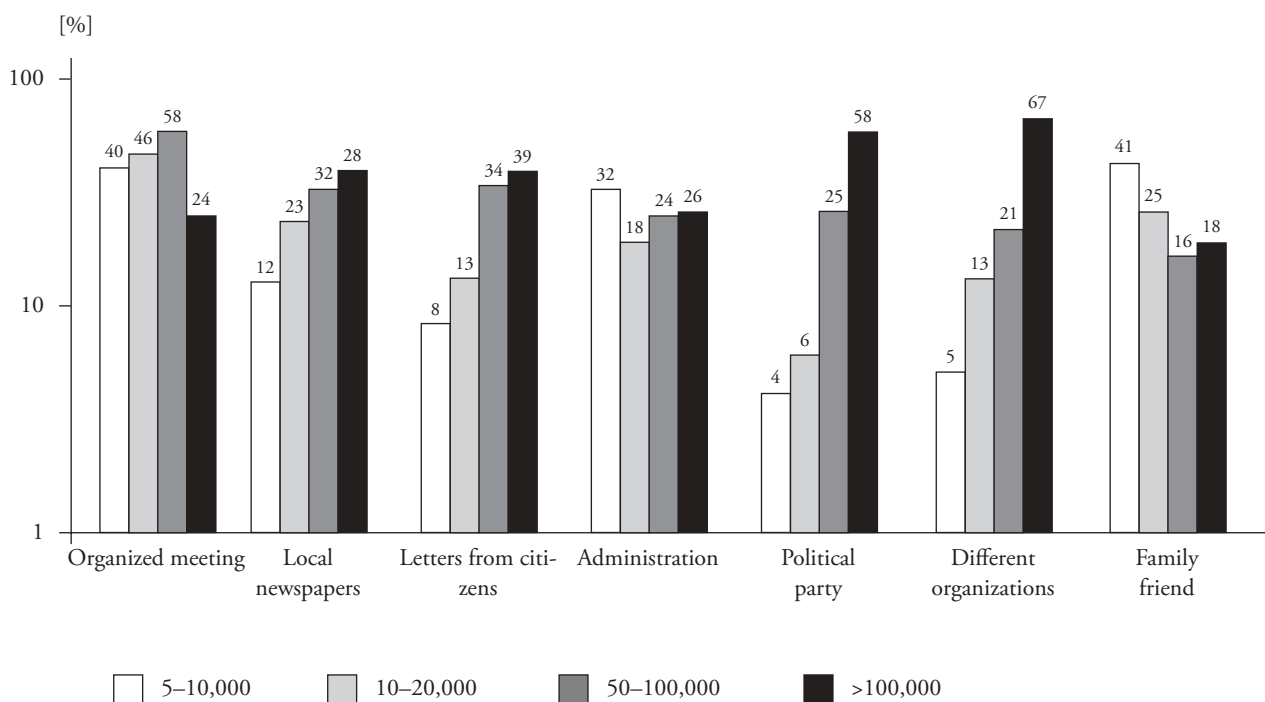
The formal framework comprises the laws and legal forms of regulation for the activities of community members, the council, and community leaders. Broadly speaking, the lack of transparency, accountability, and equity is a fundamental and pervasive administrative abuse in Armenia. Applying formal rules based on transparency, accountability, and equity will most probably lead to the creation of informal rules that, along with the formal rules (and by being conditioned by them), will establish grounds for sustainable (if not habitual) administrative remedies. Ethics and morality are typical examples of the informal groundwork necessary for the creation of a stable social system.

During recent years, it has become clear that openness and transparency in local government are particularly burning issues. Surveys conducted in four districts of Yerevan, in the town of Artashat, and in the villages

of Noraduz and Axuryan, suggest that respondents are mainly not well informed about their local government activities. Lack of information is endemic, particularly in Yerevan; the degree of transparency differs from district to district. The highest rates of transparency in local self-governmental activities were registered in Kanaker-Zeytu; the lowest, in Malatia-Sebastia.

About 46 percent of respondents living in villages answered that they are, in general, aware of the activities of their community head and council. However, the remaining 54 percent complained that they need more objective information about local affairs. They would like local media to report on issues pertaining directly to the community. Local government officials, meanwhile, make use of relatives and friends in order to gather information about community needs (79%). Sixty-two percent gather information from television; 32 percent, from newspapers and radio; and 8 percent from community members, organized meetings, local publications, and non-governmental organizations (Figure 14).

Figure 14.
Main Sources of Information for Local Self-government Officials Regarding Community Needs
(By Community Size)



Regarding the transparency of LGU activities from the perspective of the press, there are few journalists specially assigned to reporting on local government activities and operations. Such reporting is almost solely done by journalists who specialize in economic, social and legal areas. To illustrate, the Yerevan Press Club reported in 2003 that there are eight newspapers and numerous small weekly bulletins or newsletters published in Yerevan. The Press Club surveyed these publications to determine how they allocate available space to various issues. Unfortunately, information about local government activities either was not included among the surveyed activities or was so insignificantly reported that it does not register on the survey. Newspapers are, meanwhile, one of the main sources of information shaping public opinion. The Bulletin of the Yerevan Press Club reported that in domestic publications covering Armenian news, only 7.9 percent of the total coverage dealt with marz-level government activities, 7.4 percent with communities, and 0.5 percent with villages (2003). Reporters in Yerevan in particular state that they encounter significant difficulties in obtaining information from local authorities and do not perceive the information they do receive to be reliable or complete. Usually, information is provided in a form that is most favorable for the local authorities.

A recent study determined that LGUs are not meeting the requirement to keep their citizens informed. This conclusion was drawn from interviews with officials and community members to determine existing structures and procedures for providing information to citizens, NGOs and the media, and the extent to which local officials make such information available.

2.3.2 Openness and Transparency: Local Budgets, Fees, and Financing

As the local budget is created by all members of the community and is supposed to be directed to the resolution of community problems, it is extremely important to ensure its openness and transparency. Evidence suggests that in communities where citizens are well informed about the sources and expenditures of their local governmental bodies' activities, citizens fight against administrative abuses more effectively. This particularly pertains to finance and budget activities.

In order to make the budget more understandable for a whole community, composed of diverse individuals, it is essential to make financial documents clear and understandable. To these ends, the Community Financial Officers Association of Armenia has elaborated, developed, and implemented information systems in five regional centers of Armenia: Artik, Aparan, Abovian, Ararat, and Ejmiacin. This involves:

- training community financial specialists on how to make initial information understandable for community members;
- training community members regarding their rights and responsibilities; and
- legal training for local governmental officials and community members.

These activities are implemented through focus groups, non-governmental organizations and other civic groups, and direct and open work with LGUs and councils. As an effective method of transparency, the information centers promote and make use of newspapers, journals, television, and so on.

Perhaps the most important means of information dissemination is through informational technologies with which it is possible to elaborate a program for budget calculations, particularly for tax purposes. Such technology creates access to local governmental information, both for those working within the government and for community members. In fact, recent analyses suggest that in almost every village surveyed, there are many abuses that could be prevented through better means of financial management (and, in particular, by promoting accountability in financial management). It is known, for instance, that state and local taxes are primary sources of local budget revenue. As well, resources from various financial services (a civil registration office, or the local branch of the state notary office) also contribute to the local budget—at which point, community members tend to become confused. Civil registration offices or notary offices do not exist as such in every community; rather, they are mainly concentrated in regional centers, and fulfill functions for the members of neighboring communities. Consequently, this creates inconveniences for people who pay different types of fees into the budgets of other communities.

Another type of administrative abuse arises from a lack of knowledge about fee amounts, means of

payment, and so forth. Often, clients pay much more than necessary. Non-governmental organizations fight against these type of abuses. For example, members of one village community in Armenia paid more for birth certificates than stipulated by legislation. With assistance from a foreign organization involved in the defense of community members' rights, the formal, legal amount was disclosed. Since then, price lists for every service in the notary and registration offices have been publicly displayed.

Analysis has shown that the State (central) Tax Agency does not cooperate with community tax inspectorates during the process of tax collection. This suggests that the party most interested in tax is local government. Based on information from the Department of Tax Improvement at the Ministry of Finance and Economy, the level of tax collection in 2002 decreased by 7.3 percent from the previous year, as a result of the methods and administrative practices in rural communities, as well as the lack of a uniform organizational system. Local governments can significantly raise collection rates, because they have a greater interest in the collection, know more about their residents (in theory), and could administer some taxes more efficiently than the central government.

Finally, local governments do have the formal capacity to implement their legislative responsibilities. However, the collection of taxes, fees, rents, and other revenues is poor. This is explained not by the inability of local self-governments to implement their revenue duties, but by the poor social-economic state of the population. This is particularly true in rural areas, where unemployment is high and incomes are low. Administrative abuses ultimately lead to increased tax collection costs: a tax inspectorate reported that to collect 2 percent of taxes, they spend 15 percent of their operating costs.

3. REMEDIES AND ABUSES

3.1 Administrative Remedies for Specific Administrative Abuses

The goal of on-going, local government reforms is to develop more transparent, accountable, and responsive governance in Armenia. To meet this goal, projects

and programs should involve both governmental and non-governmental actors to strengthen local institutions and organizations, and to increase citizen confidence in them. In order to strengthen government institutions, local self-governmental bodies must support legal reform, for example by assisting the judiciary in becoming a more independent and effective branch of government. As well, local governments must strengthen their capacity to manage resources and respond to citizens' concerns. In this endeavor, the United States Agency for International Development (USAID) has initiated a program with the National Assembly of Armenia to improve internal management and to increase citizens' access to the legislative process and to their representatives. In order to strengthen non-governmental actors, USAID works with NGOs and communities to increase citizens' participation in public policy development and the oversight of the government. These efforts represent an interest in counteracting and combating administrative abuses.

Administrative abuses can include actions which are illegal (like bribe-taking or giving), which violate normal procedures (such as the preferential processing of paperwork) or which involve the inappropriate exercise of discretion (based on, for example, nepotism, cronyism, partisan politics or discrimination). Rekosh (2003) defines an administrative abuse specifically as an act of enforcement, the promulgation of a norm, the taking of a decision, or the denial of a benefit by a state official, which is illegal, a result of the inappropriate exercise of discretion, or procedurally improper, irregular, or erroneous.²

Among the number of ways to fight against administrative abuses, the most important remedies are:

- increased availability of legal services;
- increased availability of information;
- decreased barriers;
- increased transparency;
- effective and fair legal sector institutions;
- increased independence; and
- improved management and administrative capacity.

Developments such as the improving educational standards of the population, the changing role of the media, new technological services and opportunities,

and increasing expectations and awareness of the need for transparency and accountability in public life, have been commonly mentioned as recent areas of change for the better in Armenia. As in other transitional countries, these factors serve to ensure that old approaches are no longer acceptable. The government of Armenia tries to achieve this by supporting programs related to the following:

- increased citizen participation in policy development and oversight of government;
- the availability of multiple sources of information;
- a more responsive and effective local government;
- a more responsive and effective parliament; and
- a transparent, dependable and effective legal system.

The ultimate beneficiaries of administrative reforms are the citizens of Armenia, who gain not only an understanding of how to act upon their rights and responsibilities in a democracy, but also access to stronger democratic institutions.

3.2 Creating a Framework Against Abuse

The legislative and institutional framework for the execution of public procurement in municipalities relates directly to two issues:

1. The judicial basis, which basically consists of several interrelated normative acts, with no direct impact on services (from the point of view of better quality for the public). A normative basis is created for keeping corruption low.
2. The public procurement agency, under the government of Armenia, is supposed to regulate all public procurement in the country. It can only act within the framework provided by the normative basis.

Clients (citizens) are kept at a distance from control over the process of service provision, largely as a result of the long sequence of actions necessary for a service to be provided: gathering the budget, redistributing the budget back to municipalities, redistributing the municipal budget, organizing competition, and providing the service. Generally, citizens' participation begins and ends with the payment of taxes. Even procurement

committee meetings are kept secret—only a few details may be announced later, and only in the event of a written request for information. That said, there have been cases related to public procurement, when citizens approached their local government with complaints about bad road repair, improper service delivery, tax administration, and so on.

The fight against administrative abuses aims at achieving a correspondence between legal norms and the ethical standards demanded in public life. Those ethical rules not accompanied by legal sanctions are guided by the individual (ethical) intuition of members of society. There is always the possibility, however, of a conflict between legal and ethical norms. For instance, local governors enjoy immunity from criminal liability, but civic ethics demand that they be punished like other citizens for committing criminal acts. For this reason, the priority of those committed to democratic transformation and the elimination of corrupt practices is to reduce the number of discrepancies between legal norms and the ethical standards demanded in public life. The common goal of law and ethics in public life is, after all, to establish effective measures to guarantee state rule in the interest of the public.

In 1999, a monitoring project for investigating the legal framework for complaints concerning local governmental officials' activities, as well as activities connected with local governance, was launched. According to the results of this project, only one-fourth of all complaints concern the sphere of local governance.

3.3 Equal Access to Justice

Access to justice refers to the ability of citizens to use various public and private services on demand. Equal access means that such ability (and the treatment accorded) is not restricted to certain classes or groups of citizens. Access will always be restricted in some sense (for instance, by court jurisdiction or by material or financial constraints). For this study, the *basis* of such restriction is considered—and particularly that it does not additionally harm already disadvantaged groups. Mather states:

“Which groups are relevant is system dependent, but the usual concern is that access not be inequitably available according to gender, ethnic, politi-

cal, or religious category, social or economic class, or physical incapacity. Where apparently equitable rules may in fact bar access to such groups, special measures may be introduced (e.g., subsidized legal services, interpreters for those who cannot communicate in the court language) in compensation” (1998).

Establishing an independent judiciary was among the most important institutional achievements in post-socialist Armenia. Common constitutional features in this direction regard the method of appointment. In proceedings, typical arguments such as popular sovereignty, representation, method of appointment, lack of transparency and openness were used in opposition to constitutional control.

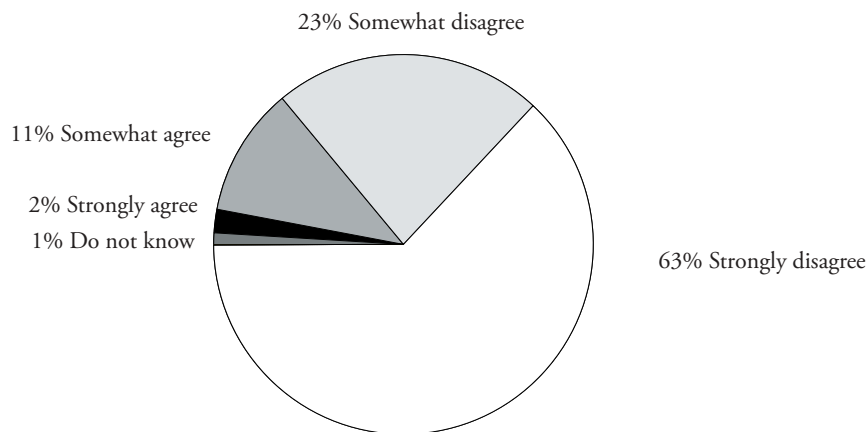
The defense of citizens’ rights and legal interests is considered one of the main principles of local self-governance in Armenia. Local governmental bodies may apply to a court and discuss any problematic issue—those raised between community members and local governmental bodies, or between a community head and the council. According to law, local self-governmental bodies have the right to complain against the decision of state bodies and officials for breaching rules in local governance.

The legal system includes (but is not necessarily limited to) such institutions as trial and appellate courts,

the judiciary, other court officials, administrative courts, the prosecution, public defense, police and other enforcement agencies, and prisons, as well as non-governmental entities such as bar associations, advocacy organizations, legal aid service providers, law schools, and other private organizations. The binding characteristic is their involvement in legal dispute resolution.

Research has shown that, in general, respondents are not well informed about the legal system of Armenia. Only 3 percent of respondents think that they know enough about the court system and their legal rights; nearly 70 percent feel as though they do not have enough information about their legal rights in local governance, and 21 percent answer that they have “some” knowledge. Education level and background play an important role in this survey: educated people tend to be more interested in legal and court systems. Respondents largely (88 percent) distrust the courts, however, because they do not make “fair decisions.” Similarly, 86 percent do not think courts are fair or act in the interest of all community members equally (Figure 15). That said, most citizens had never actually approached a court. Of those that had, one-third were satisfied with the decision. Finally, 96 percent believe that the legal system and the court are not independent from the state; according to the Foreign Investors’ Assembly, courts in Armenia are the second most corrupt state structure in Armenia (2001).

Figure 15.
Questionnaire: Do Courts Act Fairly and Equally in the Interest of All Citizens?



Generally, respondents stressed the following reasons for not applying to a court:

- lack of trust (44%);
- delays in issuing a final decision (16%);
- high incidence of bribery and corruption (23%);
- high application fees and additional illegal payments (6%); and
- lack of knowledge about the right to appeal (11%).

Access to justice will be limited if there are barriers, including formal and informal institutional and legal biases. Legal requirements may impose exceptional hardships on some groups—for instance, unusually large fees, or the requirement that a woman get permission from a male relative before appearing in court. As well, services may be located so that some (particularly rural inhabitants) must travel long distances, or institutional members may have certain prejudices affecting the performance of their duties.

Effectiveness is the degree to which the legal system (and justice sector institutions in particular) resolve disputes in a timely, predictable, and reliable manner; fairness is the degree to which justice sector institutions uphold principles of law in a manner that serves the public interest while treating all individuals according to the same standards. Fairness would also prohibit any arbitrary favors to any individual or group, unless prescribed by law. Importantly, legal organizations must be staffed by professional individuals, with specialized training and skills. A personnel system should be based on recognizing and rewarding professionalism.

A quick read of the Law on Self-government would seem to suggest that local governments in Armenia have been delegated broad powers by the state. For example, the Law states that “Local self-government is the right and capacity of local self-government bodies acting at their own responsibility, to dispose of community’s property and to resolve problems of community importance with a view to improving the well-being of the population.” However, a careful review of this Law reveals references to other laws that often take away from or severely limit those very powers and responsibilities that the basic law appears to grant. Moreover, the non-institutionalized nature of LGUs *vis-à-vis* the state make uncertain the amount of informal discretionary prerogatives available to local officials. When these

limited or ambiguous legal powers are considered in the context of a very low fiscal capacity and a high level of dependency upon state subventions, LGUs in Armenia are capable of little political, social, or fiscal impact.

In economic and financial spheres, the Law on Local Self-government upholds the notions of appropriate revenue assignment, property rights, and equity. The Law also permits the devolution of responsibility for the management of utilities and other communal services to the private sector through tender processes.

Public confidence in local government suggests improvement. A citizen participation survey, conducted in late 2000, shows a decline in citizen confidence in most governing institutions, except in the case of local government. The NGO sector’s rating in the NGO sustainability index did not change from the previous year, which reflects that the sector is developing—but that it remains financially and organizationally weak. Although there have been some examples of NGOs successfully advocating policy, legislative, and procedural changes, such incidences are not the norm. Progress in the legal sector lagged significantly behind expectations, with only marginal improvements in citizens’ access to the court system and in the professional standards and qualifications of advocates and judges. To note, the passage of a mandatory judicial code of ethics was expected, but revised during the year because of a lack of local understanding of and support for such a self-regulating process.

Decentralization usually begins with a legal framework, which sets out the responsibilities, powers, and resources for each level of government. The Charter of Local Self-government of the Council of Europe can be used as a point of reference for Armenia. The Charter offers a striking view of local government rights and duties, showing how seriously the principle of subsidiarity should be taken. It declares that local self-government is a cornerstone of autonomy, which should be supported by a broad set of rights and competencies.

The results of the USAID/Armenia Governance Index (a score of 1 out of 64) reflect the lack of progress made in the passage of critical legislation in the past year. This index measures the status and quality of legislation by looking at the adoption, supporting regulations, and implementation of legislation in six critical areas: civil service, public disclosure of assets for public

officials, the institution of the ombudsman, administrative procedures, freedom of information, and government procurement. In 2000, only one relevant law was passed (in the area of government procurement), but, at the time of writing, the regulations necessary for full implementation were not yet in place.

3.4 Transparency, Openness, and Fairness: Good Governance and the Exercise of Authority

One of the fundamental principles of local self-government is openness and transparency in the exercise of authority. In Armenia, local councils are elected bodies; thus, they are ultimately accountable to the voters. However, for local self-government to take root in a meaningful way, residents must be well informed about what transpires and how local decision-making should actually proceed. For instance, as noted, citizens should be kept informed about the sources of their local budget revenues, as this may stimulate their willingness to pay taxes, local duties, and charges. Ultimately, information about how and for what purposes community resources are spent, or about the services an LGU must provide from its limited funds, should serve to involve citizens in the solution of community problems and in the optimal distribution of available funds. Survey results indicate that there is insufficient transparency in LGU operations in Armenia. As well, the populace is not knowledgeable about local community activities, what the mandatory activities of the LGU are, and which duties are executed by community leaders. Citizens do not understand how the payment of taxes and duties is related to the improvement of service delivery. In short, transparency and access to information are important remedies for administrative abuses.

3.4.1 *Media and Other Sources of Information*

The media can serve as a means to promote good governance and to prevent abuses. In Armenia, there is a need to strengthen and diversify independent media and other sources of information dissemination, to encourage and enhance citizens' involvement in

decision-making processes. Diversity of local media refers to the number of locally available information sources that have regular coverage of local issues and are independent of each other. The total hours of local programs on local governmental issues in electronic media per month varies widely; there is no reliable information on this point. The total number of pages covering local issues amounts to approximately one-eleventh of print media. Surveys indicate that citizens are twice as influenced by the media now than they were in 1995.

3.4.2 *Openness and Fairness*

One of the principles of good local governance is *openness*. Does the local government promote openness and transparency by readily providing information about its activities? Does the local government allow and further citizen involvement in decision-making? These are critical questions in Armenia, particularly in areas in which remnants of state socialism continue to influence local governance. Democratic practices offer local citizens the opportunity to understand local governance operations and to participate in decision-making on local public issues. Certainly, citizens might not engage in local governance; however, this does not inherently detract from the quality of local government.

A second important principle is *fairness*. As democratic institutions, local governments are required to treat citizens equally and according to the rules. To put it simply, from the viewpoint of democratic decision-making, *performance is the capability of the local government to operate in an open and fair manner*. Measurements of fairness are based on survey questions about the sense of political efficiency; open discussions on public issues; the level of information on local government; the role of good connections; and corruption in local government offices. Measures pertain to transparency and openness in policy-making, as well as officials' political responsiveness. Political responsiveness is the relationship between what local government does, and what local citizens think it should do. This relationship is measured by the level of satisfaction with the allocation of resources and the quality of services and programs provided by the local government.

3.4.3 Continuity and Change in the Composition of a Local Representative Body

Continuity and change in the composition of a local representative body can also influence local government performance, although in an unclear way. Rates of change do not necessarily correspond to the level of interest among citizens in local officials or bodies. As well, change neither clearly hurts nor harms local governance. For instance, high rotation of officials was very common five years ago in Armenia. This increased the innovative capacity in local government but decreased levels of competence, which relates to political experience.

Change in the composition of a local representative body is measured by the number of new members in an elected body in an election year. In Yerevan, only 25 percent of the heads of local government changed after local elections in October 2002. Another indicator is knowledge about local officials. About 80 percent of respondents know their community leader’s name (mayor or rural community head); only 38 percent know the name of their deputy elected to Parliament. Such results vary according to the size of the community (Figure 16).

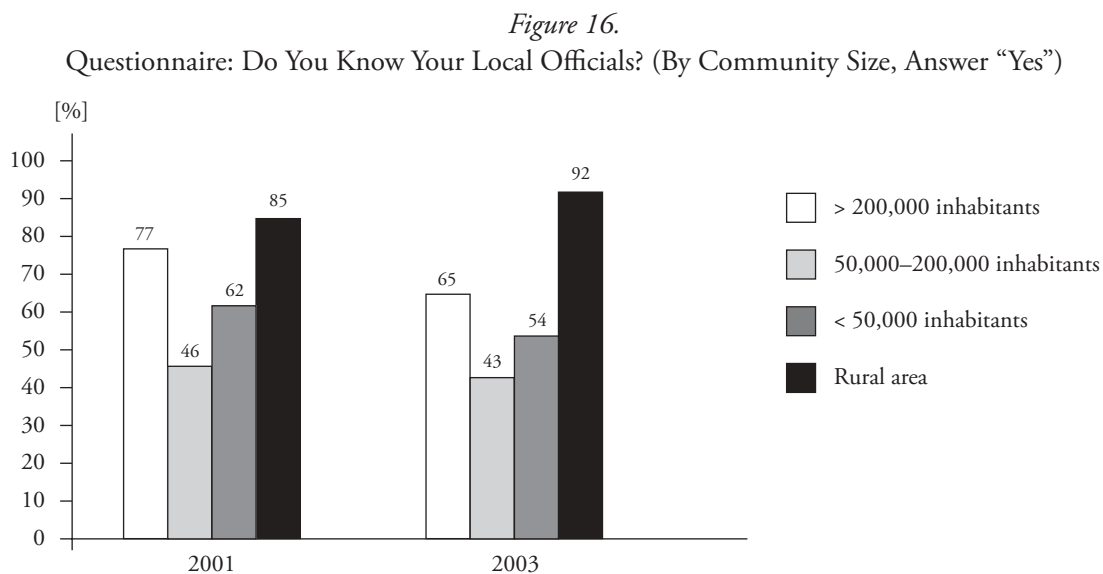
3.4.4 Accountability as a Remedy

Accountability as a control mechanism presses decision-makers to formulate feasible, efficient, and effective

policies; to reduce the diversion of public resources toward particular interests; and to improve service quality by imposing minimum standards. Local government officials must be ready to justify their decisions and answer to administrative, legislative, or judicial authorities. The importance of a well-devised, comprehensive, legal and institutional framework rests with its function to establish rules, incentives, and constraints on public officials. Institutions create opportunities for public officials to make choices and exercise autonomy. As well, they constitute a framework of regulations and other enforcement mechanisms that together provide a means of holding public officials accountable for their choices, as they affect fiscal and economic performance. There is thus a critical interdependence between accountability and the autonomy of officials: both rely on the strength of supporting institutions.

In order to analyze accountability as remedy for administrative abuses, its connection to indicators like responsibility, professionalism, and democracy deserves attention. In this regard, differentiating among types of accountability is useful.

1. *Administrative accountability:* The basic operational principle is to act in full compliance with technical rules and practices of the profession. Internal (administrative) accountability refers to superior administrative and political authority, while external accountability refers to external organs of



Note: Compared with analyses by the Institute of Economics and Law, 2001.

supervision and control. Citizens are the subjects of administrative accountability. Accountability criteria comply with established rules and procedures. Mechanisms are: administrative claims, judicial procedures, and external and internal supervision and control.

2. *Professional accountability*: The basic operational principle is to act in full compliance with technical rules and practices. Professional accountability also may be internal or external, depending on the superior professional organ (internal or external). The results of professional performance and the professional rules followed are subjects of professional accountability. For this type, criteria comply with established rules and practices of the profession. Professional accountability mechanisms are: internal technical or administrative control and external technical or administrative control.
3. *Democratic accountability*: This refers to acting in accordance with the needs and interests of social groups or societies; it revolves around “external” accountability to society and social groups. The subject matter of democratic accountability are the results of administrative performance. The criteria for democratic accountability’s are the social impacts of administrative performance. Mechanisms are: information technology; media and instruments of expression of public opinion; and mechanisms of civic participation.

3.5 Correlations among Data Categories and Conclusions

3.5.1 *Administrative Performance, Service Delivery, and Citizen Participation*

Decentralization contributes to the democratization process, providing opportunities for citizen participation in government through local elections, and particularly through local referenda and the direct election of mayors. Authentic decision-making power can prompt the involvement of local and regional actors in local and regional development policies. Once issues of real importance are decided locally, this provides motivation and opportunities for the development of

leadership sub-nationally, and for the dissemination of political skills that might enable citizens to participate more effectively in political life at various levels.

There is an evidence that a symbiotic relationship does exist between *decentralization* and *participation*, in which local-level mobilization makes the decentralization process more successful, and decentralization enhances opportunities for real participation by placing more power, information, and resources closer to the people. Participation in this sense can be both a goal and a means of successful decentralization. While the absence of actual participation can create local demands for change, opportunities are not realities. Evidence suggests that perverse results can ensue when decentralization or the increased role of local democracy have not been prepared for properly (Ter-Minassian 1997).

One factor that might influence an appropriate degree of decentralization in a given situation is institutional development, which influences both the *capacity* and the *credibility* of the state. Countries with greater institutional development might be expected to have a greater capacity for implementing decentralized policies. Certainly, institutional development is difficult to measure: by its very nature, it is rather more qualitative than quantitative. The World Bank *World Development Reports* (1997 and 1998) involved the formulation of indices of government credibility,³ which, when considered in tandem, provide a proxy for institutional development.

Decentralization necessitates the determination of an optimal level of administrative territorial division. The division of Armenia has involved investigating local economic and financial conditions, as well as the opportunities provided to local self-government bodies to carry out efficient governance and render public services to the community population. Multiple commissions to promote decentralization and local-level governance have been established, yet there is an evident lack of communication and coordination among these commissions. Thus, decentralization is not dealt with through a single and unified approach or framework; there is no one decentralization strategy (South Caucasus Regional Program).

Analyses prove that administrative and fiscal issues, service delivery, and citizen participation interrelate to create what can be seen as a vicious circle that impedes the development of an effective system

of local governance. The last stage of this circle is client—or citizen—satisfaction. Surveys suggest that in communities of different populations and budgets, if LGUs have insufficient power and revenue to provide adequate services, citizens recognize the severe limitations on local government autonomy and the incapacity of LGUs to deliver services, and therefore have little interest in participating in local government activities and decision-making. Citizens correctly perceive that, under present circumstances, local governments can do little to improve local situations. Ultimately, with little meaningful or broad-based citizen involvement, local governments are unlikely to have the political power to persuade the central authorities in Armenia. Certainly, performance measurement depends greatly on factors other than a local government’s activities. A municipality with a wealthy population, a large tax base and political support is more likely to have good services than a poor municipality with poor inhabitants and no political support. Citizens’ willingness to participate in public activities, and their influence on local politics, work together to influence the performance of local government. Willingness can serve as a means of measuring the effectiveness of citizens’ influence on public issues, and of the opportunities available for exerting influence. It also indicates the level of information about public matters with which citizens are provided (Figure 17).

4. OPTIONS AND RECOMMENDATIONS

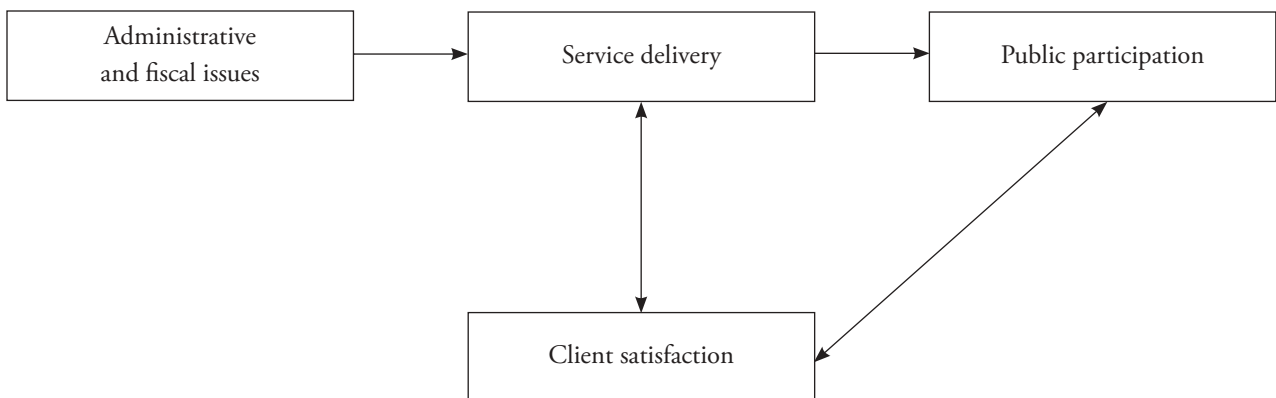
4.1 Public Policy Considerations

It is extremely important to take seriously the decentralization of power, as it carries potential disadvantages and risks that should not be ignored. The greater scope for autonomous local decision-making directly affects decisions at the national level. As well, local interests may fundamentally diverge from a society-wide concept of “public interest.”

Effective public sector reform requires a skilled cadre of people who are well educated and adequately paid. The majority of Armenian local governmental bodies are composed of non-professionals, who tend not to “think globally and act locally.” Moreover, the real wages of government employees have fallen dramatically since 1990, and training opportunities are limited. One suggested means of combating corruption and bribe-taking is increasing the salaries of local officials.

The local legal framework of Armenia has changed dramatically in recent years. In most cases, this has brought about significant improvements in the legal environment. At the same time, it should be recognized that these changes also have created a sense of legal uncertainty with respect to the interpretation and

Figure 17.
Correspondence among Level of Satisfaction and Budget Possibilities



application of new laws and regulations. Many of the inconsistencies among laws, and also implementation difficulties, result from the lack of public participation in decision-making and rule-making. There is a need to recognize that passing laws does not make them reality. The relevant executive authorities as well as the public need to develop a clear understanding of the effect laws will have on their daily life.

Along with the specific areas addressed below, this study suggests:

- the creation of external and internal control mechanisms to provide for transparency and accountability;
- the clear distribution of responsibilities among the different levels of public administration; and
- the introduction of new public finance resources that are consistent with these control mechanisms.

Increase accountability. Despite efforts to increase accountability in local government by means of the Treasury and budget laws, enterprises and municipal service providers appear to be outside overall management system, and are often not held accountable. Local governments are held accountable for services provided by private enterprises. The interference of the central government in the provision of services clearly reduces the ability of LGUs to perform their mandatory duties and to provide adequate services.

Raise the standards of public services. The current government is attempting to develop policies for improving governance in communities, raising the standards of public services, and making them more responsive to users. The overall goal is to clearly define the roles, responsibilities, and accountability of both the central and local government in the provision of services. As part of the commitment to responsive public services, local governmental officials must identify problems and listen to constituents' concerns. It is very important to involve different socioeconomic groups and to meet their needs through, for instance, forming partnerships and establishing one-stop-shops.

Implement a developed set of information technologies. The Community Financial Officers Association has formulated formal information channels of interaction between the government and citizens. Such new channels in Armenia offer obvious potential support for reforms and for the development of local com-

munities. Their role should not be seen as passive: government information services have an important responsibility to foster interest in and awareness of public issues, and to improve public understanding of policy issues. Information services should be pro-active in presenting information which is accurate, clear, and understandable.

Through the Encouraging Community Development Project, thirty-one communities have received 51 contemporary computer centers. The goal is to equip all communities nationwide with computers and information technology. This involves creating informational databases and on-line administrative services, along with demographic surveys. The project has included the training of specialists from local administrative bodies. This project was particularly important prior to the Presidential and National Assembly elections in 2003, as it contributed to the development of voting lists.

Work with focus groups. Focus groups can contribute to improving the level of satisfaction with public administration and service delivery. An important role is played by non-governmental organizations, groups of experts, and foreign/international organizations. For the Community Financial Officers Association, work in focus groups (of pensioners, young citizens, and so forth) has proved to be extremely informative. The government of Armenia should use this method to access a particularly vulnerable social group: refugees. Persons displaced by the conflict in Nagorno-Karabagh continue to lack shelter and full rights as citizens, as well as access to public services and local authorities. In short, they have specific needs which must be addressed. While amendments to the electoral code in 2000 granted refugees the right to vote, many remain disenfranchised. The government should be proactive in accessing refugees; rural administrations will require support from NGOs, foreign/international organizations, urban areas, and the central government in these matters.

4.2 Recommendations

Admittedly, laws do provide a rudimentary framework for limited administrative and fiscal decentralization and the regulation of financial issues relating to local government administration. Modifications are needed, however, to enhance the ability of local

government bodies to perform as viable democratic institutions. These modifications include:

- Developing a unified approach to reforming the public administration system, which reflects the mandates of various levels of government.
- Promoting openness and transparency in order to combat corruption. This involves raising the legal awareness of citizens through civil institutions and the media. Transparency and openness can be accomplished by broadening and deepening public participation, both in policy and “street level” issues.
- Protecting citizens and civil servants from unwarranted accusations, and mediating (within reason) personal information made available to the public.
- Ensuring managerial autonomy of administrative units and agencies, as well as of individual officials, in order to allow them to perform their duties effectively and efficiently. That said, duties must be carried out not only in accordance with established guidelines or programmatic provisions, but also in full compliance with the legal order.

Also, this study suggests equipping local governmental officials with skills they lack, by using different training methods and replacing some older public employees, in order to make use of new, precise skills essential for better governance.

4.3 Conclusions

With the municipal reform issued in 1996, Armenia has taken important steps toward reconstructing the political and administrative system, decentralizing state functions, and constructing municipal autonomy. However, in spite of a number of already introduced legal and institutional reforms, communities are not yet able to execute their tasks adequately. Foreign/international and local projects aim to support municipal institutions in fulfilling these tasks, through consulting, trainings, technical assistance, and so forth. Reforms are undertaken with the view to balance the need for public revenue and the need to promote community development, as well as to promote transparency and to develop new administrative methods.

Assuming that local self-governments achieve an appropriate degree of autonomy with regard to ad-

ministrative issues, it is certainly important to have in place mechanisms to hold decision-makers accountable, both to their constituents and to other levels of government. Accountability requires access to information. Mechanisms to ensure access to information include public statements of short and medium-term objectives, a transparent and inclusive budget process, accurate and comprehensive administrative reporting on outcomes, and an independent media to assist in the public dissemination of the information.

Research analysis has shown that in small communities, local authorities are more likely to try to develop techniques for learning citizens’ preferences. In smaller local government units, there are more opportunities for building close links between authorities and citizens. However, fiscal problems often increase the level of administrative abuses, as administrative abuses tend to stem from a lack of financial resources. This suggests a need to improve the administrative-territorial division of Armenia, by merging very small communities into larger ones, with more effective public administration and service delivery.

Based on the current situation in Armenia, and comparing it with public administration in more developed countries, it is possible to conclude that local self-governmental bodies in the former are relatively ineffective as governmental entities, and are hampered by lack of clear legal authority and limited fiscal capacity. Local governments must be restructured to enable local democracy. For public administration to function effectively, the following are necessary:

- predictability of policies and government stability;
- integrity of public officials and low levels of corruption;
- secure and well-defined property rights;
- decentralization of powers to promote local democracy;
- effective processes for fiscal control, including budgeting and financial reporting; and
- protection of political and civil liberties, including democratic elections, freedom of expression, opportunities to form civic organizations, and physical mobility.

This study promotes the notion that local democracy is fundamental for the well being of individuals

and communities. The European Charter of Local Self-Government, drawn up by the Council of Europe, was the first multilateral legal instrument to define the fundamental principles of local autonomy. It safeguards the rights of those government authorities that are closest to the citizen, and grants citizens the opportunity to participate effectively in local government institutions

that affect their everyday lives. Indeed, local authorities with authentic responsibilities can serve citizens in a way that is effective and meaningful. Meanwhile, the right of citizens to participate in public affairs is a central democratic principle, and this right can be most directly exercised at the local level.

NOTES

- ¹ Taken from a United Nation Development Program (UNDP), World Bank (WB), and Local Government and Public Service Initiative (LGI) policy paper. "Enhancing Capacities of Local Authorities" South Caucasus Regional Program.
- ² See Edwin Rekosh. 2003. "Remedies to Administrative Abuses." *Local Government Brief*. Summer 2003. Local Government and Public Service Reform Initiative, Open Society Institute–Budapest. http://lgi.osi.hu/publications_datasheet.php?id=241. The definition was developed collaboratively by Edwin Rekosh, PILI, and fellows of the LGI Fellowship Program, 2002–2003, Administrative Remedies at the Local Government Level.
- ³ This index is based on country surveys and considers: the unpredictability of laws and policies, the stability of government, the security of property, the reliability of the judiciary, the extent to which extra payments must be made for services, and the time spent negotiating. See World Bank. 1997. *The World Development Report 1997: The Role of the State*. Oxford University Press.

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APPENDIX 1

Competencies of Local Governments in Armenia

Functions (Maintenance, development, staff hiring, financing)	All municipalities	Central or state territorial administration
EDUCATION		
Pre-school	X	
Primary		X
Secondary		X
Technical		X
Higher		X
Specialized	X	
SOCIAL WELFARE		
Nurseries	X	
Kindergartens	X	
Welfare homes		X
Personal services for elderly and handicapped		X
Special services (for homeless, families in crisis, etc.)		X
Social housing	X	
HEALTH SERVICES		
Primary health care	X	X
Health protection		X
Hospitals		X
Public health	X	X
CULTURE, LEISURE, SPORTS		
Theaters	X	X
Museums	X	X
Libraries	X	X
Parks	X	
Sports, leisure	X	
Maintaining buildings for cultural events	X	
ECONOMIC SERVICES		
Water supply	X	
Sewage	X	
Electricity		X
Gas		X
District heating	X	

ENVIRONMENT, PUBLIC SANITATION		
Refuse collection	X	
Refuse disposal	X	
Street cleaning	X	
Cemeteries	X	X
Environmental protection	X	X
TRAFFIC, TRANSPORT		
Roads	X	X
Public lighting	X	X
Public transport	X	X
URBAN DEVELOPMENT		
Town planning	X	
Regional/spatial planning		X

THE VICIOUS CIRCLE:
WEAK STATE INSTITUTIONS, UNREMEDIED ABUSE AND DISTRUST



Stanka Delcheva

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REPORTS FROM ARMENIA, BULGARIA, GEORGIA AND POLAND

Administrative Remedies for Abuses in Local Government: Bulgaria

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LEGAL TEXTS AND ACRONYMS

AA	Administration Act	RTCAESA	Regulation for the Terms and Conditions for Attesting Employees in the State Administration
APA	Administrative Procedure Act	PSAAA	Proposals, Signals, Appeals, and Applications Act
APIA	Access to Public Information Act	SAC	Supreme Administrative Court Act
ASPLEA	Administrative Service to Physical Persons and Legal Entities Act	SIFCA	State Internal Financial Control Act
AVSA	Administrative Violations and Sanctions Act	TARIFF	From the State Fees Acts, for fees collected by courts, prosecutor's offices, investigating bodies, and the Ministry of Justice
CCCS	Code of Conduct for the Civil Servant		
CRB	Constitution of the Republic of Bulgaria		
CSA	Civil Servant Act		
CTA	Construction of the Territory Act		
DFID	Department for International Development		
EA	Environment Act		
HACA	Higher Administrative Court Act		
IPAEI	Institute for Public Administration and European Integration		
LC	Labor Code		
LEA	Local Elections Act (also Law on Local Elections)		
LSLAA	Local Self-governance and Local Administration Act		
NAOA	National Audit Office Act (also Court of Audit Act)		
NCIOM	National Center for Public Opinion Polls		
NGO	Non-governmental Organizations		
PPA	Public Procurement Act		
RA	Referendum Act		
RMALR	Regulation 1 on the Minimum Amount of Lawyers' Remuneration		
RPA	Regional Planning Act		

1. INTRODUCTION

1.1 General Objectives

This study examines administrative mechanisms and practices designed to overcome abuses of power and instances of malpractice in Bulgarian administration, particularly at the local level. Abuses of power are considered in a broader context. The study goes beyond the common link established between “abuse of power” and “corruption,” and outlines the relationship between instances of individual abuses of power in local government and the conditions for adequate planning of administrative remedies, which are designed to overcome and prevent these instances. The abuse of power is defined as the adoption of norms, the taking of decisions, or the denial to grant rights on the part of civil servants, which is illegal, unethical, or results from the inappropriate exercise of discretionary authority.¹

The process of reforming the Bulgarian administrative system after 1997, directed at re-formulating the status of civil service, has envisaged a number of remedies related to lawfulness, ethics, and rightful exercise of authority. In spite of the results achieved,

these principles have not been established yet as a stable practice in administrative work.

The overall goal of this study is to identify the main tools and mechanisms applied in Bulgaria that are designed to raise the accountability of local authorities and to restrict abuses in local governance. The study examines both the internal control mechanisms of the performance and accountability of local administration and those implemented by the central executive power and the court system. Special attention has been paid to the mechanisms, practices, and forms of civic control related to local authorities.

1.2 Historical Background of State and Local Administrations

Bulgaria faces the challenge of successfully completing the process of radical transformation in the structure of state governance, the economy, and social relations that began more than a decade ago. From the onset of transition until 1997, there was no clear national vision about administrative roles and functions. Post-1997 reforms established a model of power distribution between the central government and local governments, and asserted a new role for public administration: to serve as the main provider of services to society. The realization of this vision called for the adoption of a number of normative acts, which formed a new and contemporary framework for the organization and functioning of the Bulgarian administrative system. The adoption of new legislation re-established the status of civil service in Bulgaria and laid the foundations for modifying administrative work. As well, reforms affected the court system to a great extent, especially in relation to administrative jurisdiction.

One of the main goals of the reforms was to ensure conditions for the radical improvement of the quality of administrative work on all levels, adopting the “best European practice” when providing public services. In the context of these goals, mechanisms designed to prevent corruption, abuses of official positions, and conflicts of interest were envisaged. Another key element was the regulation of transparency in administration, access to public information, and the protection of personal data. In developing a normative base, the practice of public discussions on

planned remedies was established. The positive impact of this led to the introduction of regulations related to citizen control and partnership between state bodies and civic organizations. The establishment of effective partnership relations, especially at the local level (between local authorities and civic organizations), is already a common practice, which is spreading in a number of municipalities.

According to an assessment of this process made by the European Commission² and the World Bank,³ the main challenge facing Bulgaria is the creation of conditions and capacity for the effective application of new legislation concerning the status, organization, and functioning of civil service. This assessment is more pertinent for local administrations, since the central administration does not provide them with sufficient methodological support necessary to carry out reforms.

The legally regulated model of the administrative system in Bulgaria identifies a single system of civil service, which encompasses all levels of state power in the country: central, regional, and local. The law lays down both the principles for the functioning of the administrative system (lawfulness, openness, accessibility, responsibility, and coordination), and the rules and forms of organization of administrative structures in relation to the powers of corresponding governing bodies.

Local self-governance in Bulgaria is realized on a single level: the *municipality* is the main administrative and territorial unit at which local self-governance is exercised.⁴ Municipalities in Bulgaria most often include more than one urban area. The exercise of local governance at the municipality level is part and parcel of the decentralization of state power. Local authorities have independent powers, wield control over independent budgets, and possess rights to property. Local authorities consist of a *municipal mayor* and *municipal council*, directly elected by the population for four-year terms. Populated areas with more than 500 citizens directly elect their mayor, while in localities with less than 500 citizens, the mayors are elected by the municipal council. The municipal mayor is defined as the territorial body of executive power, and the municipal council is a body of local self-governance. The municipal council adopts rules, ordinances, decisions, and instructions on issues of local importance.

The distribution of governing powers assigns a leading role to local authorities in the process of planning local development. This allows for the concentration of power resources in determining the priorities of the community in short-term and long-term perspectives. Local authorities are, to a great extent, responsible for the provision of social services, for creating propitious conditions for the development of entrepreneurship on a local level, and for ensuring the necessary infrastructure to support business development. In fulfilling their functions, the local authorities are responsible to the local community for their actions and for the resulting outcomes.

According to Art. 11 of the Local Self-governance and Local Administration Act (LSLAA),⁵ local self-governance in a municipality is expressed through the right of citizens or bodies to participate in elections, and within the framework of defined competencies (responsibilities, roles, resources, or functions) to decide on and act on a range of issues. These issues relate to:

- municipal property, municipal enterprises, municipal finances, taxes, and fees;
- municipal administration;
- the territorial development of the municipality, in both urban and rural areas;
- education, healthcare, and cultural activities (including maintenance and preservation of cultural, historical, and architectural monuments of municipal significance);
- public works (water supply, sewage, electricity, central heating, telephones);
- social care;
- environmental protection and the rational utilization of natural resources of municipal significance; and
- the development of sport, public recreation, and tourism of municipal significance.

Bodies of local government also dispose of powers and competencies beyond those mentioned, in cases when they are delegated by the central government to do so (most often through legislation).

According to LSLAA, the municipal mayor is responsible for delivering administrative services to physical and legal bodies. The general principles for realizing such services are laid down in the new

regulative framework. More generally, local authorities perform activities established by law by awarding public procurement contracts. A significant part of the necessary registrations, licenses, and permits for initiating or pursuing economic activity in the private sector are issued or controlled by local power bodies. Services in the social sector for individual citizens or communal (social) groups are also performed and monitored by the bodies of local government or by territorial units of the central administration. These services include social assistance, health care, education, maintenance of public order and security, provision of public services, as well as water supply, sewage, electrical supply, and so on.

It should be noted that, due to the single normative base, most observations and conclusions made about the effectiveness of the organization principles of administrative servicing provided and the quality of administrative services refer both to the central and the local administration. A number of specific issues are highlighted below, and relate only to the local administration.

The essential role of Bulgarian local authorities in ensuring suitable conditions for local economic development necessitates conduct status studies, to identify opportunities for developing remedies for removing the obstacles against abuse of power on a local level. The effective execution of local administrative powers requires for the application of mechanisms that guarantee the adequate and unbiased functioning of local institutions and restrict the opportunities for abuse on the part of public servants fulfilling their duties. The creation of such mechanisms is one of the goals of the current reforms but their actual application remains a challenge for representatives of institutions in charge of realizing communal priorities. Such are the expectations and demands of citizens regarding the functioning of local authorities.

The lack of effectively working mechanisms that ensure control and transparency in the execution of duties by local administrations creates conditions for the abuse of power and opportunities for some public servants to use their discretionary powers for personal or group profit. There are also opportunities for the illegal expansion of these powers, resulting from “freedom” to interpret regulations—which often is not intentional and does not lead to illegal profit, but does harm public interest and trust. Such phenomena

likely result from the influence of old practices, insufficient knowledge of the normative base, and lack of methodological support in its application.

The problem of the abuse of power and ineffective application of mechanisms for counteracting such practices considerably diminishes public trust in state and local institutions. This ultimately “de-motivates” members of the community to express their demands to their representatives, and to exercise their right to control and participate in local decision-making.

In recent years, various non-governmental organizations (NGOs) and policy institutes have raised the issue of corruption and the different forms it takes. The issue of corruption is among the most sensitive in Bulgarian society; discussion on the matter shapes and is shaped by public institutions and the country’s political system. The existing corruption practices harm the prestige of institutions and erode democratic mechanisms in society. Local authorities, who are closest to the problems of citizens and are responsible for the realization of local community goals, have gained the trust of less than one-third of citizens. Corruption also has a significant influence on the business climate by reducing the trust of local economic entities and foreign investors, thus limiting opportunities for economic development.

According to the results of several studies, citizens in Bulgaria most frequently encounter corruption on the local government level. Considering corruption, however, as the only or main form of abuse of administrative power can lead to ineffective application of the proposed remedies for overcoming the problem.

The public evaluation of the quality of administrative services is predominantly negative: over 45 percent of citizens think that administrative services have not reached the needed quality. Considering the complexity of current procedures, insufficient information, and the lack of an integrated approach for administrative servicing, the means to restrict abuse committed by local administration employees (preferential processing of documents or inappropriate exercise of discretion, for instance) are seen as possibilities for qualitative improvement in how corruption and other abuses are addressed. This study shows that current administrative remedies against abuse do not work effectively, and this is reflected in the level of public trust in and the prestige of local institutions. In this context, the present study is very

topical and contributes to the evaluation of the potential for improvement and consequently for planning adequate remedies for restricting abuse of power on a local level.

1.3 Methodology and Analytical Framework

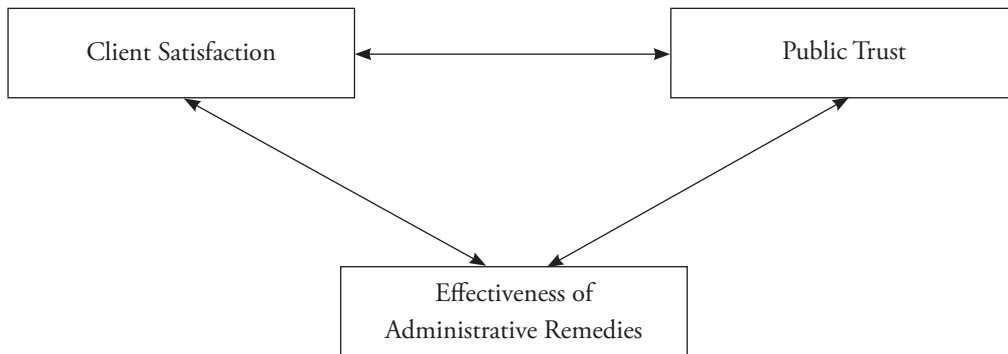
The methodology of this study combines several research techniques designed to identify and assess abuse of power and of official positions in local government. The indicators developed to assess the effectiveness of these remedies fall into three main, interdependent groups: 1) *citizen or client satisfaction* with the public and administrative services provided by the local government; 2) degree of *public trust* in local government institutions and civic and electoral participation; and 3) types and ways of application of the various administrative remedies restricting abuse of power (Figure 1).

There are many different definitions and considerations of trust in the field of public management. It can be accepted that trust has a positive effect on the parties involved in a relationship: it simplifies interactions and reduces the need for control (Hinna and Monteduro 2003). Studies (Gulati 1995) have identified two factors on which trust can be based: knowledge and deterrents.

In the first, experience is necessary for developing trust. Experience in this sense is based on the observation of past behaviors of the subject. Experience can be based not only on direct contact, but also indirect contact, by gathering information concerning relationships with third parties. Trust based on the power of deterrents is connected to the existence of contractual or external warranties, such as making it inconvenient for a partner to behave improperly. As such, the existing conviction of some community members, based on direct or mediated experience, as to the degree of trust they can have in the public administration is as important as the presence of external guarantees (or remedies, tools) against abuses on the part of the administration.

Other authors (Bouckaert, Van de Walle, Maddens, and Kampen 2002) examine in detail the relationship between trust in and satisfaction with administrative performance. Factors that impact the level of trust

Figure 1.
Cyclic Interdependence of Indicators



relate to the performance of public service delivery, along with social and demographic factors and social capital. With regard to public services, citizens expect public servants to serve the public interest with fairness and to manage public resources properly on a daily basis (OECD 2000).

In this research, the level of trust in institutions and the level of satisfaction with the public services that they offer are used as markers to indicate the spheres where the public considers that administrative performance does not fulfill its expectations. The levels of trust and satisfaction also serve as indicators in evaluating the effectiveness of remedies against abuse implemented by the assessed institutions.

In short, the main objects of this study are: administrative structures of local government that provide administrative servicing to citizens; customers of administrative services (citizens and economic entities) and their opinions and evaluation of service quality; and the general public's trust in local government and its work.

Data collection and evaluation required several different methods. First, this study involved desk research to review relevant documents and data sources.⁶ Documents included: legal texts and the legal framework; official accounting documents related to the organization and regulation of the work of local government and the provision of administrative services; annual reports of various administrative bodies; reports from non-governmental organizations and policy institutes; and repealed administrative acts.⁷ These sources were reviewed and analyzed. Particular attention was paid to exist-

ing literature on accountability and transparency of the local government; reforms in local government; civil involvement; raising the effectiveness of local administration; and initiatives aimed at reducing the level of corruption and abuse of power. Second, this study required in-depth field research. This involved personal semi-standard interviews with employees performing administrative services regarding the issuing of licenses, permits, and registrations (in the municipalities of Sofia, Plovdiv, Stambolijski, Kazanluk, Koprivshitsa, Byala, and Devnya); e-mail interviews with representatives of 18 municipalities in relation to the practices for public consultation in the process of local planning;⁸ and observations. Observation was used as a non-invasive means of identifying and assessing administrative organizations and their operational and functional structures, the functioning of the systems for control, and the available technical, human, and other resources.

The scope of the study does not include administrative remedies against abuses in the field of municipal finances, due to the specificity of these issues and the number of topical analyses made in this sphere. The issue of Bulgaria's electoral system (the Law on Local Elections) is considered only with a view to outlining the legal framework of local government in Bulgaria.

The starting point of analysis is the new legal and organizational framework of the Bulgarian administrative system and the changes introduced in civil and administrative law and processes. These changes serve to create conditions for restricting abuses and unlawful exercise of powers; that said, it

is important to recognize that reforms are on-going, and have not been completed. Thus, the realization of the planned goals, especially at the local level, is directly related to the need to strengthen the capacity of local administration for effective and uncontroversial application of the new legal framework.

In analyzing and formulating the proposed recommendations, we have accounted for the influence of various mechanisms for restricting abuses in relation to the main types of administrative abuses that are being observed. We have identified the main reasons, participants, and mechanisms for committing abuses in the local administration and as a result we have established the most effective approaches for applying administrative remedies for overcoming abuses. This study also considers the various sources of employees' discretionary powers and the various forms of control on their application. The reasons that condition abuses of power include: ineffective control mechanisms or misapplication; lack of information in relation to citizens' rights and the procedures for providing public services and taking of decisions;

complex procedures for appealing (administrative and court); normative anomalies; and (generally) the illegal, unethical, or inappropriate exercise of discretionary powers.

The designation of various remedies against abuse as "weak" or "strong" in Table 1 is made with the aim of clarifying the ordering of control remedies originating from various sources. The assumption is that control over regulations exercised by institutions or courts at this stage of public administration reform and civil society development has more weight (or, is more effective) than the majority of forms of civic control. Without being exhaustive, several examples from the local authorities' work in the country, reported on and commented on in the media over the last two years, support this thesis. The limited time for the current survey and the lack of exhaustive statistics prevented a more detailed study. An in-depth study of the weight of various control remedies is of vital importance for identifying opportunities for controlling not only lawfulness, but also the purposefulness of local government actions and decisions.

Table 1.
Links between Types of Abuses and Remedies for Control⁹

Administrative actions defined as abuses		Sources: Illegal, unethical, inappropriate exercise of discretionary powers		
		Adoption or spread of norms	Taking of decisions	Failure to grant rights
Damages		Actions of more general effect (predominantly damage public interests)	Individualized actions or actions of more general effect ¹⁰ (damage individual and public interests)	Individualized actions (predominantly damage individual interests)
Remedies internal to administrative system	Strong	Internal rules and procedures for (hierarchical) control; control by higher administrative instance		
	Weak	Legal norms for civil control		
Remedies external to administrative system	Strong	Court control; institutions (ombudsman); access to information		
		<ul style="list-style-type: none"> • Electoral participation and electoral results; • Ethical and professional codes; • Legal norms defending public interests. 		
	Weak	<ul style="list-style-type: none"> • Study on satisfaction with provided services; • Civic participation in the consultative process; • Studies of research institutes. 		

There are a number of devices applied to enhance the accountability and transparency of local government work. These devices, however, should not be considered universal methods for overcoming abuses. The study of corruption in public administration in Bulgaria and the development of counter-remedies in recent years are undoubtedly induced by the critical importance of administrative reform in the country. Focusing on this, however, leaves aside areas that have a direct bearing on corruption as well as on other types of abuses, such as conflict of interest and the exercise of discretionary powers on the part of the administration.

To evaluate and analyze the effectiveness of administrative remedies against abuses, remedies are differentiated and separated into three groups. The first group includes remedies related to hierarchical accountability and general mechanisms for administrative and financial control in Bulgarian administration. The second group includes procedures for judicial control over the work of local government bodies and their accessibility to citizens. The third group includes remedies with which the local authorities ensure feedback from and practical involvement of citizens in local governance and civil initiatives. Based on research, this study offers practical recommendations directed at enhancing the effectiveness of the applied administrative remedies against abuses of power on a local level.

The analysis of the state and the recommendations for enhancing the effectiveness of administrative remedies have been based on the understanding that more transparent governance, the provision of public services of a higher quality, the raising of the qualification and motivation of employees improved and the effectiveness of internal and civil control will ensure reliable defense against abuses. The proposed recommendations are directed at decision-makers at both the local and national levels.

This study develops the presented topic in two sections, with a conclusion. The first section presents a short description and historical background of state

and local administrations in Bulgaria. The second considers citizens' evaluations of local governance through the notions of "public trust" and "client satisfaction" with the services provided by the local government. This section presents descriptions of the types of administrative remedies and the abuses they are designed to prevent. Next examines the existing mechanisms for performance control of local administration on behalf of the state and citizens, and practices for their application in the local administration. The study examines the internal mechanisms for hierarchical control and accountability, the procedures for administrative control by external instances, juridical control, and mechanisms to ensure transparency in the work of the local administration and civic involvement in the decision-taking process. This study concludes with a consideration of the data presented by the first sections, along with policy options and recommendations.

2. GOVERNANCE AND PUBLIC PERCEPTIONS

Trust (or mistrust) is formed on the basis of the previous experience, that citizens have in using public services provided by local authorities, and accessible information about the mechanisms of governance and the main values that the authorities defend through their activities. Trust is also based on the relationships between citizens and local authorities. Without trust, it is impossible to create cooperative relations among stakeholders in the process of local development. These relationships are a prerequisite and a necessary condition for the effective execution of local government tasks as well as for the effective application of remedies against abuses. The level of trust and the legitimacy of local government depend on the effective execution of these tasks (Hinna and Monteduro 2003).

Satisfaction with public service delivery is also linked to citizens' evaluation of the tools applied by an administration to defend the public interest, and of the use local government makes of public resources.

2.1 Data on "Public Trust"

2.1.1 *Public Trust in Institutions*

Public trust and active civic involvement in the development of local policies are critical conditions for the efficacy and efficiency of institutions. As noted above in Bulgaria, community members have a direct relationship more frequently with the local rather than central authorities.

In consideration of the classification scheme established in Table 1, and applying values of trust in various institutions to units, the data suggests that citizens are wary of institutions that apply the main tools for the control of abuses at the local level (Table 2).

On average, studies made in recent years in Bulgaria suggest that expressed trust in local government is mediocre: citizens ranked local government seventh out of 13 state and public institutions. This indicates that institutions that play a vital role in the application of remedies against abuses in local government enjoy significantly lower public trust. Such institutions are the court, non-governmental

organizations, and private enterprises—all of which are prominent players in local economic development, and important “clients” of local government services (Table 3).

The expressed trust in the municipal mayor, as a body of local executive power, does not exceed the mark of 4 on a scale from 1 to 10.¹¹ One-third of citizens responded that they did not trust the mayor of their municipality, while only 6 percent expressed full trust in him/her. Compared to the evaluation of trust in other state bodies, however, mayors rank third, after the President and the church. Data from a recent study in Sofia (Open Society Institute 2002) confirms a low level of public trust in institutions that exercise controlling functions in relation to the work of municipal mayors and municipal councils. At the same time, public trust in mayors is marked by growth in comparison to studies made a year earlier (Table 4).

Age significantly affects trust in local government—trust grows with age. The youngest interviewees (under 39 years) voiced little trust in government (17.2 points), compared to 33.9 points for those over 60 years of age.¹² Exceptionally low is trust in municipal councils—the local legislative body that can repeal

Table 2.
Relationship between Types of Control Remedy and Expressed Trust in Implementing Institutions*

Type		Measures	Implementing institution(s)	Transformed level of trust
Remedies internal to the administrative system	Strong	Internal rules and procedures for (hierarchical) control	Mayor of the municipality	1
		Control by higher administrative instance	Municipal council, Governor of region	0.5
	Weak	Legal norms for civil control	Professional unions	0.6
		Legal norms for civil control, including professional groups, etc	Trade unions	0.5
Remedies external to the administrative system	Strong	Court control	Courts	0.7
		Access to information	Mass media	0.9
	Weak	Study on satisfaction with provided services Civic participation in the consultative process	Non-governmental and civic organizations	0.5

* The table includes only remedies with available data on the level of trust in the implementing institutions.

Table 3.
Public Trust in Certain Institutions and Organizations

Organization or institution	Percent answering "Trust very much" and "Trust a fair amount"
NGOs	8.8
Trade unions	9.4
Courts	12
Private enterprises	16.7
Parliament	19.1
Universities	25.6
Local Authorities	27.2
Government	30.7
Police	33
Church	51.3
Army	53.2

Source: International IDEA 2002. p.19.

Table 4.
Public Trust in Certain Institutions and Organizations

Organization or institution	Average level of public trust
NGOs	2.0
President	4.3
Parliament	2.3–2.4
Prime Minister	3.5
Government	2.7–2.9
Mayor of Municipality	3.5–3.72
Mass media	3.5–3.7
Court	2.6
Police	3.5–4.2
Bank system	2.7
Church	4.2
Trade unions	4.0

Source: Open Society Foundation–Sofia, Bulgaria 2002.

orders (administrative acts) issued by the municipal mayor. Meanwhile, over 40 percent of those interviewed could not say whether they do or do not have

trust in the municipal council. The reason for this situation is the fact that citizens lack familiarity with the powers and functions of the "local parliament."

2.1.2 *Level of Electoral Participation in Presidential, Parliamentary, and Local Elections*

Electoral participation is an important indicator for the state of a community and its readiness to take part in the resolution of common problems. Since electoral bodies, especially those within local government, have missions and tasks directly related to the realization of communal goals for development and better living.

After the onset of democratic changes in 1989, a stable decrease in electoral participation has occurred. Analysts attribute this to the increasing mistrust in the political system, due to its inability to express and realize public expectations. Recent sociological data suggest extremely low levels of public trust, under 10 percent. The decreasing trend in electoral participation is highlighted by the level of voter turnout in mayoral elections in 2002: in Sliven, less than 14 percent of voters; in Blagoevgrad, 26 percent; and in Rousse, 26 percent. Polls regarding the October 2003 elections predicted turnout around 30 percent.

These numbers suggest a lack of legitimacy of local governance and present an alarming signal for public integrity; they indicate a growing distance between citizens and the issues related to power, and they highlight the atomization of society and social activity.

Declining electoral participation could also be viewed as a result of the re-establishment of “normal”

perceptions of the electoral process after the euphoria characteristic of the early 1990s. When compared to the low level of trust both in national elected institutions (Parliament and President) and in local government, however, low electoral participation reveals an increasing level of mistrust in the capacity of these bodies to fulfill citizens’ expectations. This tendency was corroborated by surveys of public intention to vote in local elections in October 2003.

Low public trust and the failure to exercise the right to vote relate directly to the unwillingness of citizens to exercise their right to control and participate in local governance. This problem must be taken into account in planning and applying such control remedies as mechanisms for the prevention of abuses and correctives for local government work. As well, it should be noted that different sources of power determine the different strategies that ensure remedies for preventing abuses in local government. Considering that local authorities, as direct representatives of citizens in a given municipality, have the competence to decide on the main issues related to local economic and social development, civic non-participation in elections can be seen as an instrument (among authorities) for controlling the work of “electable” bodies of local government. Meanwhile, local government employees are often appointed by the mayor, who directs executive activities in a municipality. By law, they are accountable for their work only to the mayor; they cannot be sanctioned directly by citizens. This

Table 5.
Electoral Participation in Various Elections

Election	Electoral participation by year					
	Presidential	2001*		1996		1992
Total	50.05%		63.06%		75.39%	
Parliament	2001	1997	1994	1991	1990 ¹³	
Total	67.03%	62.93%	78.05%	83.87%	90.75%	
Local	1999		1995		1991	
Total	Municipal council	Municipal mayor*	Municipal council	Municipal mayor*	Municipal council	Municipal mayor*
	51.61%	51.58%	64.19%	64.19%	n/a	n/a ¹⁴

Source: Central Electoral Commission Bulletin

* The data refer to electoral participation on the First Electoral Tour.

highlights the growing need for internal procedures and performance indicators, which will be considered further in this study.

2.2 “Client Satisfaction” with Administrative and Public Services Provided by Local Authorities

Key goals in the modernization of public administration are to improve performance and to perfect the systems for administrative service delivery. The adopted remedies for improving administrative service are led by the understanding that an administration should be open to citizens and businesses.

Performance accountability is a mechanism through which individuals and groups can hold institutions responsible for their work in delivering administrative services. Performance accountability allows for critical examination of those actions of employees and institutions that are related to achieving results, providing services, and implementing objectives and/or influences (Brinkerhoff 2001).

In Bulgaria, local government bodies—the municipal mayor and municipal council—bear the main responsibility for the just, transparent, and effective delivery of public services, as well as for the spending of public resources locally.

Data on citizens’ trust in institutions (presented in the previous section) show that the municipal mayor ranks high in terms of trust, while trust in institutions that apply the main controlling remedies over local government performance is significantly lower. A mayor, however, is to a great extent also responsible for transparent and effective administrative service delivered locally. Surveys suggest that the majority of citizens are not satisfied with the quality of service delivery, and in many cases consider it justifiable to employ corrupt practices in order to receive service of desired quality. In this sense, data on citizens’ satisfaction with the delivery of administrative and public services, as will be discussed, are considered indicators of the adequacy of the applied controlling remedies against non-transparent servicing and abuses.

In the framework of this project, the term “administrative service” is used in a much broader sense than the interpretation given by the Administrative

Service to Physical Persons and Legal Entities Act (ASPLEA, see below).¹⁵ It refers to every contact that citizens or economic agents establish with their public administration in order to initiate or further their business. “Public services” also includes services provided by organizations empowered to provide administrative services, as well as services provided to the public by legal entities on a market principle.

Finally, maintaining control and transparency in the work of a local administration concerns each member and each group in the community—both individuals and economically active agents—aiming to establish favorable conditions for their business.

2.2.1 *Service Delivery:*

Organization of Administrative Service

The main rules underlying the organization of administrative service are introduced by ASPLEA. The Act lays down the principles of lawfulness, speediness, accessibility and quality in administrative service. It also applies to organizations delivering public services (water supply, sewage, central heating, electricity supply, gas supply and so on).

In accordance with ASPLEA, the general methodological management and coordination of delivered services among all bodies and administrations with executive power (at the municipal level as well) are prerogatives of the minister of public administration. District governors coordinate and control the performance of territorial units of ministries and all other administrative structures, regardless of their hierarchical positioning. According to Art. 44 of LSLAA, municipal mayors direct and coordinate the activities of specialized executive bodies on the territory of municipalities.

The operational work concerning the methodological provision of the administrative service system is done by the Public Administration Directorate at the Council of Ministers Administration, which continuously processes and analyzes status reports on administrative service. The administrative service procedure, according to ASPLEA, starts with a request, which can either be written or oral, made in person by the interested party or through his/her authorized representative, by mail or otherwise. How a request is

made depends on whether an applicant's identity is established, as well as the essence of the requested administrative service.

Requests can be addressed either to the administration executing a service or to its headquarters in the territorial unit, where the interested party is located. The execution of the administrative service starts with the acceptance of a request. If the request for the execution of an administrative service is incorrectly addressed, the seized body or official must send it officially to the competent body or official, if they are from the same administration. Otherwise, the applicant is advised as to the correct addressee for his/her request.

ASPLEA stipulates that for the execution of administrative services, administrations may only require documents envisaged in the regulations. It bans the imposition of requirements regarding evidence of facts and circumstances which could be established by the respective administration.

All documents and declarations that are significant for the execution of the administrative service should be attached to the application. If they are not attached, the officer executing the service will set up an appropriate time-limit for their submission. Applications that are not completed by the deadline will be left unexamined.

The administrative act, which otherwise has no time-limit, should be executed immediately if possible, and not later than within three working days. The time may be extended to seven days if the execution of the service necessitates verification, data collection, or research. When the purpose of the application is the issuing of an act, a seven-day term is envisaged. When the establishment of facts or circumstances requires verification, data collection, or research, the timeframe may be extended up to one month.

The terms for executing an administrative service begins at the moment all necessary documents and declarations are submitted correctly. When a request for an administrative service also includes a request for the same administration to issue a respective administrative act, the term begins after this document has been issued.

2.2.2 *Service Delivery: Access to Administrative Services*

A great number of the administrative services provided by municipal administrations are directed at economic agents. These services are part of the system for regulating and administering various types of economic activities. This most often concerns services for issuing acts related to construction or reconstruction of a necessary procedure base, licenses, and permits related to specific economic activities (manufacturing, trade in alcohol and tobacco products, registrations of trade premises and so on).

The existing organization for administrative procedures does not fully account for the character of the regulatory framework and the inter-relatedness among normative conditions for carrying out certain economic activity. Thus, in practice, employees demand identification documents, already-received administrative acts, copied documents available in the respective municipal administration, and additional documents, not envisaged in regulations. Such extensive documentation may be demanded at the discretion of the municipal administration. However, there is no common model designed to identify economic agents, and the documents issued are not unified and include redundant information. The phraseology used in different administrations varies and does not have a universal interpretation.

According to the ASPLEA, to initiate the procedure, an interested person must only send an application, and then the administration must determine an appropriate time-limit for the submission of all required documents (Art. 15, par. 7). Not all administrations accept incomplete sets of documents, and the procedure does not begin until all required documents are submitted. Thus, in practice, time-limits for completing the procedure are extended (but not accounted for during performance evaluation).¹⁶

2.2.3 *Quality of Performance: Evaluation of Quality of Service Delivery*

For the provision of some public and administrative services, legislation envisages shared competencies between the bodies of central and local government. In all other cases, central government bodies are entirely

responsible for the provision of administrative services. According to this criterion, public services are divided into three provisional groups:¹⁷

- Public services delivered by the territorial units of central administrative structures (the army, police, the pension fund) or by state enterprises (electrical supply);
- Public services delivered by central and local administrative structures—territorial units of the central administration and units of municipal (local) administration (primary and secondary education, healthcare, social care, transport infrastructure, central heating); and
- Public services delivered by municipal administrations or by public organizations and legal bodies, such as trade associations owned by municipalities or legal bodies awarded with a public procurement contract (water supply, public transport).

Consequently, the quality of the provided services depends on the degree of coordination among competent bodies of central and local governments. The evaluation of the quality of administrative services is established through a system of indicators designed to monitor and evaluate the performance of administrative procedures. These indicators include: the number of services delivered within a given period of time; the time for service execution; the number of complaints and responses to these complaints; and service prices. As well, the quality evaluation includes the establishment of communication with clients and access to information related to the respective administrative services.

Citizens' Opinions

Surveys of clients' satisfaction with administrative services show that they evaluate various aspects of service delivery in different ways. A public opinion poll on service delivery in Bulgaria, conducted in the summer of 2002,¹⁸ indicates that the greatest level of dissatisfaction is with bureaucratic procedures described as ineffective; when clients are redirected to different officers and units or even to different administrative structures; when they must present documents which are already available in the municipality or documents which are not expressly mentioned in the regulation; and finally with the "excessive" prolon-

gation of procedures. Other aspects of administrative servicing that clients evaluate negatively include the speed of service delivery; the inconvenient working hours of the institutions delivering the services; employees' level of competence in executing services; and the service results. Only one-third of cases were described positively.¹⁹

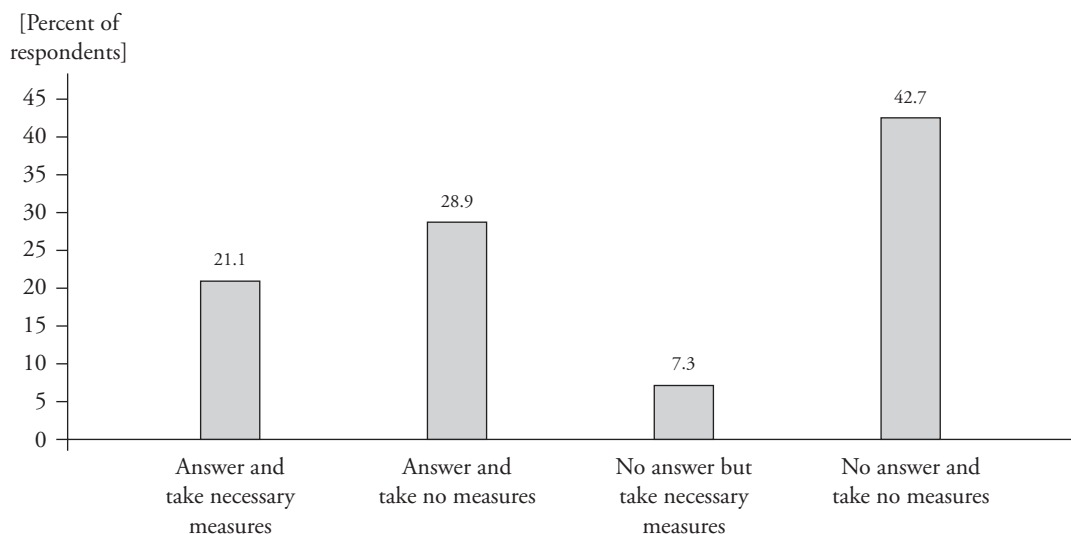
Public opinion polls indicate that the main reason for failure to express dissatisfaction with the quality of provided services is the widespread belief that appeal procedures would not produce the desired result. Nearly half those interviewed were convinced that their opinion/proposal or complaint would not produce a result. In one-third of the cases, the administration provided an answer to the proposal or complaint, but had not undertaken any actions. In only one-fifth of the cases had there been a positive development: after responding, the administration took all necessary actions (Figures 2 and 3).²⁰

According to 40 percent of entrepreneurs, lodging a complaint regarding low quality service in a given institution will not produce a significant change. The main reason for not lodging a complaint in cases of low quality service is the belief that the complaint will not bring about the desired result. In addition to being time consuming, appeal procedures are described by entrepreneurs as excessively complicated; most refuse to use this channel to defend their rights. In only 4 percent of the cases, was the reason for not lodging a complaint a lack of information about the appeal procedure and its addressee. Nearly half of the surveyed business representatives believed that the delivery of higher quality municipal services would decrease corruption and abuses directly, while 40 percent believed it was possible.²¹ Nearly 10 percent of all clients saw the delivery of higher quality services as linked to the use of (personal) contacts.

Only 10 percent voiced satisfaction with the quality of the municipal administration. Over half of the interviewees could specify which administrative structures provide high quality service, while one-fifth were not satisfied with the quality of administrative service as a whole, regardless of whether it was delivered by the central administration, its territorial divisions, or regional or municipal administrations.²²

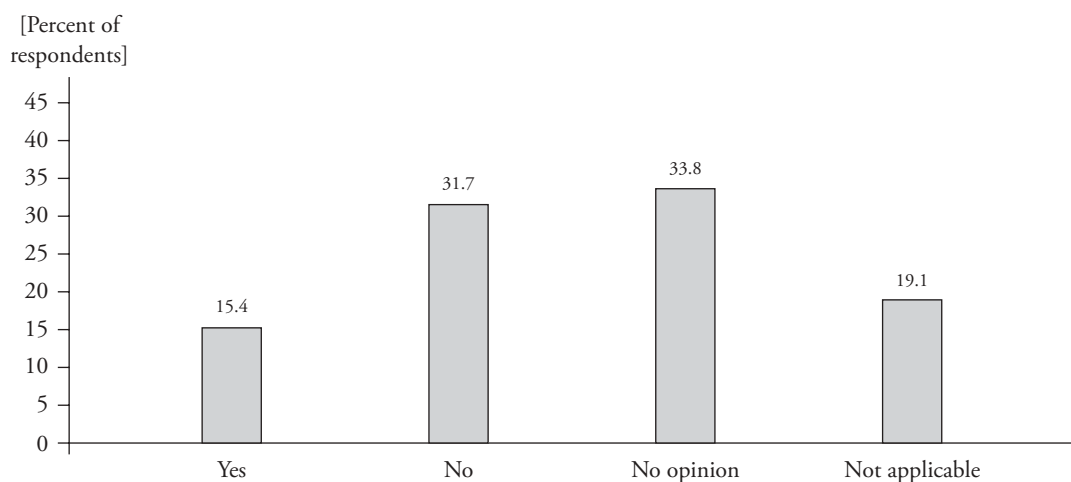
When asked to which units of the executive power interviewees most often turn, half answered the municipal administration, while 15 percent pointed

Figure 2.
What Was the Outcome of Your Proposal or Complaint?



Source: Public poll on the provision of administrative services in Bulgaria, July 2002, Vitosha Research Agency, conducted for the One-Stop-Shops Project, DFID

Figure 3.
Do You Believe that Appeal Procedures Are Ineffective?



Source: Vitosha Research Agency 2002.

to territorial divisions of the central administration. Almost half of all respondents had visited the municipal administration on business less than once in three months, 15 percent visited at least once a month, and nearly 10 percent visited between one and four times a month.

In bigger cities (50,000 to 400,000 inhabitants),

nearly half of the respondents voiced dissatisfaction with the organization and quality of the administrative service. Specifically, 70 percent found service delivery to be slow, and more than 50 percent suggested that they do not receive competent information when using the services of the municipal administration. In Sofia (the capital), over two-thirds answered that lo-

cal authorities do not manage the major issues related to the delivery of basic public services. The results in smaller localities are slightly more favorable.

As indicated by Devnya (pop. 9,000) and Byala (pop. 2,000), citizens in less populated areas are much less dissatisfied with the delivery of administrative services. Officers do not have the workload typical in bigger towns; in most cases, citizens and officers in the municipal administration know each other.

Opinions of Municipal Employees

In the process of conducting this study, we established certain practices that can be defined as rudimentary elements of the quality of administrative service. Municipal administrations keep statistics of the number of services delivered within a period of time, as required by the Public Administration Directorate at the Council of Ministers. These indicators, however, are not used by the decision-makers in the municipal administration for the purposes of monitoring, controlling and plan-

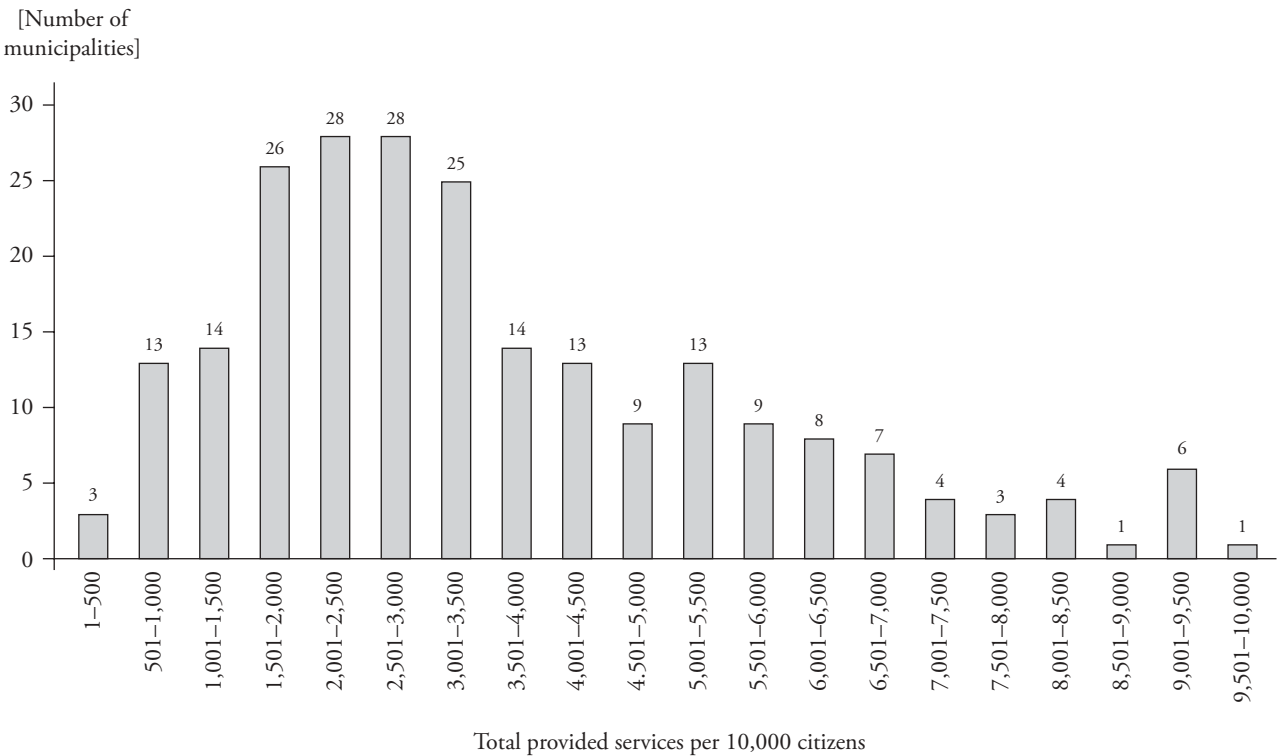
ning the quality of delivered administrative services.

Figures 4–6 present data by the Public Administration Directorate at the Council of Ministers on the number of services provided by municipal administrations for the eight-month period between January and August 2001.

A study conducted among municipal administration employees in Pazardzhik shows that few of the employees were satisfied with the organization of work in the municipal administration as a whole, but many of them were satisfied with the organization of work in their unit.²³ Half of those interviewed found it hard to define the service provided by the municipal administration as fast or slow, while one-third defined it as slow.

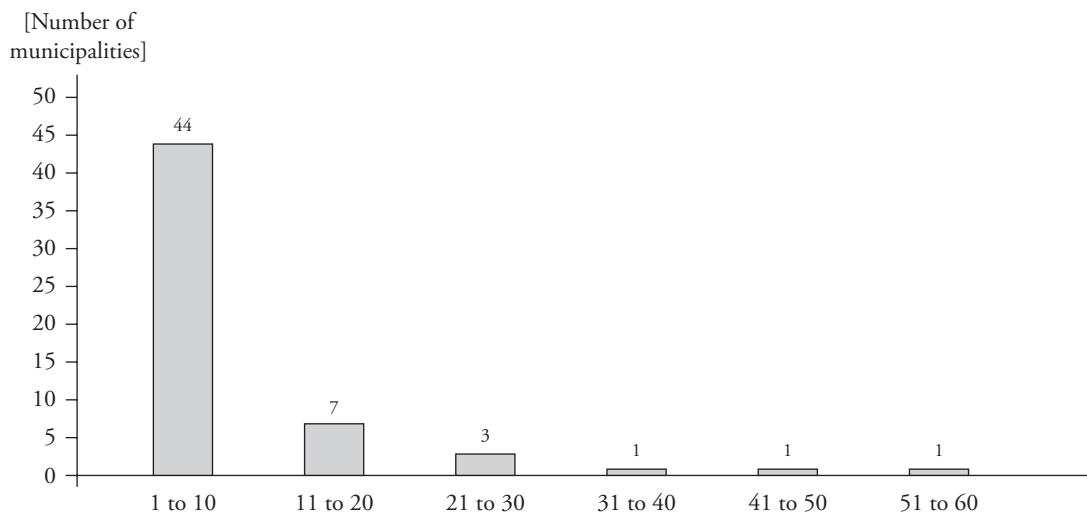
The observed delivery procedures of some administrative services reveal excessively and unnecessarily complicated procedures and redundant informational flows.²⁴ Clients are forced to make multiple visits to the municipal administration to perform all

Figure 4.
Provided Services per 10,000 Citizens



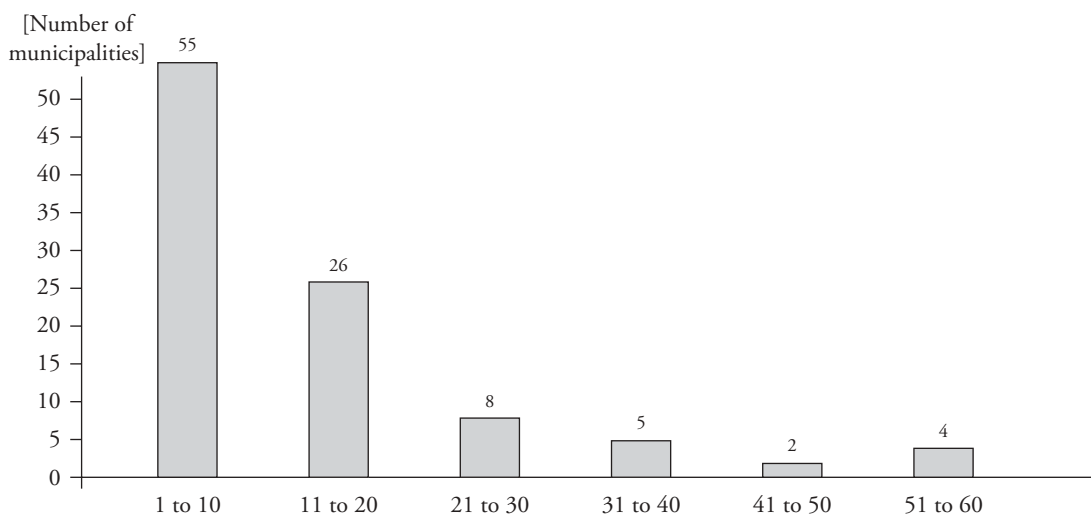
Source: Report of the Minister of Public Administration, January–August 2001.

Figure 5.
Overdue Procedures per 1,000 Administrative Services



Source: Report of the Minister of Public Administration, January–August 2001.

Figure 6.
Grievances (ASP/LEA) and Maladministration per 1,000 Provided Administrative Services



Source: Report of the Minister of Public Administration, January–August 2001.

the actions necessary in order to receive a document. The organization of service delivery is more oriented to the order of municipal administration employees' work than to the actual interests of citizens. This method of organizing work in municipal administrations should not be observed in isolation. The multiple

administration visits necessary to receive a single administrative service directly correspond with clients' opinion that service is slow. This is also confirmed by the fact that it is generally municipal administrations that control the observance of the legally-regulated, maximum time-limits for administrative service delivery.

The applied methods for quality control of service delivery by the municipal administration are under hierarchical control and based only on the assessment of a higher ranking officer. There are no written or organizational performance standards designed to evaluate the quality of administrative service delivery. Regulatory requirements do not envisage the obligatory introduction of quality control systems of any type. The introduction of such quality control is a voluntary act on the part of local authorities, and certain measures should be adopted to clarify the benefits of its application for local self-governance, as well as the benefits of personnel training. Few municipalities have a certificate for quality under ISO (Troyan, Veliko Turnovo).

2.2.4 Quality of Performance: Usefulness and Sufficiency of Information Provided on Service Delivery

Municipal administrations make the effort to introduce into practice ASPLEA's requirements, as well as the requirements for the standardization of documents necessary to execute administrative services. It must be said that at the present, these requirements are observed only formally. The information maintained on public information boards is not sufficient to ensure that citizens and economic agents will prepare effectively for administrative procedures. The practice of issuing brochures and handbooks for citizens is widespread, but in most cases, only the types of services, time-limits, and prices for their delivery are listed.

In general, information concerning procedures is provided only "on the spot," in the administrative structure, or as a last resort over the phone. In the latter case, communication is often hampered and of very low quality since the employees who provide the information by phone are the same who deliver services to clients on the spot. As such, they do not have enough time to go into details.

The formal observance of legal requirements does not meet citizens' expectations to receive useful information. According to the survey conducted among economic agents, there is no access whatsoever to information about the rules and criteria for taking decisions under various administrative procedures. This is the opinion of half of the entrepreneurs.²⁵

These evaluations also correspond to the established view that the procedures for obtaining all necessary licenses and permits for conducting business present an obstacle to small enterprises.²⁶

Half of the interviewed citizens answered that when using municipal information services, the information they receive is not sufficient or helpful.²⁷ Only 4 percent found it sufficient. Between one-third and one-half of those interviewed identified difficult access to information as a major problem in their contacts with local administration (Vratsa and Haskovo, both of which are large towns).

Citizens' dissatisfaction with the quality of service is directly linked to the complex and prolonged administrative procedures which municipal administrations must perform. Unclear and slow procedures may give rise to many abuses by employees. The simplification of these procedures and the provision of competent information about requirements and conditions for their observance falls to a great extent within the competencies of managerial levels in the municipal administration and within the competencies of the employees themselves.

The low quality of administrative services provided by the local government represents a significant barrier for the business activities carried out by economic agents. Delays in licensing, gaining permissions, or other relevant administrative acts pose problems that businessmen and women try to resolve—and typically with little regard for the public interest. More than one-fifth of citizens replied that they would offer money or presents, or would pull strings if the quality of the provided administrative service was not satisfactory (Survey on Administrative Services conducted by Vitosha Research). A survey of the corruption tendencies conducted by Coalition 2000 shows that, from October 2002 to July 2003, figures measuring the corruption practical efficiency index did not change, and remained around the highest level (seven points) for the period studied.²⁸ This index is now used to estimate how respondents determine to what extent corruption is an effective way of solving problems. As corrupt behaviors are seen to be an effective means of solving problems, they are widely employed. Moreover, this view (and the pervasiveness) of cor-

ruption allow municipal employees to take advantage of the authority they have (for example, to speed up a service) in return for a respective “remuneration” by the business. Half of the interviewed employees replied that citizens are justified in offering money or presents to have their problem solved (Corruption Project Veliko Tarnovo).

As the present situation is marked by decreasing electoral participation, the way to re-establish public trust in local institutions is to apply effective internal mechanisms, designed to guarantee the quality of administrative service. These mechanisms ensure the conditions for reducing abuses of power and official position.

2.3 Administrative Control by the State over Local Government Work

Mechanisms for control and accountability of the work of different stakeholders in local government are primary tools that ensure the prevention of (and subsequent actions against) abuses of administrative power or official position. The mechanisms for internal control and accountability introduced in Bulgarian legislation include administrative control by a higher instance and judicial control in relation to the local government bodies and municipal administrations.

Control and accountability of local government work is realized by different state bodies and institutions. This should ensure objectivity in resolving local issues and prevent the unlawful realization of private interests by local administration employees at the expense of the public interest. These bodies exercise internal and external control in relation to the local government work and decisions.

2.3.1 *Internal Mechanisms for Hierarchical Control and Accountability*

Hierarchical accountability is based on direct monitoring of employees’ work and performance control. Continuous monitoring and periodical performance evaluations are the most common forms of hierarchical accountability mechanisms. Indicators for individual performance evaluation are the degree to which

an employee’s performance meets the requirements set by the management and the rules laid down by the monitoring body.

The main elements of hierarchical accountability refer to administrative structure rules, regulations, organizational manuals, and different operational mechanisms. They determine to a maximum degree the sphere of competence of each employee, and envisage direct control of his/her actions by the immediate head. As well, they contain administrative directions such as work guidelines, administrative check-ups, and career development. The degree to which these mechanisms determine the uncontroversial distribution of responsibilities and levels of reporting is an important factor in the evaluation of hierarchical accountability in the examined administrative structure (Romzek 2001).

A municipal council adopts an organizational code, which regulates the issues related to the organization and functioning of the municipal administration.²⁹ According to Art. 10 of the Administration Act, a code regulates the work, functions, and number of personnel of each administrative structure.³⁰ As well, it regulates the order and organization of the administrative service provided by a municipal administration, while internal rules, sanctioned by the respective administrative secretary, regulate the concrete details of the work related to administrative service delivery.

An administrative secretary is appointed for an unlimited period of time by the municipal mayor.³¹ This, however, contradicts the general rule laid down by the Administration Act, according to which administrative secretaries (in executive power) are appointed for five-year terms. A secretary is responsible for organizing municipal administration work, overseeing the conditions in which municipal employees work, administering organizational and technical facilities in the offices, and handling complaints and proposals made by citizens.

Municipal administration employees perform their duties in accordance with the Civil Servant Act, the Labor Code, subsidiary regulations, and internal rules for the work of the municipal administration.

The State Administrative Commission at the Council of Ministers exercises full control over the adherence to civil servants’ status in central and local bodies, monitors civil servants’ performance, moni-

tors the lawful conduct of recruitment contests and gives methodological guidelines for these contests, keeps the Civil Servants Register and, upon established violations, issues mandatory directions to the respective body.

Civil servants and employees who have employment contracts with the municipality carry out their tasks and report to their direct unit head, in accordance with their job description. Heads of administrative units manage, organize, supervise, coordinate, report, and are responsible for the work of the respective structural unit in accordance with its functions as stipulated in the organizational code. Finally, the municipal mayor exercises the powers of an employee as well as the powers of an administrative sanctioning body.³²

Some municipalities maintain an internal control unit.³³ Its functions include: control of budget spending; provision of methodological support to the municipal administration in applying normative documents related to the control of work; giving statements on drafts of orders, regulations and other documents related to municipal administration work; and system control of the expedience and lawfulness of budget spending.

2.3.2 *Internal Rules, Instructions, and Guidelines for Work*

The legally-established documents that examine in detail the organization and order of functioning of administrative structures include internal rules, instructions and other guidelines for work. These documents regulate issues that fall outside the organizational code of the municipality and are sanctioned by the administrative secretary. The rules (or, in some places, “instructions”) for the organization of official work and for the flow of documents regulate the order of submitting, internal processing and entering of documents at the municipal administration. There are also rules that refer to administrative service to citizens. They contain descriptions of the responsibilities of heads of units and employees in working with municipal administration documents.

Civil servants and the employees working under employment contracts in the municipality fulfill

their tasks and report to their direct head for their performance in accordance with their job description. Job descriptions include recruitment requirements, description of main and additional tasks, knowledge requirements related to these tasks, regulations and internal administration rules, and organizational and managerial links and relationships (hierarchical and functional). In outlining the responsibilities that directly relate to tasks, it is often mentioned that the performance of tasks that in line with assigned functions should be of high quality and done within a set time-limit. As a rule, though, the criteria for performance quality are not described in detail.

Apart from the duties and responsibilities assigned to municipal administration employees that are described in organizational codes, rules for document flow, and job descriptions, there are no written guidelines designed to establish the performance standards applied in a particular administration. Nearly three-fourths of interviewed employees think that their professional freedom in fulfilling their tasks is within suitable limits. A small percentage (8 percent) think they have too much professional freedom in fulfilling their tasks.³⁴

The existing standards and control mechanisms account mainly for the technical parameters of task performance—time limits, lawfulness of decisions—and leave aside the formulation of clear rules for taking the most appropriate decision for each separate case in the framework of regulatory requirements.

Internal rules related to administrative service often repeat word for word ASPLEA’s texts, and to a very small degree consider in detail internal organization, the distribution of responsibilities, and controlling procedures.

The model for administrative service delivery has the following components: legal grounds; relevant and necessary documents; internal motion of the procedure, service delivery or denial; and order of appeal. Very often when the administrative service is delivered to an economic agent, it is part of a chain of conditions related to the execution of a particular economic activity and is linked to previous and/or subsequent administrative actions.

Municipal administrations do not have a clear description of the motion of individual administrative procedures and the technology of their execu-

tion (which is very important when the procedures are related to the checking of circumstances on site by the controlling organs). Nor do they have any description of the sequence of individual procedures and how they interrelate. Clients cannot follow the progress of the procedure in their cases. As an exception, Sofia Municipality has developed a system for official check-up, which is accessible on the municipal web-page.³⁶ Currently, this system does not function well and does not provide information on the internal motion of the requested document in the units of Sofia Municipality.

Example: Organization of procedures for administrative service delivery to economic agents by the municipal administration in a small municipal center.³⁵

The studied municipality does not have a separate body for administrative service (or other similar form, such as front office or information center). Information about all documents necessary to initiate the procedure for issuing a requested document is given directly by the experts who execute the service. The experts who enter the applications and those who make the decision are essentially one and the same.

Procedures for executing an administrative service start with the submission of all documents required by law. Then, experts are required to consider in substance the submitted documents and make a decision on the basis of their content: whether to issue the requested document or a justified denial. Citizens have the right to appeal this denial through an order stipulated by the law (for details see Service Delivery).

In practice, experts who enter an application for administrative service and the documents necessary for its execution consider these documents substantively at the time of their filing. If they consider that there are no grounds to issue the requested document, they do not enter the application at all based on their determination that the content of the documents does not meet requirements and must be updated. As a result, citizens cannot appeal this “denial” to issue a document, as administrative procedure has been initiated.

This practice is motivated by an interest in economizing resources and time, both for the administration and clients. The examined case is an example of an unlawful extension of discretionary powers, contrary to the procedure established by law, which limits citizens’ rights without providing any personal gain for the respective employees. There is also an opportunity for abuse due to incompetence and “free” interpretation of the law on the part of the employee.

Many municipalities set different permit requirements that go beyond established norms and regu-

lations. The terminology used in different administrations can also cause problems, as there are few generally accepted definitions, and interpretations vary from department to department and even individual to individual. As well, there is no internal system that informs employees about envisaged changes in regulations directly related to their service delivery duties or to their potential impact on the organization of work. This often results in ignorance of changes in regulations, and leads to incompetent decision-making—thereby affecting service users. Certainly, communication (and thus consistency) among administrative units could be facilitated if there were written delivery procedures for each administrative service.

The lack of administrative guidelines designed to define powers in detail, as well as mechanisms for the application of these powers, allows for abuses on the part of municipal administration employees. This is due both to the individual desire for (unlawful) personal gain, and to ignorance or inappropriate exercise of discretion.

2.3.3 Staff Training in Municipal Administrations

Employees in municipal administrations receive official education and vocational training to develop their capacity and skills. Such training serves to enhance their competence and the overall performance of the administration. With a view to establishing vocational qualifications for civil servants, the appointing body should ensure all necessary conditions. When certain qualifications are required by particular work or service, the expenses should be covered by the municipal administration.³⁷

Bulgaria has established a special state institution charged with training civil servants in central and local administrations, called the Institute for Public Administration and European Integration (IPAEI), at the Ministry of Public Administration.³⁸ The main task of the Institute is to provide vocational qualification and re-qualification to civil servants. To this end, the Institute makes annual training plans and conducts various courses and seminars for employees.

Employee training is done in accordance with the National Training Strategy for Administration Employees of the Council of Ministers, adopted in February 2002. The Strategy determines the priorities

of vocational training and aims to raise the expertise of those working in the administration. As well, it promotes strengthening administrative capacity in light of Bulgaria's future membership in the European Union. The Strategy envisages the realization of an overall integrated policy for management and development of human resources, which should ensure the continuation of administrative work toward serving public interests. Training measures are directed predominantly toward civil servants, but the Strategy also envisages measures in relation to all employees in the Public Administration, working "officially," or under contract.

In fulfilling the requirements to consolidate a competent and professional administration, the amendment of the Civil Servants Law, adopted in early October 2003, envisages new terms for civil service employment (i.e. requirements related to professional experience, and obligatory contest). These include better opportunities for professional development (based on merit), the introduction of a performance-based payment system, the right to training, revisions to the code of conduct, and procedures for overcoming conflicts of interest.

In 2003, training accounted for just over 0.8 percent of the budget for civil servants salaries. The Institute for Public Administration and European Integration provided training to over 15,000 people in 2002, which represents an increase of 40 percent compared to 2001. The Institute organizes obligatory training for newly employed civil servants, as well as specialized training on the issues pertaining to European integration.

The Institute for Public Administration and European Integration develops and implements annual training programs for employees in municipal administrations. Results from local surveys show that half of all municipal employees thought their work was obstructed by the incompetence of a colleague.³⁹ One survey conducted in 2001, in the framework of a project funded by the World Bank, suggests that the majority of employees believed they will need additional instruction and/or training for their current position.⁴⁰ Yet, more than 50 percent considered themselves familiar with the opportunities for training in their organization. Over 70 percent thought that the opportunities for training in their organization depend on training programs and their service

merits. These results outline a rather broad scope of tasks that the IPAEI now faces, and which highlight the need for methodological preparation of training plans for Bulgarian civil servants, especially in local administrations.

2.3.4 Performance Appraisal of Municipal Administration Employees

A regulatory system for employee performance appraisal at all levels of public administration was introduced early 2003, along with a regulation for the terms and conditions for attesting employees in the state administration.⁴¹ The periodical performance appraisal laid down by the regulation is a key element in a three-year (2001–2004) project, entitled Performance Appraisal, Pay, and Grading in the Public Sector, and funded by the British government through the Department for International Development.

The terms for performance appraisal of employees established by the regulation refer to persons who work on an official or employment contract basis in the state administration, except for executive power bodies, including municipal mayors. The attestation of employees' performance has multiple aims:

- to establish the level of vocational qualification and its correspondence to the requirements set in job descriptions and organizational codes;
- to improve the work of respective administrations (units, and individuals) through effective performance management, in order to achieve goals, execute duties, and enhance personal competence;
- to ensure fair remuneration of employees according to their capacity and contribution to the activities of the administration; and
- to identify the vocational development needs of each employee and enhance his/her vocational competence.

The evaluation of employees in public administration is made on the basis of periodical appraisals of their performance, where the following factors are taken into consideration: vocational qualification, term of service, and the requirements for the execution of direct duties set in the job description of the given post.

Attestation, through annual performance appraisal of each employee in public administration, is done by an evaluator under the supervision and control of a supervisor, along with representative trade unions in the administration. The evaluator should be the individual to whom the respective employee is directly subordinate; the evaluator is subordinate to the supervisor.

Performance appraisal is used when deciding to promote civil servants. Requirements and appraisal mechanisms envisaged in the regulation allow for additions to be made to control areas that are omitted or insufficiently developed by the internal rules of municipal administrations.

The process of appraisal covers a period of one calendar year. It includes development and coordination of a work plan at the start of the period, an interim meeting in the middle of the period and a closing meeting and overall performance evaluation at the end of the period. The initial work plan accounts for the main goal, direct duties, managed resources, and competencies set in the job description of the post taken by the evaluated employee. It establishes the objectives and requirements that the evaluated employee should realize throughout the year. These should be related to the achievement of concrete goals, to the improvement of certain qualities of the evaluated employee, including his/her vocational qualification, and to changes in his/her behavior.

Individual indicators for performance evaluation include: demonstrated competencies and the degree of realization of work plan goals and of the requirements of the direct duties set in the job description. The regulation gives a detailed description of indicators for performance evaluation as well as indicators for competence evaluation of different groups of employees. The latter includes: competence in work with customers (knowledge of a service's customers, and ability to deliver services effectively), communication skills, openness, tolerance, courteousness, and the ability to evaluate and prioritize customers' interests and preferences. According to Art. 19, par. 2, the assessment of competencies takes into account the number of complaints in relation to customer service.

As of yet, there is still no established practice for applying the regulation in municipal administrations. At this stage, it is not possible to assess the effective-

ness of its application. The methodological support of the process will ensure effective practice in appraising employees' performance, as well as a basis for applying the principles for employees' career development.

2.3.5 *Liability in Case of Abuse of Official Position*

According to Bulgarian laws, the liability that employees in local administrations bear in the case of abuse of official position depends on the character of the violation. A liability can be property, criminal, administrative, and disciplinary (the latter applies only to civil servants and employees in the local administration).

Administrative Liability

Administrative liability is realized when employees do not perform their legal duties, when physical and legal bodies violate duties they are obliged to perform, and when the committed violations do not constitute crimes under the Penal Code. Such liability takes the form of fines for officials and physical entities (citizens), and property sanctions (which also have a monetary expression) for legal entities (organizations).

Among the violations subject to sanctions, as envisaged by ASPLEA, are: failing to enact an order of a higher administrative body or a court order prescribing delivery of a certain administrative service; requiring documents that are not required by law; failing to take a decision within a set term, without acceptable excuse, in relation to a request for an administrative service or in relation to an appeal against the administrative service; failing to send a request for an administrative service or appeal against a refusal to deliver an administrative service in a timely manner; and failing to fulfill other duties arising from the law.

Fines range from 20 to 100 BGN, and from 40 to 200 BGN for repeated offences. The average monthly salary for the country is 280 BGN.⁴² The fines as envisaged by the law range from 7 to 35 percent of an average monthly salary for a first offence, and from 12 to 70 percent for a second offence.

Disciplinary Liability

Disciplinary liability arises from a violation of service duties. Consequently, it is imposed only on those who

have an official employment relationship with the head of an administration or an employer—such as civil servants and contract employees in central and local administrations. Civil servants are sanctioned according to the penalties envisaged in the CSA: note, warning (reproach), postponement of promotion for a year, reduction in rank for a term of six months to one year, and finally, dismissal. For violations of work discipline, officials under employment contracts are subject to the disciplinary sanctions envisaged by the Code of Labor: note, warning of dismissal, then dismissal.

Statistic shows that in nearly half of all cases, disciplinary sanctions are imposed for to the poor performance of duties. In approximately 10 percent of the cases, they are imposed for to pecuniary abuse or disregard of subordination. According to fewer than half of the employees, the existing sanctions for disciplinary violations are ineffective.

2.3.6 *Conduct and Ethical Codes: Best Practices for Task Performance and the Prevention of Conflicts of Interest*

A Code of Conduct for civil servants has been approved⁴³ that outlines the basic principles and rules for ethical conduct of civil servants and their relationships with citizens in fulfillment of their professional duties and also in public and private life. National Center for Public Opinion Polls (NCIOM) research shows that almost half of civil servants think that the Code contributes to improvements in their work; one-quarter could not give an opinion. However, nearly 15 percent of the interviewed civil servants claimed that they were not familiar with this Code.

The practices of approving and implementing a Code of Ethics in local administration work are not very widespread; such documents have been developed in isolated cases.

The regulatory framework that determines the organization and functions of municipal administrations envisages all main elements and mechanisms for internal hierarchical control and accountability. Municipal administrations apply and adhere to the requirements

set in regulations, but in the majority of cases, this application covers only the minimal legal requirements. Decision-makers do not use their delegated rights to further develop these mechanisms. The lack of internal performance standards, which account for the specific conditions, creates conditions for abuse on the part of municipal administration employees—due to a desire for unlawful personal gain, to ignorance or to inappropriate exercise of discretion.

The mechanisms for training civil servants and managing career development envisaged in the regulatory framework, and recently applied by administrations, represent a solid basis for the development of those areas of control that are omitted or insufficiently developed by the internal rules of municipal administrations. Their application requires continuous methodological support on the part of the competent bodies and units in the Bulgarian administrative system.

2.3.7 *Administrative and Financial Control in Local Government Work*

Legal accountability includes mechanisms designed to ensure that the decisions taken by administrative bodies, within the scope of their powers, are technically “correct.” Specifically, they must meet or coincide with requirements set in legislation. In its essence, control is subsequent (*post facto*) and consists of examining the legal grounds of decisions made and actions taken.

The mechanism applied in Bulgaria to ensure legal accountability of local authorities consists of procedures united in a single and consistent process. At various stages of this process, control (in relation to the activities performed by local government bodies and local administration) is exercised both internally and externally. Understanding that the effectiveness of this mechanism can be evaluated best if it is considered in its totality, this study first presents the elements of administrative control, and then considers the procedures for judicial control, which are inseparable from the whole mechanism.

The Local Self-governance and Local Administration Act (LSLAA) empowers the municipal mayor and the municipal council to take on the functions of controlling bodies in relation to one another. The

Act establishes the way in which these powers will be exercised. A municipal council can repeal acts issued by a mayor in violation of municipal council decisions. In turn, a municipal mayor can veto a council decision or postpone action on a decision when he or she thinks that it contradicts the interests of the municipality or violates the law. In case of a veto, a mayor can dispute the lawfulness of a decision in the court.

As an institution external to the system of local government, and as a representative of the central administration, a district governor exercises control over the lawfulness of acts and actions taken by the bodies of local self-government and local administration.⁴⁴ According to LSLAA, a district governor can repeal an unlawful act issued by a municipal mayor in a one-month term. The district governor can stop the execution of unlawful acts issued by municipal councils and can refer the acts to the district court. However, the order of receiving acts issued by municipal councils and municipal mayors is not regulated.

Municipal administration work, which is subject to administrative control on the part of external and internal instances, is to a great degree related to administrative service delivery. Upon a refusal on the part of responsible authorities and officials to deliver a requested administrative service, citizens and organizations can issue an appeal, according to the order set by law. It is also a case of refusal when an administrative service is not delivered in the requested form. Failure to take a decision within a set term is deemed a “silent” refusal to deliver a requested service.

There are two options envisaged by the law for appealing against refusals: either through administrative channels or through the court channels. Appeal through court channels is considered in the following section. Appeal through administrative channels takes place before the administrative body of the executive power, unlike an appeal through court channels, which takes place before a body of the legislative power.

2.3.8 *Order of Appeal of Administrative Acts: Refusal to Deliver a Service or Poor Service*

According to ASPLEA, a refusal to perform a particular administrative service should have legal grounds, a time-limit, and a body before which it may be appealed. When a refusal to perform an administrative

service is committed by an officer of the municipal administration entrusted with the powers to take such decisions, the competent body to consider the appeal is the head of the administration, such as a municipal or regional mayor. Refusals issued by mayors of regions or mayoralties are appealed before the mayor of the municipality. When a refusal is made through an administrative act issued by a mayor, it may be appealed through the administrative channels of the district governor’s office. This pertains specifically to external forms of administrative control.

Through administrative channels, the content of a document that certifies facts of legal substance or that affirms or denies the existence of rights and obligations can also be appealed. The appeal should be filed within the deadline set by the law, in written form. The minimal requisites set by the law are: addressee; name and the address of the appellant; and his/her complaints or claims.

Time-limits for taking a decision on an appeal in the above mentioned cases are set in ASPLEA, and hold where other laws do not establish any specific rules. The time-limit for filing an appeal is seven days in the case of explicit refusal, or two weeks in the case of silent refusal. Within seven days of receiving the appeal, the body that refused to deliver the administrative service can reconsider the issue and deliver the requested service, or if it does not find legal grounds, it should immediately forward the appeal to the competent body. The competent body should formulate a decision on the appeal within fourteen days. The competent body then has three days to inform the appellant. The overall time-limit for taking a decision in these cases is 24 days.

Appeals against poor administration beyond ASPLEA stipulations are envisaged in the Proposals, Signals, Appeals, and Applications Act.⁴⁵ Since ASPLEA envisages the terms for appeals against refusals to provide administrative services, all other forms of appeals against unsatisfactory administrative service on the part of the obliged bodies may be considered under PSAAA.⁴⁶ Despite outdated terminology, this law envisages the terms for considering appeals by citizens and organizations others than cases of refusal to provide a service.

Appeals are considered under PSAAA in cases of illegal or improper actions on the part of the administration, slowness, inappropriate and insulting

attitudes on the part of administrative employees, and other bureaucratic misdeeds that may affect citizens' rights or legal interests. These might include failure to adhere to the working hours for providing services to citizens and organizations, illegal re-direction from one officer to another, attempts to demand undue profit from those requesting the administrative service, and so on.

Appeals are pleaded to the bodies that directly manage and control the institutions and persons whose unlawful or unjustified actions are the object of the appeal. The body takes a (written) decision on the appeal within a one-month period, or within a two-month period for a collective or central body. When there is evidence of a crime, the respective prosecutor is immediately notified.

When an appeal is accepted, the competent body removes or orders the removal of the committed offense or irregularity or takes other suitable measures.

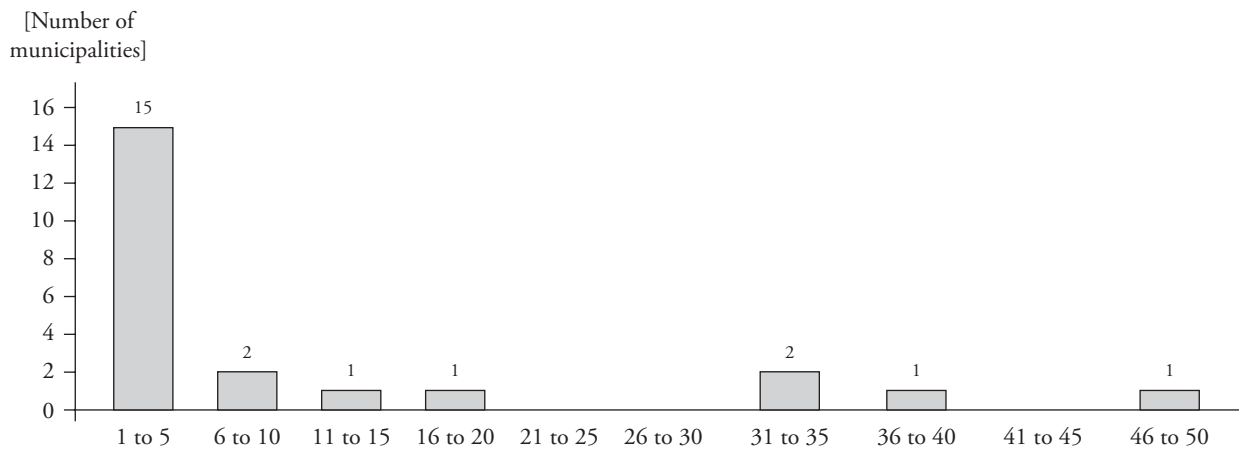
Finally, the order for appeal should be indicated in the administrative act issued by the respective body. In practice, municipal administrations do not provide information in advance about options for control and for appealing administrative procedures. Consequently, one-fifth of those interviewed believed that there is no such order.⁴⁷ According to another 30 percent of interviewed citizens, in the case of a refusal to deliver a service by an administration, the order for appealing is ineffective. These opinions call into

question statements made by municipal administrations that the low number of appeals reflects the good performance of local administrations. Moreover, while the order for appealing administrative acts is addressed explicitly and in written form, the options for grievances and complaints against poor administration under PSAAA is not indicated in issued documents, nor is any preliminary information about them available (Figure 7).

2.3.9 Financial Control of Local Government Work by External Mechanisms

The National Audit Office is the national auditing body in Bulgaria. It carries out independent external audits (financial management assessments) of public resources, including municipal budgets and the resources absorbed by municipalities from European Union funds and programs (National Audit Office Act). On the basis of these audits, the National Audit Office presents a report on its evaluations to the National Assembly and informs the public, thus making the spending of public resources transparent. Upon the establishment of violations, it recommends measures designed to stop the illegal actions and sends the materials from its audit or its audit report to the respective competent body, in order to initiate legal proceedings.

Figure 7.
Distribution of Number of Grievances Regarding Poor Administration per 1,000 Administrative Services Provided by Municipalities



Source: Report of the Minister of Public Administration, January–August 2001.

A main task of the Agency for State Internal Financial Control is to prevent, expose and restore damages. The Agency monitors the financial activities of the bodies that manage budget credits under the republican budget, EU program funds, revenues in the republican budget, and so on, with a view to establishing their legality and adherence to the principles of effectiveness, efficacy and the market economy.

In relation to local authorities, the State Internal Financial Control Bodies carry out external audits through the chief accountant of the municipal body. These audits are conducted prior to taking a decision to assume liability or to make expenditures. External audits can also be carried out by a delegated internal auditor from the Agency for State Internal Financial Control, who prepares a survey on the audited body as well as a report with recommendations (State Internal Financial Control Act).

There are also special bodies for combating corruption, which conduct investigations in cases of corruption on the central, regional, and local levels. These are the Agency for Financial Investigation Service at the Ministry of Finance, and the Economic Police, a specialized unit of the National Police Service. The Financial Investigation Service Agency receives, maintains, examines, analyzes, and discloses to the law-keeping bodies information related to suspicions of money-laundering.

2.4 Judicial Control

2.4.1 *Bodies and Procedures*

Judicial control is exercised over acts issued by municipal councils or by municipal mayors that have passed through the administrative appeal channels, but for which the decision taken has not satisfied the parties. Through court channels, one may appeal administrative liability acts with which the administrative bodies impose sanctions on citizens or legal bodies, upon the establishment of administrative violation. Refusals to deliver an administrative service not only may be addressed through administrative channels, but also can be appealed before the court. An appeal before the court can take place in two cases: a) after the option

for administrative appeal is exhausted and the decision made by administrative body has not satisfied the person requesting the service; or b) after the legal term for appealing through administrative channels has expired.

Competent Bodies

The competent court bodies that consider disputes as to the lawfulness of refusals to execute administrative services are the Supreme Administrative Court and district courts, depending on the body that has issued the act. The Supreme Administrative Court (SAC), in accordance with the Supreme Administrative Court Act, convenes in three-member sessions, as court of first instance, in relation to refusals or decisions by district governors; and in five-member sessions, as a court of last resort, in all cases of last resort appeals. District courts act in accordance with the Administrative Procedure Act.

Procedures

The current legal framework requires affected citizens or organizations to file an appeal to the competent court of first instance or to file an appeal through the administrative body, which then sends it to the competent court. The court considers the appeal in a court session; then, the court of first instance comes up with an order, which may be appealed (a cassation appeal) before the SAC. The SAC order enters into force once the court delivers its judgment, and is not subject to further appeals.

As mentioned earlier, there are two levels of courts of appeal when appealing administrative acts. District courts are courts of first instance in administrative procedures, and the SAC acts as a court of first instance in relation to appeals against acts and decisions of district governors. The court of last resort (cassation) is the SAC, which only acts as a court of cassation in relation to administrative cases.

The average duration of the court procedure cannot be specified, as existing laws do not limit the period within which the court must consider administrative cases. The only time regulation relates to issuance of the court order and motives: the court must issue its order and motives 30 days, at the latest, after the final court session.

2.4.2 *Access to Court Appeal Procedures: Fees and Financing*

According to the Administrative Procedure Act (APA),⁴⁸ the state collects fees for appeal proceedings.⁴⁹ The amount of the fees for complaints against administrative acts varies from around 3 percent of the average monthly salary for physical persons and legal non-profit entities to 18 percent of the average monthly salary for legal entities that do not fall in the above categories. For the complaint to be considered, a deposit of half the cassation fee is required. There are no state fees for appeals made through administrative channels against refusals to execute administrative service.

Apart from the fees collected under APA, the price that citizens and legal bodies must pay in practice includes lawyer's fees as well.⁵⁰ The amount of lawyer's fees for representation in administrative cases is determined by the material consideration of the claim. For claims with no material consideration, lawyer's fees are 50 BGN (18% of the average monthly salary). For claims with material consideration, the fees begin at the same level and depend on the amount of money claimed. Besides these fees, there may be other fees, such as fees for advice, research, and preparation of documents, which range from 5 to 20 BGN. No-cost legal assistance is provided to people in need.

The amount of state fees collected for appeals through administrative channels make appeal procedures accessible, in terms of the price that citizens and legal bodies must pay to gain access to one of the main mechanisms designed to control and sanction public administration work. The amount of lawyer's fees, in cases of claims with material consideration, can be viewed as a potential barrier diminishing the access to appeals before the court. As this issue falls outside the competencies of local and central government, this barrier may be overcome by developing measures concerning the activities of civic or professional organizations.

Appeals through court channels can also be made in regard to decisions awarding public procurement contracts, which represent administrative acts of the respective administrative body. Complaints under the Public Procurement Act are filed through the body awarding the contract and are considered by the court in one-month period after they are entered. Appeals

through court channels may also be made in relation to acts for administrative violations committed by a physical or legal body and issued by the empowered official bodies (municipal mayors, head of body, district governor or other body empowered by the law to establish administrative violations). The court passes a judgment on the lawfulness of the appealed acts. Bulgarian courts do not follow the practice of passing judgments on the expedience of issued administrative acts when this right falls within the powers of a decision-making body. There are cases, however, when a court of last resort confirms the lawfulness of the decisions and administrative acts issued by local government bodies. However, the application of these decisions is met with strong resistance by citizens, due to their inexpedience and the damages they may inflict on the citizens' interests.

Effectiveness and Efficiency of Administrative Justice

While recognizing improvements to the legislative framework in the fight against corruption, the European Commission's 2002 Regular Report on Bulgaria's Progress Toward Accession considers reform of the legal system and the judiciary as crucial to the fight against corruption and provision of transparency in the work of Bulgarian administration. Administrative justice helps to increase the transparency and accountability in the activities and conduct of the administration and thus turns into an important defense mechanism against corruption.

In fulfilling the envisaged remedies for creating a modern and effective system for administrative justice in Bulgaria, the government carried out, with the aid of donor organizations, a comprehensive survey of administrative justice (Bilak and Galligan 2003). It includes a detailed analysis of Bulgarian legislation in this field (including a comparative analysis of positive practices in EU candidate countries). The government plans to implement a project entitled Creation of a New System for Administrative Justice in Bulgaria.⁵¹ Its main aim is to ensure the protection of citizens' rights in dealing with the administration and to raise the quality of administration by enforcing a clear and accountable framework for the implementation of functions.

Data show that there is no unified practice for applying procedures for administrative legislation in

the system, and no unification and classification of administrative acts and actions. There is an inconsistent legal basis for the issuance, internal appeal of and judicial control of administrative acts.

The ineffective action of institutions in the court system is caused by inconsistent legal bases used in administrative justice, the need for specialized training of judges, and often the lack of trained judges and of resources for dealing with the workload in administrative justice. All this is reflected in the length of the time periods in which courts announce their decisions on a given trial, which directly affects the quality of justice.

One reason given for delays pertains to the mechanisms for summonses and the obstacles caused by the administrative bodies issuing summonses. As a result, the consideration of most trials takes on average more than three months.

The main suggestions for improving the court system to ensure the protection of citizens' rights in their dealings with the administration are directed at the development of a comprehensive Administrative Code as well as the creation of a system for specialized administrative courts, based on the framework of the Higher Administrative Court.

2.5 Citizen Control

2.5.1 *Transparency in the Performance of Local Administrations' Activities*

2.5.1.1 *Access to Public Information*

The Access to Public Information Act (APIA), adopted in 2000, grants citizens and organizations the right to information created and stored by local authorities. The right to access information is granted to every Bulgarian citizen, to foreign citizens, to persons without citizenship, and to Bulgarian or foreign legal entities. As well, it obliges all state and local authorities, all public legal entities, and persons financed by the state budget to provide information. The media are also obliged to grant certain types of information.⁵²

Authorities are mandated to publish information relevant to the issued acts (decisions, rules, ordinances, orders): the grounds for their adoption, and description of the functions and responsibilities of the

respective administration. They are obliged, when requested by citizens, to grant equal access to stored information—except in cases of classified information or information that presents personal data to third parties who have not given their explicit consent for the provision of the latter. To grant access to public information, the Act envisages that every administration adopt internal rules and organizational guidelines, by which to designate a unit and an official to receive applications for access to information, as well as a procedure for registration and consideration of applications.

Annual report data on the status of public information in Bulgaria (2002) show that in over 70 percent of the municipal administrations under survey, there was an appointed official to receive applications for access to information.⁵³ In two-thirds of those administrations, a register of the applications received was being kept.

The Access to Public Information Act determines the cases in which access to information may be refused. It is within the powers of senior officers to adopt internal rules and to delegate responsibility for decision-making on the granting or refusing of access to public information. Such internal procedures have been partially studied. In three-fourths of the surveyed municipal administrations, the person taking the decision was a senior officer, while in 10 percent of the cases, the civil servant receiving the application took the decision. In over 60 percent of the cases, consultations were held with the jurist at the municipal administration, and in one-third, with the senior official at the respective administrative structure.

2.5.1.2 *Publicity of Reports on the Work of Local Authorities and of Municipal Council Meetings*

According to regulations,⁵⁴ municipal council sessions are open to the public. Upon a council's decision, some sessions may be held behind closed doors. A council adopts statutes, orders, decisions, and instructions on issues of local significance. All decisions taken at sessions should be announced to citizens. Municipal council acts are displayed on the premises of the municipality on a site determined by the mayor, and are brought to the attention of citizens through the mass media or in other ways suitable for that purpose.

Methods for disseminating information on current activities and decisions adopted at council sessions include publishing decisions and other adopted documents in the local press and disseminating information through the local electronic media (radio and TV channels). In some cases, municipal administrations assign the publishing of documents of the municipal administration and municipal council in the local press via public procurement.⁵⁵ Some councils publish schedules for their sessions and minutes from previous sessions on their own web pages or on the municipal web pages.⁵⁶ Unfortunately, this is not yet common practice. In most cases, minutes of council meetings can be obtained upon request.

A growing tendency is for mayors to present annual reports to the public. This practice, for which there are no explicit regulations, enhances transparency in local administration work. Reports are presented at public meetings and are disseminated by the local media.⁵⁷

The described measures for publicity and access to municipal council decisions and acts are normatively guaranteed by law in the fields of local self-governance and local administration.

2.5.1.3 Mechanisms for Feedback from Citizens

Mechanisms for feedback from citizens are instruments with which local authorities' accountability can be enhanced, and citizen control can be exercised. Mechanisms for studying citizens' opinions on the activities of the municipal administration and council present opportunities for the effective monitoring of the results of administrative activities. Certainly, feedback from citizens may contain valuable information for a local administration. For example, requests for information may reveal the need for secondary drafting of information activities. Proposals may outline useful measures for improving the delivery of services. Complaints may point out necessary prevention measures against potential abuses. Tools that support voluntary feedback include: "mailboxes" for receiving proposals and complaints, and for allowing for the collection of information and its release along processing channels; web-pages through which citizens may submit questions; hot-lines and questionnaires evaluating the work of an administration; focus groups, discussions, and other tools for qualitative study of public opinion; open hours with experts and heads of municipal

administration (mayors, deputy mayors, and heads of structural units); and public opinion polls.

After the information has been received and processed, the effective implementation of feedback mechanisms requires an analysis of proposals and complaints that are to be made public (Figures 8, 9).

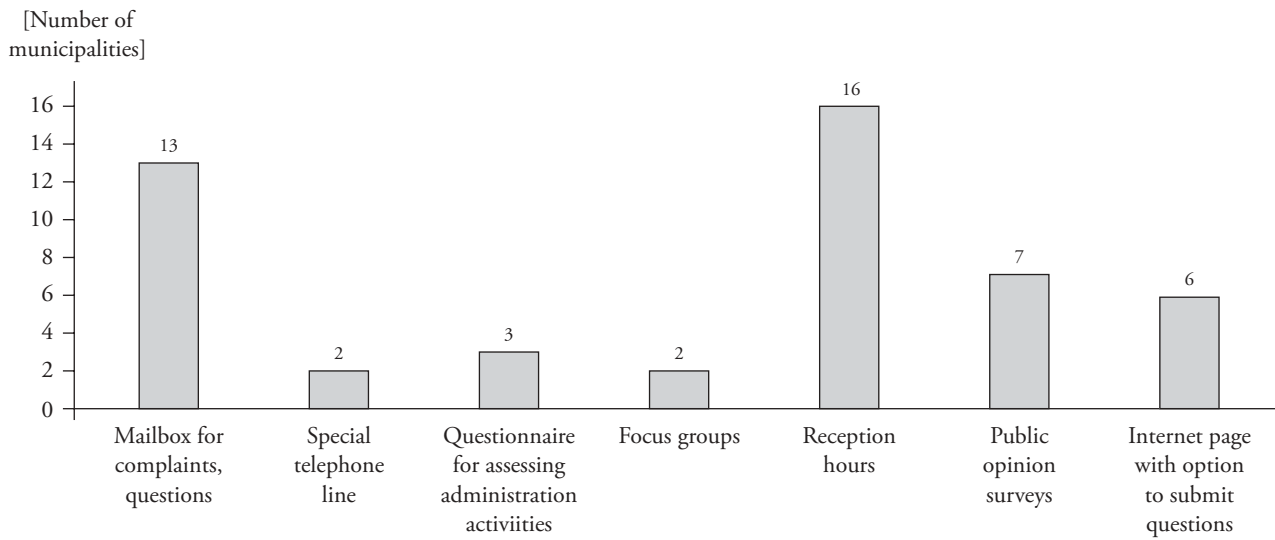
2.5.1.4 Service Delivery: Projects and Programs

Current initiatives for perfecting administrative service, carried out with government support, include: the Improving Public Service thorough Provision of One-Stop-Shop project (funded by the DFID); a program for the establishment of front-offices; and pilot projects for the establishment of one-stop-shops in municipal administrations (funded by the central government). Within the recommendations drafted as a result of the Improving Public Service project, the government adopted a concept for improving administrative service within the "one stop-shop" principle. The general model of service for the one-stop-shop principle is currently in the initial phases of implementation in six administrative structures at the central level. There are also a number of programs for improving administrative service, without direct governmental support. Such programs are most often initiated by donor organizations or non-governmental organizations.⁵⁸ Currently, out of 18 municipalities, 12 have no information center or any other type of structure for the provision of information to citizens on municipal administrative activities; six do have such structures.⁵⁹

The establishment of municipal centers for information and services is also undertaken to meet ASPLEA requirements. It is expected that these centers will directly increase civic control on the terms of delivery, reduce the time for service delivery and the expenses both for citizens and the administration, and increase transparency in local self-governance. The aim is to present concrete administrative information delivered by a respective administration. The centers are involved in the preparation of handbooks for administrative services, including information catalogues, leaflets, and so on, that describe the procedures of a respective administration.

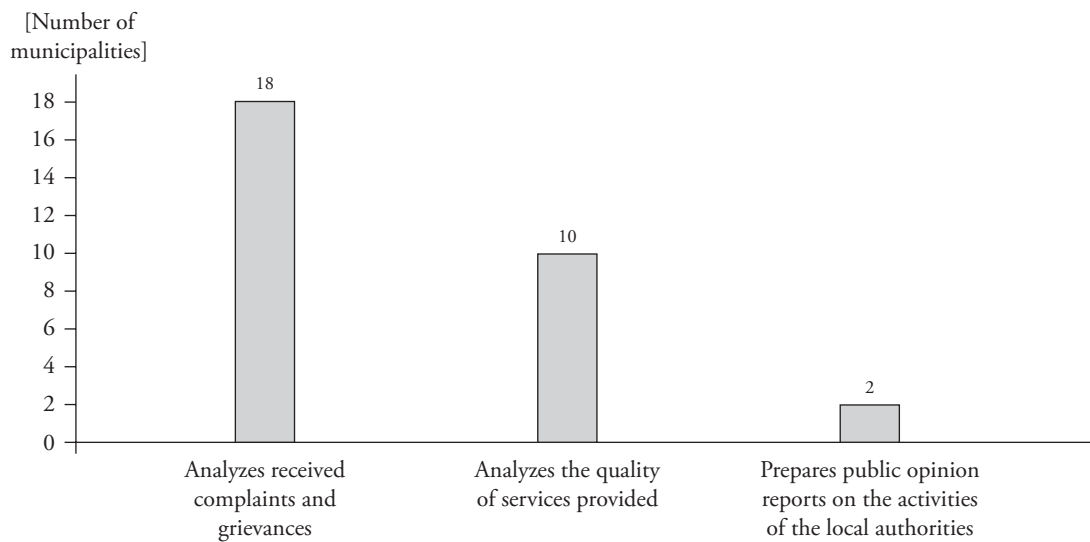
In actuality these projects are carried out in separate administrative structures, without affecting the operative organization of administrative activities and possibilities for improving administrative procedures

Figure 8.
Means by which a Municipal Administration Provides Feedback to Citizens



Source: Survey conducted by the author within the current project.

Figure 9.
Municipalities' Use of Collected Information



Source: Survey conducted by the author within the current project.

for service delivery. The lack of a broader view in the execution of such projects by NGOs provides no room for a true integration of administrative services or the creation of effective mechanisms for coordinating the activities of various administrations. There are still no projects that envisage an actual integration of certain services at the central or municipal level. Thus, the effect of building service centers remains solely to deliver information to interested citizens and juridical persons, without any implication for actual administrative procedures.

2.5.1.5 Ombudsman

An ombudsman is an institution that defends citizens and legal entities before local government bodies when these bodies do not take necessary actions or when their actions violate the existing law, the principles of the democratic state and the concept of “good governance.” By performing these duties, an ombudsman contributes to the defense of fundamental rights and freedoms (as outlined by international conventions). The ombudsman institution has not been a typical feature of administrative law in the “continental” legal system, upon which the Bulgarian legal system has been built.

The Ombudsman Act, adopted in May 2003,⁶⁰ envisages the establishment of the ombudsman institution as “a body that advocates for citizens when state, or municipal bodies in their action or lack of action infringe upon citizens’ their rights and freedoms.” Under the law, the Ombudsman shall be elected by the National Assembly for a mandate of five years. Members of Parliament and Parliamentary groups may propose candidates for the position of Ombudsman. This appears to contradict the basic formulation that “in his/her activities, the Ombudsman is independent and subject only to the Constitution, the laws, and the ratified treaties to which the Republic of Bulgaria is a party, and s/he shall be governed by his personal consciousness and morals.”⁶¹

The Ombudsman may be approached with grievances regarding the infringement of rights and freedoms by legal entities. Certain powers are contradictory, and procedures for the reception and consideration of grievances have not been sufficiently developed. Powers for considering a grievance have not been made clear, nor has the timeline for this function with respect to the timeline for the appeal

of administrative acts under administrative and judicial orders. As well, the range of “state and municipal bodies and their administrations” against which the Ombudsman may realize his/her powers to conduct verification under received grievances has not been specified. This formulation comprises state bodies, against whose acts and actions Ombudsman institution could not exercise control. This includes, for example, activities related to the carrying out of judicial power, or the activities of private legal entities delivering public services. These discrepancies and loopholes lead to contradictions and uncertainties in the application of the Ombudsman Act, which detracts from the efficacy of the institution.

Citizen advocacy in Bulgaria is regulated by a series of rules regarding the activities of local advocates, adopted as decisions of municipal councils. The statute of the Ombudsman of Sofia Municipality is regulated by a decision establishing the institution, and by rules for the organization of the ombudsman.⁶² In accordance with the requirements of the rules, the Ombudsman publishes an activity analysis every three months, along with an annual report. Both are accessible to citizens via the web site of Sofia Municipality.⁶³ In 2002, the Ombudsman dealt with 381 cases. Two-thirds of these were “fact-checking” for grievances and appeals, and one-third required mediation related to procedures for delivering administrative services.

Currently, there are public mediators working in a number of municipalities with the support of NGO pilot projects.⁶⁴ Ombudsman offices function in 20 municipalities of varying sizes. The new Ombudsman Act does not regulate these municipalities.

2.5.2 Civil Participation in Direct Democracy

2.5.2.1 Civil Participation in Local Governance through Direct Democracy

Bulgarian legislation stipulates the following forms of civil participation in local governance through direct democracy: local referenda, general assemblies, and petitions (collection of signatures).⁶⁵ Citizens take direct decisions through local referenda by voting on specific issues. Local referenda are conducted on issues of local importance only, which are within the competencies of local self-government bodies, and which

have been explicitly provided for by the law. Local referenda held in two Bulgarian municipalities under the Balkan Assist initiative showed extremely low voter participation. Voters in Elena and Sevlievo comprised about 7 percent of the total electorate. General assemblies represent a form of direct participation in the resolution of issues of local importance. They consist of all voters in the localities in which they are held, and are used to solve concrete issues pertaining to the vital interests of the citizens from a particular locality. Finally, through petitions, citizens make proposals to their municipal council regarding solutions to pertinent issues (Figure 10).

2.5.2.2 Consulting Citizens Regarding Changes to Service Delivery Procedures

Public participation has increasingly been recognized as a key factor for the successful planning and implementation of regional development. Thus, local community members must be included in solving problems of social and economic significance, as well as environmental problems. This calls for the inclusion of various interests and needs, as well as for a desire on the part of the government to develop partnerships. There is a range of norms in Bulgarian legislation regulating public participation in the development and adoption of plans in the fields of environment,

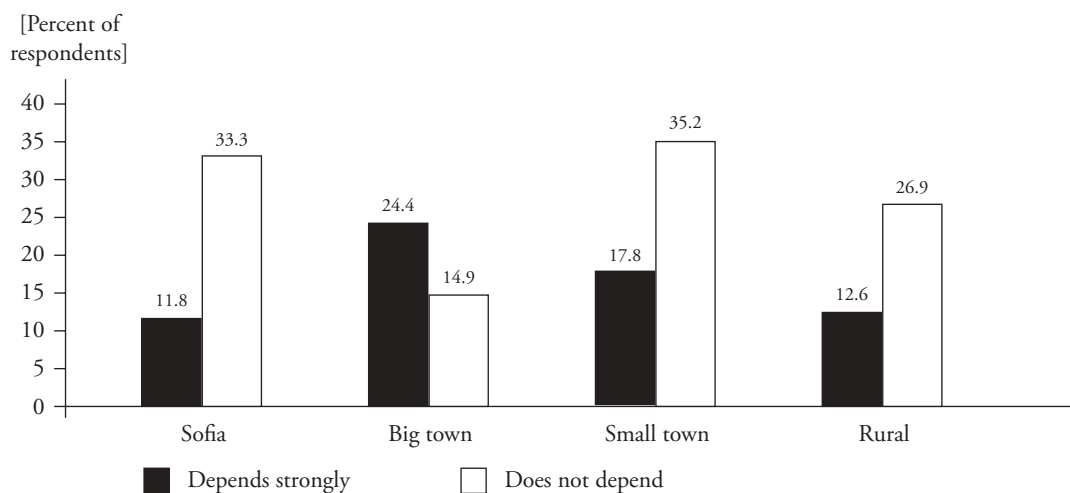
construction investment, and territorial regulation. Many norms are aimed directly at the local government (municipal mayors and municipal councils), as far as the adoption of such plans and the requirements for public discussion are within their competence.⁶⁶

The main tool for conducting consultative processes locally, when this is not required by law, are public discussions—such as holding open public meetings to discuss draft projects related to territorial regulation, environmental protection, and so on. There is also a tendency to organize such meetings and discussions on issues concerning local policies or concrete proposals of local government. These, however, are not regulated in the normative acts (municipal council orders and decisions) of a local government.

A municipal council can include in its permanent and temporary committees other experts, apart from municipal councilors,⁶⁷ which could be seen as an opportunity for enhancing citizen participation and consultation. Permanent committees are tasked with surveying the needs of the local population, making proposals for resolving expressed problems, providing support to the municipal council in preparing its decisions on raised issues, and exercising control on the execution of municipal council decisions. They can engage external bodies as experts and consult-

Figure 10.

Survey: Extent to which Municipal Problem-solving Depends on Citizens' Activity



Source: S. Delcheva 2003. pp.44–45.

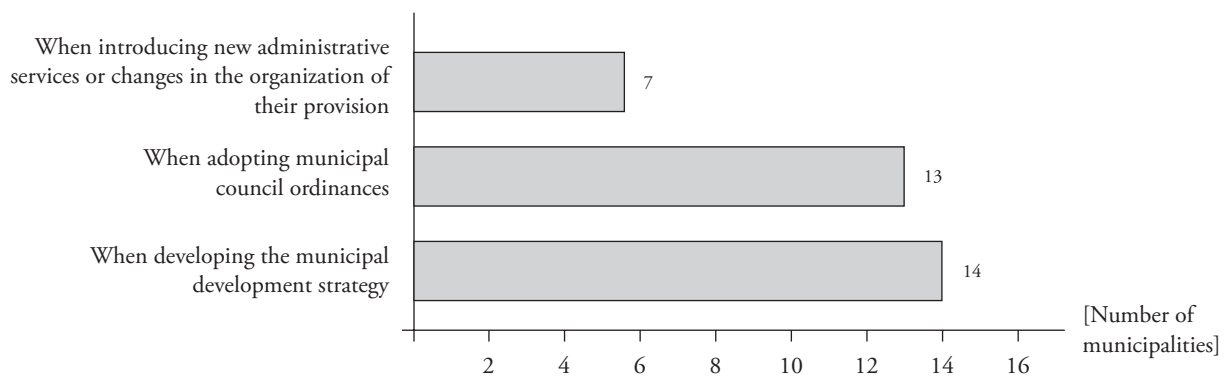
ants. Legally, permanent committees adopt proposals and recommendations in relation to the issue under consideration, which are sent to the municipal council and respective interested parties. There are no regulatory requirements or practices for consulting stakeholders from the local community regarding drafting and introducing changes in procedures for administrative service delivery.⁶⁸

Regional development planning as part of the country's preparation for EU accession could have considerable influence on the development of practices to enhance citizen participation. In this context, encouraging regional development is closely related to the utilization of EU structural funds, and a main principle in the work of EU structural funds, emphasized by the European Commission, is the principle

of partnership. In this study, e-mail interviews with administration employees revealed that consultations with local community representatives on planning local government policies had taken place (Figures 11, 12).

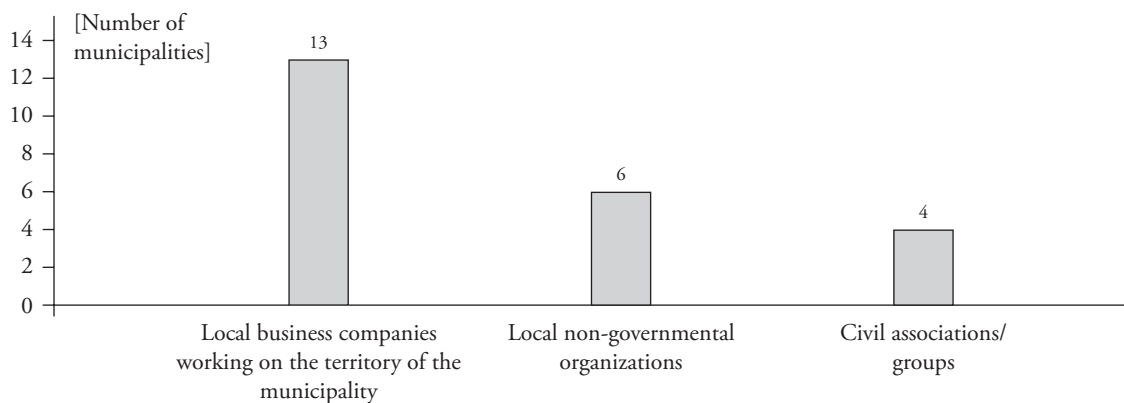
In regard to regional planning, this study uncovered and identified a range of initiatives, including training seminars for municipal administration employees and municipal council representatives on the principles of developing and conducting consultations when planning local community development. These seminars aim to contribute to the improvement of the institutional capacity of local government, both in relation to the concrete requirements for the application of regional planning,⁶⁹ and in planning the overall social and economic development of the local community.

Figure 11.
Cases in which Consultations with Representatives of the Local Community Are Used



Source: Survey conducted by the author within the current project.

Figure 12.
Representatives of which Groups Have Taken Part in the Consultative Process?



Source: Survey conducted by the author within the current project.

2.5.2.3 Participation of Local NGOs in Consultations among Stakeholders

Civil society organizations in Bulgaria face challenges characteristic of organizations at the early stages of their development. A considerable number of NGOs work in the sphere of local self-governance (Vitosha Research Agency 1997). NGO initiatives include support for developing municipal information centers;⁷⁰ training seminars for representatives of municipal administrations and municipal councils working in the sphere of regional planning and European integration;⁷¹ surveys of opportunities to adopt independent institutions similar to that of the ombudsman;⁷² and so on. Activities of NGOs are funded primarily by donor projects, and are not always trusted by local authorities.⁷³ Many NGOs have taken part in the systematization of data and documents necessary for receiving certain services, and in the distribution of free brochures containing such information. These initiatives help raise public awareness, but the level of topicality and usefulness depends on the competence of experts, considering the frequent changes in the legislation.

Table 6.

Degree of Trust in Non-governmental Organizations
by Locality

	Answered "trust very much" and "trust some"
Big town	10.6
Medium town	9.5
Small town	8.3
Rural area	7.4

Source: International IDEA 2002. p.19.

Attitudes about the work of NGOs are predominantly negative, based on stereotypes formed at the beginning of transition, when the public learned about illegal activities conducted behind the cover of NGOs. Another reason for negative attitudes is the lack of information among citizens about the aims and outcomes of the activities of various civic organizations. The average level of trust in NGOs is below 10 percent;⁷⁴ less than 1 percent of citizens indicate that they are members of NGOs and 85 percent had never participated in any form of civic organization.⁷⁵

3. POLICY OPTIONS AND RECOMMENDATIONS

3.1 Options

In this research, the level of trust in institutions and the level of satisfaction with public services that they offer are used as markers to indicate the spheres in which the public considers that administrative performance does not fulfill its expectations. Levels of trust and satisfaction are also useful indicators for evaluating the effectiveness of remedies against abuse implemented by the assessed institutions.

This review of remedies against abuse of power and official position shows that low levels of trust and satisfaction with the performance of local administrations are sufficiently clear markers for the problematic administrative areas. The evaluation of ways to raise the effectiveness of the remedies designed to combat abuses in local government has been based on the understanding that transparent governance, high quality public services which meet citizens' demands, and functioning internal and civic control collectively protect against abuses. In this regard, administrative remedies are considered policy and organizational mechanisms, developed to ensure the necessary balance between individual and public interests in local government decisions and activities, and to provide citizens with access to their rights.

Although the level of trust in the court system is closest to that of the mayor, the remedies that need to be implemented to improve the functioning of the court system and to guarantee the rights of citizens in their relations with the state, are perhaps the most demanding in terms of resources and political will. Necessary changes will have a positive influence both on the practices of courts and on administrative control (appealing administrative acts through the administrative channels).

Low levels of trust in institutions that apply controlling remedies related to internal hierarchical standards, communications and civic participation, as well as results from the survey on the application of these remedies, show the need for serious and sustainable work on the part of both local and central government representatives.

Improving the quality of administrative service and of internal hierarchical control will guarantee

citizens that spending of public resources and service provision will be done in a transparent, just, and adequate manner. Methodological changes and capacity development require support and commitment from the state, local authorities, and international and local community members, with an awareness of roles and responsibilities. Developing standards and mechanisms for information, communication, and consultations with a local community will help to increase the effectiveness of local administration performance, the transparency of the decision-making process, as well as citizens' trust.

The quality of the delivered services is a factor that will raise public trust in local government institutions and in turn raise electoral motivation. Decreasing electoral participation is an indication that authorities do not fulfill the expectations of their electorate. Institutions that play a vital role in the application of remedies against abuses in the local government, such as the court, enjoy much less public trust than does local government. The refusal to exercise the right to vote, combined with low public trust, highlights citizens' hesitance to participate in local governance work, which blocks the implementations of a single main mechanism against abuses.

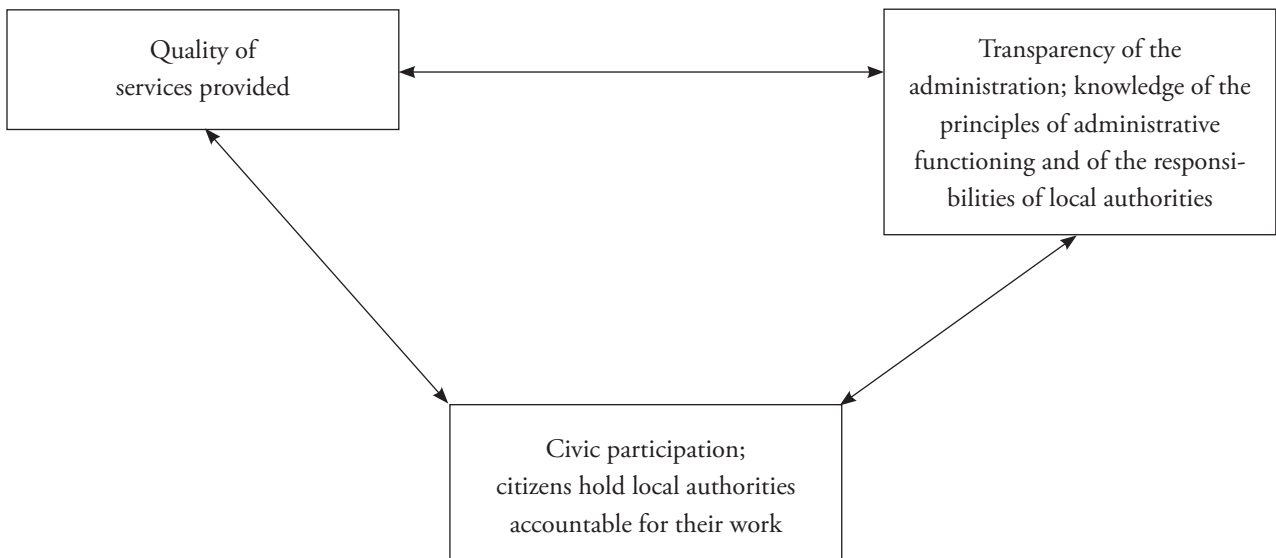
In the present situation, marked by decreasing electoral participation, the primary way to re-establish public trust in local institutions is through the effective application of internal mechanisms designed to guarantee the quality of administrative service. These mechanisms ensure conditions for reducing abuses of power and of official position (Figure 13).

This study suggests that actions taken to improve the effectiveness of remedies against administrative abuses should include the process of policy formulation and development, and should be directed at decision-makers on both local and national levels. This conclusion follows from the general principles for administrative service, laid down in the regulatory framework of the single (unified) system for administrative service.

Reforms to the Bulgarian administrative system form a solid basis for the further modernization of the civil service and the effective functioning of public administration. A clear vision is proposed for modernizing public administration, inline with the norms of the law-abiding state, a market economy and fundamental human rights. A main priority is to strengthen the capacity of administration planning in response to the justified expectations of Bulgarian

Figure 13.

Outcomes that Will Be Achieved via the Proposals for Improving the Effectiveness of Administrative Remedies



citizens for unbiased, open, and effective administrative service.

The achievement of effective outcomes in policy implementation is related to planning and provision of resources, as well as to serious methodological support both for the implementation of developed remedies and for the evaluation of their efficacy. There is political will to implement the envisaged remedies, and there is understanding of the need to invest considerable financial and human resources to achieve the reliability which is characteristic of the European administrative environment. After formulating the policy and the means for its implementation over a long-term period, it will be possible to plan for necessary resources.

Local authorities play a key role in implementing policies for modernizing public administration. The decentralization process and the formulation of managerial decisions on a local level are essential parts of the institutional framework, designed to optimize the functions and organization of administrative structures.

The recommendations made below are based on the policy adopted by the government on general functional optimization of the administrative system, and on the contemporary trends and practices which aim to improve service in the European Union. The Service Standards Improvements Project (funded by the World Bank)⁷⁶ has been used as a guideline. The recommendations for improving administrative regulation and the process of administrative service refer to:

- integrating administrative service;
- improving the system for administrative appeal;
- introducing standard procedures for receiving and considering appeals and complaints;
- raising the qualification and motivation of municipal administration employees;
- publicizing municipal administration work and improving communication with clients;
- improving the methodological base and the organization of administrative service delivery;
- developing a quality system for administrative service; and
- developing mechanisms for planning and conducting the consultative process.

3.2 Recommendations

1. *Integration of administrative service*

The integration of administrative service is a main tool for effective implementation of the principles, laid down by Bulgarian legislation for service delivery to citizens and legal bodies. The Council of Ministers approved a National Program for integrated administrative service, which outlines the main activities involved in integrating the administrative service and the necessary financial resources for a mid-term period until 2004.

Integrating administrative services will require using modern information technology and creating a common communication and information environment to connect local and central administration structures with interested organizations and companies, in order to establish a global administrative network for management and services. It is also necessary to introduce a “window point” or “one-stop-shops” for access to administrative services, through which all interested parties could contact the administrative system that would be responsible for the coordination of all actions involved in delivering the required service (transfer of documentation, agreement, checks). The purpose of integrating access (window points) and administrative services is to create a new functional model for providing administrative services, based on the logical potential of the administrative system for internal (official) coordination of administrative procedures and activities. The realization of this idea is connected with the establishment of a single main administrative organ to coordinate separate administrative structures (regardless of their locality) and to provide administrative services to citizens and legal bodies. A review of the existing system of state bodies and their functions, as laid down by law, shows that the status and functions of municipal mayors fulfill these requirements to the greatest extent.

The new functional model of administrative service should ensure the most effective access possible (from the customers’ point of view) to administrative services. This model of administrative service includes:

- determining entry/exit “points” for access to administrative services;

- organizing the administrative procedures for the provision of services; and
- regulating the means for internal coordination and agreement.

2. *Improving the system for administrative and court appeals*

The procedures for issuing administrative acts are regulated by ASPLEA and APA. Additional regulations for the order of appeals are included in the Higher Administrative Court Act,⁷⁷ Administrative Violations and Sanctions Acts,⁷⁸ and, to a lesser degree, in the Proposals, Signals, Appeals, and Applications Acts.⁷⁹ Improving general legislation in relation to administrative service should be linked to a clear differentiation made between ASPLEA and APA or their convergence in a single regulatory act. In practice, both laws regulate the issuing and appeal procedures of individual administrative acts related to the acknowledgement of certain rights. The Administrative Procedure Act, however, is much more familiar to the civil servants who deliver the administrative services. At the same time, a number of laws, including some adopted after ASPLEA, provide for appeal procedures for acts issued under APA, regardless of the fact that the issuing and appeal procedures for such acts are regulated by ASPLEA.

The main issue to be considered is the development of a new general law on administrative procedures that codifies the administrative procedure legislation. It should include regulations that currently are either not regulated to a sufficient degree, or are contained mainly in the above mentioned laws. This codification should restrict exceptions from the general procedures as much as possible. Certainly, the high quality of administrative service delivery is based on clear legal standards. This refers also to the appeal of administrative acts via suitable procedures. The proposal formulated here does not claim to be full or exhaustive; instead, it aims to direct attention to the need for a comprehensive and modern regulation of administrative procedure and the application of relevant procedures.

3. *Introduction of standard procedures for receiving and addressing appeals and complaints*

It is vital that citizens be well informed about the opportunities and procedures for filing appeals and complaints with regard to provided administrative services. Employees' competence in relation to these opportunities and to the procedures to realize them form the basis of their effective implementation. The availability of accessible appeal procedures and the active encouragement to use them will give citizens the confidence to defend their own rights and interests—particularly when rights and interests have been violated or ignored by local officials. Creating such a procedure is within the capacity of municipal administrations, in regard to their authority and required and available resources.

The main principles to be considered in developing standards for appeal procedures include:

- easy access and broadly distributed information materials;
- speed, with fixed deadlines for considering complaints and for informing citizens of developments;
- confidentiality, to protect both employees and those who file appeals and complaints;
- information, particularly for management, on how problems could be solved;
- comprehensibility and user-friendliness;
- fairness, with a comprehensive investigation procedure;
- efficiency, to deal with arising problems and to provide suitable solutions; and
- regular control and monitoring, to ensure that the system works effectively.

4. *Raising the qualification and motivation of municipal administration employees*

The improvement of administrative service depends directly on the professional and managerial preparation of administration officials and on the introduction of appropriate stimuli encouraging the implementation of measures for improving working methods. Officials should adapt their work and attitudes to the new role

of the administration as service providers *for citizens*. The aim is to meet the growing demand of citizens and the public for high quality public services.

For better performance, it is necessary to ensure that civil servants receive special training in the new requirements, such as transparency of administrative decisions, the right to appeal, protection of data, provision of information, and so on. Achieving perceivable changes in administrative culture requires the orientation of training not only toward skills and competence, but also toward conduct, values, and norms. It is also necessary to create a system of stimuli to encourage innovative decision-making and practices, particularly in connection with the providing service to citizens and firms.

5. *Raising awareness about municipal administration work and improving communication with clients*

Publicity about the work within municipal offices and improved relations with clients go hand-in-hand, and foster more effective modes and means of governance. Possibilities for promoting awareness include:

- Designing manuals about requirements for delivery of the various kinds of administrative services to citizens or economic agents. The manuals for citizens or economic agents should describe the requirements of and procedures for all activities connected with the delivery of separate administrative services, along with necessary forms. The manuals should include terms for the delivery of administrative services and options for appeal procedures.⁸⁰
- Providing information regarding responsibilities regarding engaging in economic activities, and, specifically for economic agents, regarding obligations and responsibilities in the performance of their respective economic activities (for instance, environmental protection and public healthcare and safety). Information should also be provided in regard to what needs to be done in order to achieve maximum efficiency. Special care should be taken to inform local small- and medium-sized enterprises (SMEs) about requirements and opportunities to do business locally. To provide complete information, it is suitable to use

brochures, audio, and videocassettes (ready-made packages), targeted to specific economic activities and personal services.

These efforts should be directed at the professional provision of reliable and detailed information by the administration economic agents and the public. Recommendations for improving information reliability and accessibility include:

- improving technology for the provision of information;
- developing web pages and other options for on-line access to information or applications; and
- establishing call centers to provide information over the phone by specially-trained employees or through recorded answers to the most frequently asked questions.

6. *Improving the methodological support and the organization for administrative service delivery*

Improving the quality of administrative service is directly related to improving its organization and the provision of methodological support for its realization. Improving organizational service requires for the precise internal organization of administrative structures (units, departments). This involves establishing units in the general administration to grant access to administrative services. Information centers can serve to raise access to information and to improve quality. The working hours of service units should be convenient for municipal administration clients.

The effective implementation of envisaged mechanisms for control and high quality service provision requires a preliminary methodological survey to identify the scope of and the concrete procedures for administrative services, as well as for addressing inquiries to the most appropriate administrative body. As a result, the administrative procedures should be specified under the following criteria:

- The description of the procedures will ensure detailed and clear definition of each employee's tasks and responsibilities and of the internal and external functional links of units, and will improve the tools for internal hierarchical accountability.

- The development of a logistical and functional model for administrative service delivery will facilitate planning for the financial and human resources necessary for the execution of municipal administration work. The model will help to optimize the expenses of service delivery and to determine proportionate service fees.

This study also proposes the development of manuals for offering various kinds of administrative services, directed at the staff of respective administrative structures responsible for service delivery.

- Service delivery manuals should offer specific and clearly described procedures, directed at municipal administration employees.
- Manuals for administration should describe all successive activities connected with the delivery of individual administrative services.
- Manuals should define unambiguously the decisions that need to be taken in connection with requests for services, depending on the actual cases.
- Manuals should be updated on the basis of periodical assessments of the application of the respective administrative procedures.

7. *Introduction of a quality system for administrative service*

The overall improvement of the quality of administrative service is a complex issue, directly related to the organization of administrative work and the management of administrative structures. The creation of a quality system for administrative service incorporates the following basic elements:⁸¹

- a policy for the maintenance and development of administrative service quality, and organizational, financial, and human resources management (including planning and evaluation, results, and necessary changes);
- a complete classification and description of the characteristics of the separate administrative structures and the related administrative procedures;
- a methodology for the performance of the administrative procedures necessary for the delivery of services;

- measurable indicators for evaluating the operative efficiency of administrative services and related administrative procedures (for instance: number and types of services delivered; number of documents processed; time for performance of procedures; number of challenges and signals of omissions; prices; level of satisfaction of clients with the administrative service or delivered services, etc.); and
- quality control mechanisms for administrative service, based on periodic assessment of the working procedures and organizational capacity and on feedback from clients and their attitude to the service delivered.

8. *Development of mechanisms for planning and conducting the consultative process*

Preliminary consultations with stakeholders in relation to planned measures designed to introduce new administrative regulations, or to revoke/optimize existing administrative regulations, will ensure trust and support for implemented policies. The organization of an effective consultative process includes:

- developing mechanisms to identify and involve all interested parties;
- regulating practices for public consultations and informing all interested parties; and
- training of key civil servants.

The involvement of interested parties—citizens, economic agents, and their organizations—through consultative processes is an effective approach for ensuring and maintaining economic agents' and citizens' trust in and support of government policy and for creating a predictable and foreseeable business environment.

The process of regional development planning as part of the country's preparation for EU accession could have a considerable influence on the development of such practice. In this context, encouraging regional development is closely related to the utilization of EU structural funds. A main principle in the work of EU structural funds, emphasized by the European Commission, is the principle of partnership.

4. CONCLUSION

As a result of changes in the Bulgarian social and political system, there have also been changes in the functions and responsibilities which local authorities assume before citizens and local communities. With the processes of decentralization and growing citizens' demands, local government assumes more and more responsibilities in planning and realizing local development. It has a vital role in creating favorable conditions for citizens and businesses, and in taking decisions so as to strike a balance, to a maximal degree, between individual and public interests. Public trust and active civic involvement in local policy development are prerequisites for the good performance of institutions.

Measures that will ensure the effective work of employees should be sought in order to strengthen the measures for performance control in the development of and adherence to procedures ensuring transparency and effectiveness of administrative service.

To be able use civic control as an effective tool against abuses, it is necessary to work toward the re-establishment of public trust in the institutions of local government and civic society. This is a two-way process and requires purposeful actions on the part of both local administrations and citizens. Citizens, as local community members, should assume their part of the responsibility in ensuring transparent and effective local government by exercising their right to exert control over its work and decisions.

NOTES

- ¹ See Edwin Rekosh. 2003. "Remedies to Administrative Abuses." *Local Government Brief*. Summer 2003. Local Government and Public Service Reform Initiative, Open Society Institute—Budapest. http://lgi.osi.hu/publications_datasheet.php?id=241. The definition was developed collaboratively by Edwin Rekosh, PILL, and fellows of the LGI Fellowship Program, 2002–2003, Administrative Remedies at the Local Government Level.
- ² European Union Regular Reports 1999, 2000, 2001, 2002.
- ³ Country Economic Memorandum 2001.
- ⁴ Art. 136, Constitution of the Republic of Bulgaria.
- ⁵ Promulgated in the *State Gazette*, issue 77 of 1991. Added and amended: *State Gazette*, issue 119 of 2002. Enforced since January 1, 2003.
- ⁶ Primary and secondary legislation: acts, regulations, rules.
- ⁷ Literature and sources are listed in the Bibliography.
- ⁸ Municipality names are listed in the Appendix.
- ⁹ See Rekosh 2003, op cit. and Derick W. Brinkerhoff. 2001. *Taking Account of Accountability: A Conceptual Overview and Strategic Options*. Washington, DC: U.S. Agency for International Development.
- ¹⁰ According to the type of the decision, and depending on whether it affects individual rights or concerns the general public interest.
- ¹¹ For more information, refer to Open Society Foundation—Sofia 2002. Positions 12, 13, 14 and 15, concerning concrete political parties, have been excluded from the original table.
- ¹² See International IDEA January–February 2002. Bulgaria, p.19.
- ¹³ Great National Assembly Elections.
- ¹⁴ The local elections in 1991 were held together with the elections for members of Parliament (Parliamentary elections). The official bulletin of the Central Electoral Commission on the results of the elections on October 13, 1991 provides information on the election of members of Parliament only. It seems plausible that electoral activity for local self-government bodies is close to that which was reported for the Parliamentary elections, i.e. 83.87 percent.
- ¹⁵ Promulgated in the *State Gazette*, issue 95, 1999.
- ¹⁶ These conclusions are based on interviews in the framework of this study, as well as on the results from a study conducted for the purposes of the Service Standards Improvements Project, Strategma Agency, with assistance from the World Bank, Bulgaria 2002.
- ¹⁷ International IDEA, p.47: Satisfaction with public services delivered by the administration as a whole (central and local administration).
- ¹⁸ Public poll on the provision of administrative services in Bulgaria, July 2002, Vitosha Research Agency, conducted for the One-Stop-Shops Project, DFID. <http://www.vitosha-research.com/publicsector/june2002.htm> (in Bulgarian).

- ¹⁹ The study covers a number of administrative services, many of which are provided by the municipal administration or by territorial units of the central administrative structures.
- ²⁰ See NCIOM 2002.
- ²¹ See Vitosha Research Agency 2002.
- ²² See NCIOM 2002.
- ²³ See Initiatives and Civil Activity Foundation 2000.
- ²⁴ Issue of hotel category certificate for Municipal Administration, Devnya Municipality, Varna Region.
- ²⁵ See Vitosha Research Agency 2002.
- ²⁶ See Strategma Agency 2002. *Service Standards Improvements Report*. PHRD Funded Grant TF026261-BUL, Bulgaria.
- ²⁷ See Initiatives and Civil Activity Foundation.
- ²⁸ The corruption indexes range from 0 to 10. The closer the index figure is to 10, the more negative the evaluation of the state of corruption in the country. The closer the index figure is to, which represents the ideal “community without corruption,” the more positive the evaluation.
- ²⁹ Art.21 (3) Amended: *State Gazette*, issue 69, 1999 from the Local Self-governance and Local Administration Act.
- ³⁰ Art 7, par.1 from ASPLEA.
- ³¹ Art. 43. (1) from the LSLAA.
- ³² Organizational Code for the work of Plovdiv Municipality Administration, adopted with Decision 325 by the Municipal Council in Plovdiv, taken with Protocol 37 from 02.12.1999.
- ³³ Organizational Code of the Municipal Administration in Bourgas Municipality.
- ³⁴ Ibid.
- ³⁵ The issue of hotel category certificates, the issue of licenses for trade in tobacco and tobacco products and the issue of permits for trade in alcohol and spirits, by the Municipal Administration, Devnya Municipality.
- ³⁶ <http://www.sofia.bg/spravka.asp>.
- ³⁷ Civil Servant Act, promulgated in the *State Gazette*, issue 67, 1999, enforced August 28, 1999. Amended 2002.
- ³⁸ The statute of the Institute for Public Administration and European Integration was adopted in the Council of Ministers Directive 82. May 15, 2000. Published in OG 41, May 19, 2000.
- ³⁹ See Initiatives and Civil Activity Foundation 2000.
- ⁴⁰ See Gokcekus. 2001. The survey was conducted among 1,089 civil servants, 18 percent of whom work in municipal administrations and 5 percent in district administrations. <http://www1.worldbank.org/publicsector/civilservice/countries/bulgaria/index.htm>.
- ⁴¹ Adopted in the Letter of the Council of Ministers 105 from May 21, 2002, prom. *State Gazette*, issue 54, May 31, 2002. In effect June 01, 2002 for the Administration at the Council of Ministers, the Ministry of Finances and the Ministry of Regional Development and Public Works for pilot application; in effect from January 01, 2003 for other administrations.
- ⁴² According to preliminary data of the National Statistical Institute on the average monthly salary of people employed under contractual or official terms in 2002.
- ⁴³ From December 29, 2000. Order of the Minister of State Administration.
- ⁴⁴ Administration Act, Art. 31.
- ⁴⁵ PSAAA, promulgated in the *State Gazette*, issue 52, July 4, 1980. Amended issue 55, July 7, 2000.
- ⁴⁶ Art. 29, par. 2 of PSAAA.
- ⁴⁷ See NCIOM 2002.
- ⁴⁸ Administrative Procedure Act, Art.5
- ⁴⁹ TARIFF 1 from the State Fees Acts for the fees collected by Courts, Prosecutor’s Offices, Investigating Bodies and the Ministry of Justice, SG, 15 /1996.
- ⁵⁰ Directive 1, October 1999 on the minimal amount of lawyers’ remuneration (prom. *State Gazette*, issue. 93, October 1999). Remunerations for single-instance civic and administrative cases.
- ⁵¹ The project is funded by United Nations Development Program, Embassy of the United Kingdom in Bulgaria, the Republic of Bulgaria and other donors.

- ⁵² APIA, Art. 18.
- ⁵³ Issued within the Legal Assistance and Advocacy for Freedom of Information Project, conducted by the Freedom of Information Foundation with the financial assistance of Open Society Foundation–Sofia.
- ⁵⁴ LSLAA, Art.22, Art. 23, Art. 27, Art. 28.
- ⁵⁵ Municipal Administration of Sliven.
- ⁵⁶ <http://www.veliko-turnovo.com/obs/>.
- ⁵⁷ <http://www.flgr.bg/innovations/browseBg.asp>.
- ⁵⁸ See <http://www.flgr.bg/>. National Program Improving the Service to Citizens of the Foundation for Local Government Reform, with the financial support of the United States Agency for International Development (USAID).
- ⁵⁹ According to the survey conducted by the author within the current project.
- ⁶⁰ *State Gazette*, issue 48, May 23, 2003. In force January 2004.
- ⁶¹ Ombudsman Act, Art.3, it.1.
- ⁶² Decision, adopted May 23, 2001, Sofia municipal council meeting.
- ⁶³ See <http://www.sofia.bg>
- ⁶⁴ Including support from the Open Society Foundation–Sofia.
- ⁶⁵ Referendum Act, promulgated in the *State Gazette* issue 100, 1996.
- ⁶⁶ Construction of the Territory Act, art.5, para.1, Environment Act, Art.79, 95, and 97.
- ⁶⁷ LSLAA, Art. 48.
- ⁶⁸ LSLAA, Art. 49, para. 2.
- ⁶⁹ Regional Planning Act.
- ⁷⁰ Foundation for Local Government Reform, Sofia.
- ⁷¹ European Institute, Sofia.
- ⁷² Center for Social Practices, Center for the Study of Democracy, Sofia.
- ⁷³ Minutes of Veliko Turnovo Municipal Council under item: “Adoption of statute and rules for the work of the Ombudsman” of the agenda, and under the proposal of a non-governmental organization.
- ⁷⁴ See IDEA.
- ⁷⁵ Open Society Foundation–Sofia 2002.
- ⁷⁶ See Strategma Agency.
- ⁷⁷ Promulgated in the *State Gazette* 122, 1997. Last amended by No. 95 from 1999.
- ⁷⁸ Promulgated in the *State Gazette* 92, 1969. Last amended by No. 25 from 2002.
- ⁷⁹ Promulgated in the *State Gazette* 52, 1980. Last amended by No. 55 from 2000.
- ⁸⁰ According to LSLAA, municipal administrations determine the fees for administrative services on the basis of the actual expenses for their delivery.
- ⁸¹ The proposed elements are developed on the basis of ISO 9004-2 Control and Quality System Elements, Part 2: Guidelines for the sphere of servicing, Reference number ISO 9004-2:1991(E), corrected 1993-05-01.

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APPENDIX

Municipalities in which e-mail interviews were held with representatives of the municipal administrations

Blagoevgrad District

- Goce Delchev Municipality
- Bansko Municipality
- Hadjidimovo Municipality
- Garmen Municipality

Lovech District

- Lovech Municipality
- Letnica Municipality
- Jablanica Municipality
- Ugarchin Municipality

Montana District

- Montana Municipality
- Valchedram Municipality
- Varshec Municipality

Shumen District

- Shumen Municipality

Jambol District

- Jambol Municipality
- Straldza Municipality

Razgrad District

- Razgrad Municipality
- Zavet Municipality
- Kubrat Municipality
- Samuil Municipality

THE VICIOUS CIRCLE:
WEAK STATE INSTITUTIONS, UNREMEDIED ABUSE AND DISTRUST



Tamara Sulukhia

Administrative Remedies for Abuses
in Local Government:
Georgia

REPORTS FROM ARMENIA, BULGARIA, GEORGIA AND POLAND

Administrative Remedies for Abuses in Local Government: Georgia

Tamara Sulukhia

1. INTRODUCTION

This study reviews various aspects of citizen and local government relations in Georgia, within the context of decentralization and the status of institutional development of local self-governance. It suggests that problems in local government performance are evidenced by the governments' lack of institutional capacity to provide quality public services and social assistance professionally and effectively, by a high level of corruption in the public sector, and by the lack of citizen involvement in local decision-making. While various external factors contribute to the negative character of citizen-local government relations, the lack of internal and external accountability mechanisms in local government structures comprise the major reason for the high incidence and severity of administrative abuses. Therefore, increasing the accountability of local governments is looked at as a major solution for improving these relations and increasing public trust toward local government.

By carefully looking at the inefficiency of existing mechanisms for handling citizen requests for services and information, and for processing complaints, the performance of local government structures can be enhanced through systems, procedures, and mechanisms to create a framework for accountable behaviors and actions on the part of local public servants. Based on examinations of currently existing systems, procedures, and mechanisms in local government, this study suggests feasible recommendations for improvements or introduction of new ones and offers specific policy recommendations. These recommendations take the form of direct internal strategies for increasing accountability of local government, and can be considered remedies for making local institutions more accountable and responsive to local citizen needs.

1.1 The State of Local Power in Georgia

The demise of the Soviet political system has been followed by major changes in the administrative structure of government in Georgia, and has been associated with the emergence of economic, social, and political problems. New governmental roles and responsibilities have been accompanied by apparent deficiencies in professional, administrative, and decision-making capacities, and in the ethical values of public sector officials. In order to deal with new problems, public sector institutions, structures, and mechanisms have required reorganization to respond more effectively and efficiently to various realms of reform and to impediments to development.

One major part of post-Soviet transition has been decentralization, seen as an inevitable "tool" for the development of democratic values and effective systems. However, decentralization has proven to be rather slow in Georgia, and it is still far from manifesting fully. In the 1990s, during the early stages of decentralization, various laws and regulations were established to determine the redistribution of power, authority, and functions of various levels of government, as well as to define the structures, roles, and specific functions of local government and self-government bodies.

Four tiers of government have been established in Georgia (Bolashvili 2002). The two lowest levels are local; the third is regional; and the highest is national. The first local self-government level consists of 966 units: villages, agglomerations of villages, village/towns, and cities. The second—the local self-government representative level—consists of 60 districts and seven special status cities. The third level consists of nine regions and autonomous republics. Finally, the fourth level is that of the state or central government.

Local self-government is exercised in villages, settlements, towns, and cities incorporated into districts.

The local government representative level exists at the level of districts; special status cities and executive bodies are appointed. Ultimately, there are two sorts of local authorities: local self-governments and district governments. The cities of Tbilisi and Poti have special status, and mayors are appointed by the President of Georgia.

Presidential Decree 91 launched the beginning of the second stage of decentralization reforms (31 March 2000). This decree, entitled “On the Second Stage of Municipal Development in Georgia,” determined the major trends of decentralization and local self-governance for short-term (2000–2001) and mid-term (until 2005) periods. The Organic Law on Self-governance, adopted in 1997 and extended in 2001, regulates the activities and responsibilities of local government and self-governments. The first local elections were held in Georgia in 1998; subsequent elections have been held since.

Currently, a major obstacle faced by that the local government system in Georgia is the inability of self-governments to avoid unpopular control and supervision by higher level, local-territorial administrations and central government authorities. Amendments to the Law on Local Government and Self-government of 2001 expanded the competencies of self-government units (especially in small towns and villages); however, no necessary competencies, resources, and property have been transferred (Table 1).

Overlapping functions and responsibilities of different levels of government, the absence of real decision-making powers, and the lack of financial resources (due to deficiencies in intergovernmental fiscal relations)¹ have created disincentives for local government bodies to serve local interests effectively. These problematic areas have also deterred local civil servants from behaving in a professional and ethical manner. Legal discrepancies and the lack of appropriate systems, procedures, and mechanisms have fostered abuses of power at the local level, and created opportunities for local officials to illegally consume power at the expense of citizens’ interests. Systemic and widespread corruption has undermined the institutional and procedural foundations upon which accountability mechanisms lie.

Growing social and economic problems in Georgian cities have paralleled a decline in the quality of public services and the deterioration of public infrastructure. Various studies suggest that local government and self-government in Georgia are not efficiently meeting the priorities and needs of local populations.

While a suitable legal environment for participatory decision-making does exist, mechanisms for bringing governments closer to citizens and for holding local leaders accountable for their decisions and actions are not employed effectively—if at all. As such, the abuse of power at the local government level is widespread, and citizens suffer because of it.

Table 1.
Local Government: Exclusive and Delegated Authority

Exclusive Competencies	
<ul style="list-style-type: none"> • Adoption of regulations and statutes of local public institutions • Management of local property • Local budgeting and local taxation • Elaboration and adoption of local development plans • Management of municipal services and enterprises • Maintenance of local archives • Housing and dwelling management 	<ul style="list-style-type: none"> • Dissemination of public information • Municipal transport management and the maintenance of local roads • Urban development and design • Municipal programs on social protection, healthcare and culture • Water supply and sanitation • Electricity and gas supply • Local parks
Delegated Competencies	
<ul style="list-style-type: none"> • Civil registration • Environmental protection and sanitation 	<ul style="list-style-type: none"> • Management of public property • Procurement support for the military

Source: Melba 2002.

Theorists and practitioners alike argue that vibrant local government is crucial for development and reform. Improvements in the delivery of public services and the quality of infrastructure require governments to strive toward providing a reasonable supply of public goods in a cost-efficient manner. Certainly, the transition from state socialism to democratic government and a market economy has been accompanied by a range of constraints and complexities. Currently, local government units not only lack willingness and incentives to encourage public participation in local decision-making, but also lack the financial and professional capacity to exercise options that are more agreeable with community demands.

1.2 Accountability and Transparency at the Local Level

Individual citizens contact local government agencies for a variety of reasons: for services or assistance; to obtain information; to complain about the poor quality of municipal services; to provide feedback on various issues of local concern; or to participate in local decision-making processes.

In order to communicate with and provide services for citizens in an efficient and effective manner, a local government should be accountable and transparent. Problems of abuse or misuse of power at the local level reflect a lack of accountability mechanisms within local agencies. That said, before engaging in further analysis, it is necessary to discuss what “accountability” is.

Certainly, accountability is a complex concept with various types and dimensions hotly debated among theorists and practitioners. The most widely accepted understanding of the term refers to the ability of citizens to hold those with decision-making power responsible for the decisions and actions they undertake. Brinkerhoff (2001, 2002) discusses accountability as being a combination of:

- answerability;
- availability of sanctions for illegal or inappropriate actions or behaviors and for violation of citizens’ legal rights; and
- the enforcement of sanctions.

He suggests that the absence of even one of the above undermines accountability; all three components

are crucial. For instance, sanctions include requirements to meet professional standards and ways of punishing or rewarding specific ways of conduct. However, a lack of enforcement and/or selective enforcement threatens answerability mechanisms and renders the (mere) existence of sanctions meaningless.

Accountability is closely linked to the concept of transparency; transparency is, in fact, a necessary component of accountability. These two always are evidenced together in local government. Transparency is a system in which: laws and regulations are public knowledge and apply equally to everyone; internal procedures in local governance structure are clear; performance is monitored and reported; a local population is informed and involved in decision-making at all levels of the process; and there are administrative remedies against corruption and abuse.

Georgian legislation requires local authorities to be transparent and accountable, and to keep citizens informed about their activities and decisions. It also empowers citizens with the right to be informed and to participate—and thus requires local agencies and officials to be transparent and accountable. Mechanisms for local government transparency are defined in Chapter 3 of the Administrative Code of Georgia, which deals with public information. It grants each citizen the right to demand and receive public information, which should be provided in a timely manner. Local self-government agencies must deliver printed information to any requester within ten days, or prepare a reasoned refusal for failing to deliver. Current legislation also provides for some sanctions, oriented toward promoting answerability of local government agencies. However, studies conducted by various local and international organizations suggest that Georgia’s local agencies are far from being transparent and accountable. The following sub-sections offer a brief overview of current problematic areas.

1.2.1 Transparency or Opacity

It is difficult to promote accountability when administrative mechanisms and authorities are not defined and the public not well informed. At present, the opaque governmental structure enables local officials to avoid certain responsibilities. Local government agencies benefit from the lack of information on,

and clarity about, what administrative level should be providing various services. Generally, citizens are confused about how and from where to file complaints and seek assistance.

1.2.2 Fiscal Decentralization

Across the board, fiscal decentralization is an important part of municipal sector reform. In Georgia, the allocation of local government responsibilities for expenditures, tax sources, budget processes, loans and financial management has not yet happened in the interest of self-government (See Bolashvili 2002, 69). As Losaberdize argues, “Local governments face pressing financial difficulties due to lack of funds and their obligation to pay high proportion of local revenues to central budget” (2001, 290).

A major source for financing local budgets are transfers from the central budget. Transfers often are significantly delayed; local budgets are vulnerable and dependent on central government structures and decisions (Shergelashvili 2002). As a result, local institutions are mainly under-funded and are not equipped with adequate financial resources to provide quality services. This contributes to local governments not responding effectively to widely recognized demands and preferences of the local population. In short, fiscal decentralization is a pressing issue for local government in Georgia.

1.2.3 Corruption in Public Service

It is widely recognized that corruption undermines the institutional and procedural foundations upon which accountability mechanisms lie, while lack of accountability creates an enabling environment for an increased level of corruption. (Brinkerhoff 2001, 21).

A high level of corruption is common throughout post-socialist space. Numerous studies have evidenced that corruption in many ways governs the informal relationships that currently exist between various institutional players at the local level in Georgia and shape the framework for decision-making (UNDP and Corruption Research Center 1999; Working Group for Elaboration of National Anticorruption Program

2000). Through neglect of transparency and rule of law, corruption has impeded local economic development by preventing commitment of resources towards the interest of the local population.

1.2.4 Professional Capacity

The efficiency of a local government is determined primarily by the performance of local officials. The efficiency of public servants can be measured by the quality of services they provide, as well as by public opinion. As various studies suggest, public opinion on the professional capacity of local government servants is extremely low in Georgia, and often the low qualifications of local servants is identified as a major reason for inefficient local decision-making (see Melua 2003, 5; ICCC 2002).

Proper motivational and incentive mechanisms for professional development comprise the bases for the development of professional qualities of public servants. Currently, there are about 45,000 local public servants and elected council members in Georgia. Although the Law on Public Service specifies procedures for staff examinations, career development, and salary benefits for those successfully undertaking testing or review, the application of such provisions is virtually suspended, due to the lack of financial resources and the outdated classification of local servants and officials. Public service qualification examinations have not been conducted, and human resources development plans have not been developed. It is important to note that there are no administrative sanctions for public servants who avoid professional training and the lack of such sanctions fully discourages this practice from being implemented at all. Certainly, the low pay scale and lack of professional standards and incentive mechanisms are not sources for professional motivation; they do not reinforce accountable or responsive performance by local servants. This has led to abuses of power by local officials at the expense of public interest. As well, it contributes to increased administrative abuses at the local government level. Similarly, the general lack of computer literacy and computer skills among municipal employees contribute to the low level of use of information technology in management systems of local agencies. This prevents the application of

information technologies that might promote efficient and effective management, or that might increase transparency and accountability in local agencies. Finally, the unsatisfactory level of professionalism among local servants, the lack of human resource development plans and incentive systems, and the absence of codes of conduct and ethics present major challenges for increasing the quality of local government output and local government-citizen contact.

In recent years, international donor and development agencies have sponsored various short-term training sessions for local officials.² However, such sessions are not supported by the overall system of career development, or by ranking, promotion, or incentive systems.

The Working Group on National Training Strategy (initiated in 2003), sponsored by the Council of Europe, plans to increase the visibility of this issue in order to promote a policy on the creation of a unified, national approach and standards regarding the issue of training for local public servants. As well, this endeavor will define a “minimum level of training” guaranteed to local officials, and establish attestation programs and criteria.

1.2.5 Civic Capacity and Citizen Involvement in Local Decision-Making

Developing the capacity of local governments also requires promoting the capacity of civil society to participate in local decision-making, priority setting, policy development and implementation, and monitoring. Direct participation is rather high in Georgia. Data from 2002 suggests that voting reached 45 percent in Tbilisi, 52 percent in Gori, 46 percent in Zestaponi and 55 percent in Mstkhet. ³ However, various factors negatively affect civic engagement in local affairs and decision-making. These include:

- the lack of political will on the part of local government agencies to promote participatory governance;
- the opaque legal framework;
- the lack of public awareness; and
- the lack of institutional opportunities for participation (Wolman and Goldsmith 1992, 127).

1.3 Roadmap of the Paper

This report is divided into five major parts. Part 1 has presented the background of decentralization and the current context and status of local governance in Georgia. The following parts uncover the historical background and current policy context. These sections offer an examination of systems, procedures, and mechanisms, particularly those which lack administrative remedies against abuses at the local government level. Specifically, Part 2 looks at public participation in local decision-making; access to information regarding local decisions; hierarchical control; responsiveness and accountability mechanisms; and the availability of various enforcement mechanisms and sanctions. Part 3 argues for the relationship among various administrative remedies, public trust and citizen satisfaction. Part 4 provides policy options attributed to designing new and/or enforcing existing administrative remedies under current Georgian legislation, and suggests an argument for a preferred approach. Part 5 provides conclusions and recommendations for policy actions.

1.4 Purpose of the Study

The purpose of the present study is to address citizen abuses at the local government level through analysis of the level of accountability and responsiveness of local government structures and the nature of citizen–local government relationship, and to recommend specific administrative remedies against such abuses. However, the paper acknowledges that administrative remedies alone will not solve the issue of the lack of accountability locally. In order to be able to exercise powers and functions independently and efficiently, it is important for local authorities to be supported by appropriate legislation, resources, and professional capacities.

The major question addressed by the study is: Which specific administrative mechanisms and structures are feasible to introduce and enforce in order to make local institutions more accountable and responsive to citizens’ needs, and to serve as administrative remedies at the local government level? To answer this, this study assumes that solutions for increasing accountability are part and parcel of the systems, procedures,

and mechanisms that foster accountable behaviors and actions on the part of local public servants. Based on an examination of existing systems, procedures and mechanisms, this study suggests feasible recommendations for improving government at the local level. Specifically, specific administrative remedies are offered that encourage and facilitate:

- the provision of convenient and effective mechanisms for receiving and (when technically possible) satisfactorily fulfilling citizens' requests for service and/or information;
- the reporting of legitimate citizen complaints (including the accessibility of a complaint system, and the ease of filing complaints with a responsible office);
- the resolution of justifiable complaints (again, when technically possible);
- the improvement of the quality of local services and information provided to constituents (in order to reduce or prevent the occurrence of circumstances which would lead to justifiable citizen complaints, reported or unreported); and
- the improvement of the quality of treatment provided to a requester or complainant.

1.5 Methodology and Limitations

In order to examine the current systems, procedures, and mechanisms that lack administrative remedies against abuses at the local government level, this study required a thorough (and critical) literature review. As well, a survey was conducted in four Georgian cities: Tbilisi, Gori, Zestaponi, and Mtskheta. A standardized questionnaire, designed within the scope of this research, and in-depth interviews of local government officials and "ordinary" citizens were used as survey tools. Exactly 386 citizens were interviewed in Mtskheta, Gori, Zestaponi, and Tbilisi.

Survey locations were chosen so as to include a range of population sizes and "types" of municipalities. Municipalities in Georgia fall into one of two categories: 1) those in which both the council (local self-government) and mayor are elected; and 2) those in which the council is elected and the mayor is appointed. Following is a brief introduction to each of the four targeted localities.

- Tbilisi (pop. 1,103,500) is the capital of Georgia. It is a special status city, not under any district jurisdiction, with an elected self-government and appointed mayor. It is the richest municipality in the country, with the highest number of NGOs (2,573).
- Gori (pop. 66,500) has an elected self-government and mayor. There are a total of 54 NGOs registered in Gori Rayon (district).
- Zestaponi (pop. 25,600) is one of the country's largest industrial cities, with an elected self-government and mayor. There are 21 registered NGOs in Zestaponi Rayon.
- Mtskheta (pop. 8,000) is a small town near Tbilisi, with an elected self-government and mayor. It is a religious center, and attracts a high number of tourists and special interest visitors from national political and business communities. There are 28 registered NGOs in Mtskheta district.

It is important to note that the existence of a Local Information Center (LIC) was an important criteria for locality selection. Specifically, two of the four selected cities (Mtskheta and Zestaponi) have an LIC; the two others (Tbilisi and Gori) do not.

This research is far from conclusive; it recognizes its own limitations. First, while numerous studies have dealt with issues of local government performance, no research has been conducted on abuses at the local government level in Georgia. As such, there is no substantial comparative or complementary data available. Thus, much of research presented here incorporates important assumptions about the way abuses happen and how remedies work. A second limitation is related to the random selection of respondents. Respondents' profiles or backgrounds (social, economic, political, and so on) were not taken into account. Third, only urban localities were included in the survey, to the exclusion of semi-urban and rural areas where proposed recommendations may not be applicable.

1.6 Definition of Terms

This study has required clarity in terms. Citizen *requests* for public services and information should be distinguished from *complaints*. Perhaps most

importantly, the *local government* refers in this paper to both local self-government and district self-government. *Administrative abuses* and *administrative remedies* have been aptly defined in Rekosh (2003, see this volume). This definition differentiates between three types of remedies: internal, external, and preventive.⁴ *Accountability* is a complex concept with various types and dimensions (to be discussed). However, there are two main types discussed—internal accountability and external accountability. Most frequently in this paper the term refers to mechanisms by which civil society can hold local government responsible for its actions and decisions. *Council* (*Sakrebulo*, in Georgian) refers to a self-government unit—the representative body of local government—while *Gamgeoba* (in Georgian) is an executive branch of local government. Local *public servant* and *official* are used here in reference to individuals that work in city municipalities, local councils, or at local executive entities (determined by Law on Public Service). Finally, *unreported complaints* are defined as cases in which unsatisfied or abused clients do not make their complaints known to the government by means of filing an official complaint.

2. ACCOUNTABILITY AND CITIZEN ABUSES: INDICATORS OF DYSFUNCTION IN LOCAL GOVERNMENT

2.1 Citizen Involvement in Local Decision-Making and Budget Affairs

A main indicator of citizen involvement in local governance is public attendance at local council meetings. Various studies previously conducted in Georgia

suggest a very low local council meeting attendance rate (see Urban Institute 2001, 52). This study discovered that only 4.5 percent of all respondents had ever attended a public meeting. Compared to data from 2001 (Urban Institute), however, there has been a substantial improvement in the level of citizen participation through council meeting attendance.

Surveyed localities differed significantly in this regard. The highest level was observed in Mtskheta, where 11 percent had attended council meetings. Only 3 percent in Gori and Zestaponi, and just 1 percent in Tbilisi, had attended meetings (Table 2).

Access to local council meetings and information on local government budgets depend largely on the availability of an LIC in individual cities/municipalities (see Section 2.3.1). Survey results indicate that access to quality public information is improving in some cities in Georgia. Specifically, 42 percent of respondents from Mtskheta claimed that local authorities provide information about the local budget. Compared to 2001 survey results (Urban Institute), there has been a positive change.

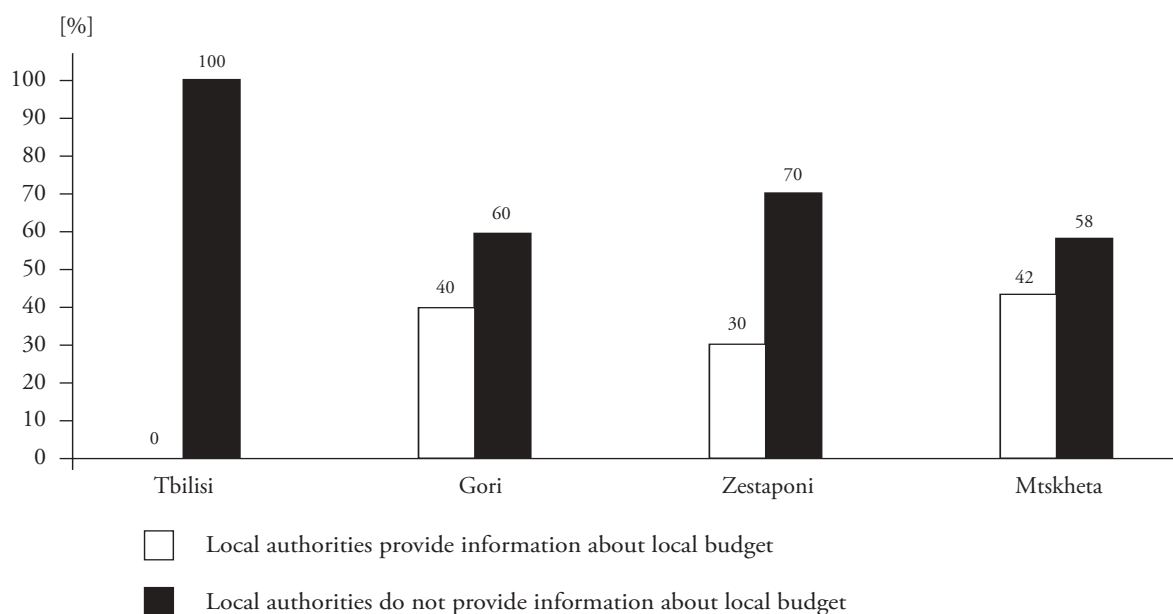
Again, the level of budget information provided to citizens locally varies dramatically according to locality: 42 percent of respondents in Mtskheta, 40 percent in Gori, and 30 percent in Zestaponi claimed that local authorities provide information about local budget. In Tbilisi, all (100%) respondents claimed that there is no information about the local budget provided to citizens.

In-depth interviews with respondents revealed that local budget information is mainly provided to citizens after a budget is approved; typically, it is not presented for discussion and comment in advance. Thus, the local population is unable to participate in the design process and or affect it in a desirable way.

Table 2.
Citizens Attendance at Local Council Meetings [%]

	Tbilisi	Gori	Zestaponi	Mtskheta
Have attended	1	3	3	11
Have not attended	99	97	97	89
Total	100	100	100	100

Figure 1.
Citizens Awareness About Local Budget According to Citizens



2.2 Institutional Opportunities for Participation

The availability and capacity of institutions that provide opportunities for citizens of diverse backgrounds and profiles (socioeconomic status, ethnicity, gender, religion and so on) are important indicators of how democratic a society is. Achieving encompassing, inclusive, and democratic relations between citizens and local government requires strong local institutions within the private sector, to serve as promoters and facilitators of good governance. Labor unions, religious groups, community organizations, business associations, and the like have not yet been able to participate in governing coalitions at the local level in a meaningful way. Non-governmental organiza-

tions (including unions and foundations) have been most active. Despite the fact that over 3,500 NGOs have been registered in Georgia over the last decade, only a few hundred are functioning (Urban Institute 2001, 26). Very few have been able to organize their capacities and resources in order to represent interest groups and communities in a broad sense in local decision-making.

The rapid proliferation of NGOs during the 1990s can be seen as a response to democratic changes. Table 3 provides data on the number of NGOs and citizens per NGO in targeted cities. Data varies according to locality, and it is important to highlight that the scope and number of NGOs varies by settlement size. Most NGOs have been founded in Tbilisi; in many municipalities no NGOs have been created at all.

Table 3.
Number of Non-governmental Organizations

City	Number of NGOs	Number of citizens per NGO
Tbilisi	2,573	429
Gori	54	1,231
Zestaponi	21	1,219
Mtskheta	28	286

2.3 Do Citizens Enjoy Access to Information?

Citizen participation in local decision-making and in local affairs depends greatly on access to information provided by a local self-government. Various studies conducted in Georgia suggest that access to information at the local level is extremely poor.

Interestingly enough, citizens appear not to be inclined to contact public agencies with requests for information. About 72 percent of the population in Mtskheta, 70 percent in Gori, 68 percent in Zestaponi, and 80 percent in Tbilisi had never contacted any local authorities for information at the time of research (Figure 2). For most respondents, there was specific reason

for not contacting local government: they thought that they would not receive information in a timely manner that they would not receive a response for their request at all, or that information would be unreliable.

Data in three cities suggest that the low (or outright negative) expectations of respondents are on the mark. Specifically, only 28 percent of respondents in Zestaponi, 25 percent in Tbilisi, and 58 percent in Gori successfully obtained requested information (Figure 3). Over 80 percent of those who had obtained information in these cities were unhappy with timeliness, quality of information, and quality of service.

In Mtskheta, citizens were more positive about their experience with local government entities, suggesting a different experience with access to local government in-

Figure 2.
Requests for Information Submitted to Local Government (LG)

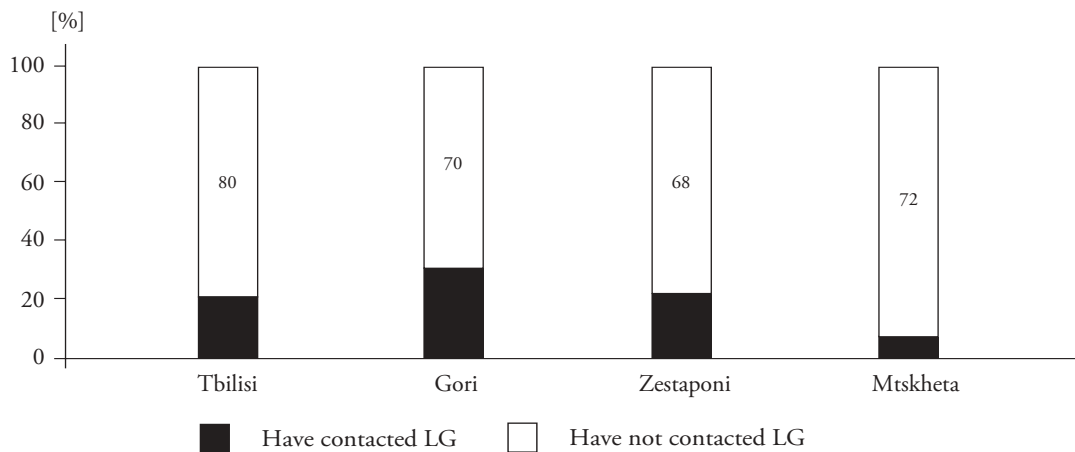
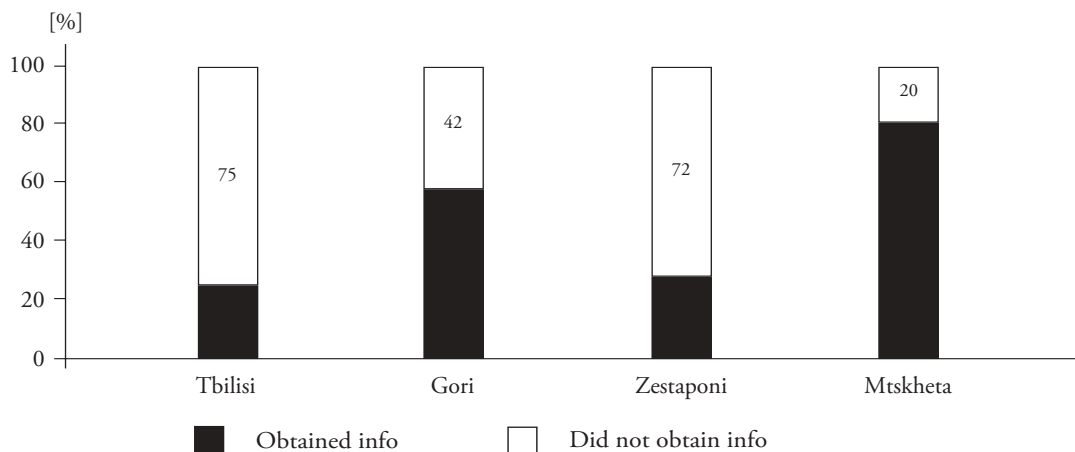


Figure 3.
Success in Obtaining Requested Information



formation and accountability. This might be explained by the extensive technical assistance provided to the local self-government in Mtskheta, and the existence of an effective local government information center. The Mtskheta information center is assisted by the Urban Institute and regular publications are widely distributed in town. As evidenced by this study, such publications are a major source of information on local government activities and issues for the local population. Regular local government information bulletins (printed or broadcast on the radio) are vital in smaller towns, which do not have television stations and independent newspapers (Table 4).

2.3.1 Local Government Information Centers

Over the last four years, local government information centers have been created in 13 cities with assistance from donors,⁵ in order to promote models of citizen involvement in local decision-making. These establishments should be distinguished from “information services” or “press offices” existing in local government agencies, which mainly act as press centers. Such centers do not interact with local populations, and do not serve as regular, reliable sources of information. Rather, they base their activities more on the needs of local government structures, than on citizen demands for information.

In contrast to such units, the objective of LICs is to facilitate public awareness, public participation in decision-making, and participatory governance. Five information centers (in Lanchkhuti, Signagi, Zestaponi, Telavi, and Zugdidi), created under a grant from the Eurasia Foundation, have held 44 public hearings and

roundtables attended by 1,000 individuals, published 64,000 bulletins and 8,000 magazines, broadcasted 22 television programs on local problems, and offered various presentations.

Two major experimental LIC models can be found in Georgia. The first exists within a local council model; the second is an independent NGO. This study suggests the latter model is more efficient, being free from political pressure and closer to the local community.

Among surveyed cities, two (Zestaponi and Mtskheta) have LICs. These centers were created with assistance from the United States Agency for International Development (USAID) by the Urban Institute and the Eurasia Foundation. They publish information bulletins, which represent an important source on local governance related information.

Clearly, in cities with effectively functioning LICs, local governments’ publicity and reporting to the public is more regular and efficient compared to cities without such centers. Research revealed that LICs represent the primary mechanism through which citizens can obtain information on local government institutions’ structure, activities, and services. In other words, LICs partially serve as “one-stop-shops.” Specifically, 42 percent of Mtskheta respondents consider the local information center—an NGO attached to the local self-government unit Sakrebulo—to be such an entity.

2.4 Internal Accountability: Hierarchical Control Mechanisms

Accountability requires effective internal and external hierarchical control mechanisms. In Georgia, power is

Table 4.
Major Sources of Information on Local Government Activities [%]

	Tbilisi	Gori	Zestaponi	Mtskheta
LG information bulletin	0	2	3	42
Local newspapers	0	38	39	17
National press	69	4	5	3
Local radio	0	58	62	—
TV	100	4	3	16
National radio	58	0	0	6
Other sources	0	6	9	7

not clearly allocated among branches of government for oversight, decision-making, revenue mobilization, expenditure, and reporting roles. The operation of checks and balances in practice is weak, despite their formal establishment in the Constitution, agency mandates, and legislation.

Local governments require accessible and convenient mechanisms that permit citizens to file requests for services and information, and to make their complaints known to the proper government agencies. The existence and effectiveness of several such mechanisms have been reviewed for this study, with the assumption that they facilitate answerability of local public entities and simplify the process of obtaining service and information.

These mechanisms include:

- the existence of consultation mechanisms/structures in administrative services and the disclosure of information about the functions of local public entities, various services and tariffs (e.g. one-stop-shops or registries of all available client services);
- regular publicity and reporting to the public (e.g. publicity of various local government reports, information bulletins, or published budgets);
- the existence of mechanisms for receiving citizen feedback;
- institutionalized standards of behavior and ethics that promote a high quality of provided services;

Table 5.
Accountability Mechanisms and Structures in Surveyed Municipalities

	Indicators	Tbilisi	Mtskheta	Gori	Zestaponi
1.	LICs available	No	Yes	No	Yes
2.	One-stop-shop available	No	No	No	No
3.	Centralized registry of all services available	No	No	No	No
4.	Complaints department/service available	No	No	No	No
5.	Person assigned to deal with citizen complaints	No	No	No	No
6.	Written instructions on services available ⁶	Yes	Yes	Yes	Yes
7.	Information bulletin published	No	Yes	No	Yes
8.	Service quality control mechanisms applied	No	No	No	No
9.	Information quality control mechanisms applied	No	No	No	No
10.	Feedback mechanisms available	No	No	No	No
11.	Charter/operations manual available	Yes	Yes	Yes	Yes
12.	Agency computerized	No	No	No	No
13.	Electronically-driven document management system designed and applied	No	No	No	No
14.	Information databases available	No	No	No	No
15.	Internet access available and used	No	No	No	No
16.	Programs for improvement of management designed and implemented in 2002	No	No	No	No
17.	Human resource development plan available	No	No	No	No
18.	Performance evaluation indicators designed	No	No	No	No
19.	Performance evaluation practiced	No	No	No	No
20.	Employee performance evaluation conducted	No	No	No	No
21.	Disciplinary sanctions applied	No	No	No	No
22.	Ethics committee available	No	No	No	No
23.	Ethics code available	No	No	No	No

- professional capacity (relevant skills and experience) and competence (ability to apply the capacity to performance of duties) of local officials;
- the existence of centralized complaint-handling offices and the availability of complaint-handling personnel; and
- the availability of electronically-driven document management systems.

This study discovered that in the four targeted localities, almost none of the above mechanisms has been introduced and implemented in local government units. From the list provided in Table 5, only information centers, published reports/information bulletins, and charter/operations manuals exist.

The organizational procedures for local entities are described in their organizational charter. Under the Administrative Code of Georgia, local government entities are required to have such a charter. The behavioral, professional, and ethical standards and norms of local government and self-government public servants are regulated by the Law on Public Servants. The application of specific disciplinary sanctions for unprofessional conduct by a public sector employee is defined by the Administrative Code of Georgia, as well as by the Law on Public Servants. In addition, every local agency is required to adopt an organizational charter, stating specific ethical and professional norms. However, the provisions of this charter are not common knowledge in local government bodies.

Institutions also possess written instructions about the provision of administrative services. Yet, there are no internal documents or written instructions made available to citizens regarding procedures for obtaining specific services or information from local government agencies. That said, information on the functions of local public entities, services, and tariffs is disclosed to different degrees, depending on the locality. Local executive branches in all four cities possess documented lists of all client services available. However, no registry of such services is available in these institutions. Moreover, the lists are not publicly accessible.

No surveyed city has a one-stop-shop. However, in cities with functioning LICs, citizens do have access to such information.

Although all jurisdictions possess written instructions for the turnover of documents (for public access), no filing system appears to exist. The quality of a re-

sponse to a request or complaint depends largely on the extent to which it has been thoroughly and accurately documented. For such documentation, the existence of an electronically-driven document management system is essential. However, none of the jurisdictions surveyed possess such a system. All records are manually recorded (not in electronic format) and extremely poorly organized. There are no citizen opinion of feedback mechanisms available within local government institutions, and local governments do not exercise any mechanism for studying client satisfaction or recommendations for service improvement.

Generally, only in extremely rare cases are electronic databases developed or utilized by local governments. Even in such cases, there is no public access—nor is any access provided for other departments of the same institution. Therefore, information exchange, monitoring, and control mechanisms are weak within agencies, just as they are “outside” the administrative world.

The capacity of local government agencies largely depends on the level of information technology utilized for agencies’ operations. Lack of accurate (electronic) documentation is one of the major challenges in enhancing the quality of local government output and local government-citizen contact. The availability of advanced information technology (ICT) facilitates institutional accountability; the level of ICT in Georgia’s public agencies is low in general. A study conducted in ten Georgian cities in 2003 revealed that only 18 percent of local government servants use ICT in their work; of these, over 90 percent reside in Tbilisi (Local Government Training Needs Assessment 2003). While Tbilisi clearly stands out in regard to ICT use in virtually every sector, the level is still extremely low. None of the surveyed local governance agencies operates an electronic website, uses e-mail for management and communication purposes, operates electronic websites, or possesses electronically-driven document management systems.

An agency’s efficiency and effectiveness greatly depend on the day-to-day activities of individual officials. In this regard, the existence of professional incentives is an important component for local government performance. This study examined whether professional merit can serve as a basis for promotion by examining the application of employee performance evaluation procedures. All surveyed agencies indicated that they have implemented procedures to evaluate local public

servants' activities: in Gori and Zestaponi, for instance, reviews theoretically occur every six months. However, no specific records were found in research, thus putting the validity of such internal evaluations into question.

The effectiveness of complaint-handling mechanisms comprises a key aspect of an agency's responsiveness and accountability. The existence of centralized complaint offices, ethical panels, internal quasi-judicial systems, or the availability of designated complaint-handling personnel, represent efforts oriented toward promoting accountability. However, none of the above was found in any local government units. Furthermore, it appears as though no employee is specifically responsible for handling citizen complaints in any surveyed agencies; no official offers duty hours (e.g., per week) for citizens.

Although attempts were made during interviews, this study had no success finding information on the number, type, or issue of requests and complaints. Moreover, it is important to note that records of citizens' requests and complaints are not organized into groups reflecting how successfully responses had been made.

In addition to answerability mechanisms, the availability and application of ethics and disciplinary sanctions for illegal or inappropriate actions and behaviors of municipal agencies and employees are important components of any accountability system. Although all surveyed organizations operate under officially recognized, basic ethics standards, provided for in the organizational charters, no specific code of ethics nor ethics panel was found to exist. International experience suggests that ethics panels are vital for internal accountability—as mechanisms through which, for example, sanctions for unprofessional conduct can be imposed and enforced. Respectively, no appeal to an ethics panel can be considered as an option for addressing the unprofessional or abusive conduct of municipal employees.

In short, this study revealed that, despite the existence of disciplinary sanctions “on paper” in all surveyed jurisdictions, no disciplinary sanctions have been used in any surveyed local government unit—with the exceptions of “warnings” for “being late.” In 2002, in Tbilisi, Gori, Zestaponi, and Mtskheta, no employee was fired or otherwise reprimanded: a) for violating disciplinary regulations; b) for violating ethical norms; or c) due to procedural actions connected to citizens' complaints.

2.5 External Accountability: Judicial Review

The judicial system in Georgia has undergone an extensive reform process in order to improve its administrative structure and procedure, as well as professionalism among judges. Reforms began in the mid-1990s, with significant assistance from the United States government. Examinations of judges held in 1998 proved to be an effective step toward earning public trust and improving the institutional “image.”

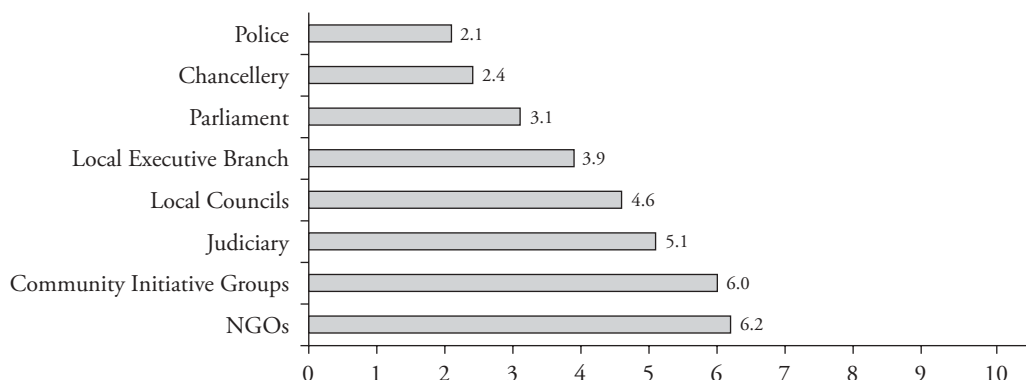
The existence of a court itself represents an important part of control and accountability, by allowing the possibility to redress any abuse of power. That is, courts serve as an independent, external security mechanism for protecting the rights of citizens. Not surprisingly, based on results of this study, the judiciary (courts) figured among the most trusted institutions. Specifically, out of 10 institutions, respondents' trust in the judiciary ranks third (Figure 4).

However, despite the high rate of trust towards the judiciary, the study found that among those who were unhappy with services and information they received from local institutions, only a few respondents had appealed to courts with charges against an institution or a specific public servant who violated the rights of citizens by not delivering a service or information, or by delivering it in abusive manner. At the time of research, only one respondent in Mtskheta, and one in Zestaponi, had appealed to court. None of the respondents in Gori and Tbilisi made any appeal to a court for such offenses.

As Rekosh states: “Among the obstacles to the effectiveness of judicial remedies are procedural barriers, such as high court fees, as well as the complexity of the proceedings and relevant law, insufficient public understanding of how to initiate legal proceedings, lack of legal assistance for persons who can't afford to hire a lawyer and low public trust in the courts” (2003). In Georgia, there is only one judiciary body which handles appeals in each district. The average period of time needed to announce a final judicial decision is two months. The official price of judicial appeal is 30 Georgian Lari, which is paid by the complainant (USD 14.50). This is nearly equivalent to an average monthly salary.

Based on information obtained from the Rayon Court of Zestaponi, only 67 appeals were filed in 2002 regarding the services or activities of local public in-

Figure 4.
Public Trust toward Various Institutions (Average Score)



Note: 1–2: Lack of trust; 3–5: Low trust; 6–8: Moderate trust; 9–10: High trust.

stitutions. However, it must be noted that data shows a steady growth in the number of appeals over a two-year period: there were 58 appeals filed in 2001, and 45 in 2000. Yet, meaningful growth in the number of cases resolved satisfactorily has not occurred. This study suggests that such cases increased from 64 percent in 2000 to 88 percent in 2001, but then decreased to 60 percent.

Finally, external accountability mechanisms deserve further analysis. Such research is beyond the scope of this study.

3. THE RELATIONSHIP BETWEEN PUBLIC TRUST AND INDICATORS OF DYSFUNCTION

3.1 Do Citizens Trust Their Local Government?

Surveys of public perceptions and opinions are a reliable determinant of a local government's efficiency and responsiveness. As evidenced by various studies, public trust towards local government in Georgia is low.⁷

An often-used means to assess public attitudes about local government is by comparison with attitudes about central government or other agencies (Hajnal 2001, 130). For the purpose determining if local

government was a relatively trusted institution, questionnaires developed for this study contained an item to survey the perception of citizens regarding local government *vis-à-vis* other institutions on a scale from one (lowest) to 10. Specifically, public perceptions of the following institutions were compared: Parliament, Chancellery, local executive branch (Gamgeoba), local council (Sakrebulo), judiciary, police, NGOs, and popular or citizen initiative groups (Figure 4).

The rating is consistent in all four surveyed cities. The survey found that the average rating in each city is highest for NGOs, with citizen initiative groups close behind. These results resemble data from studies conducted in other post-socialist countries, which suggest that, in general, satisfaction with the performance of local government administration is higher than with the national bureaucracy or central government (Swianiewicz 2001, 27). However, the level of trust toward local councils and local executive branches is modest: on a scale from 1 to 10, local councils' average rating is 4.6; local executive branches average 3.9, thus falling in the "low trust" range.

A relatively high level of trust toward an elected body can be attributed to the fact that people believe that self-government is a "victim" of the central government; a local government would perform better if not impeded by the central government.

It is important to mention that, despite the nonexistence of an information center, regular information

bulletin, or regularly exercised, effective, and efficient mechanisms for higher accountability, the highest rating of trust in local self-government was found in Tbilisi. One potential reason might be the popularity of the then-new Tbilisi Council Chairman, Mikhail Saakashvili (now President of Georgia). Saakashvili, a major political leader, earned this position as a result of local elections in 2002, with substantial public support at the national level.

In order to determine why there is low trust in local government and self-government entities, this study examined client satisfaction with provided services, information, and complaint-handling mechanisms.

3.2 How Do Local Public Agencies Deal with Citizen Complaints and Requests?

The procedure of dealing with requests and complaints is divided into the following major steps: receiving; referring; resolving/responding; and receiving feedback. Inadequate and low quality treatment at any step can be read as an abuse. Citizens’ satisfaction with responsiveness, as well as with the quality of treatment received, speaks volumes about how abusive a given procedure is.

Filing a complaint or request for information or a service often represents the only direct contact that exists between local government agencies and citizens.

As Hatry, et al., suggest, “as a result, such contacts frequently become the primary basis for citizen perceptions of government efficiency, effectiveness and responsiveness” (1992, 147). Thus, how well a government handles complaints and requests is an extremely important factor in the shaping of public opinion toward local agencies.

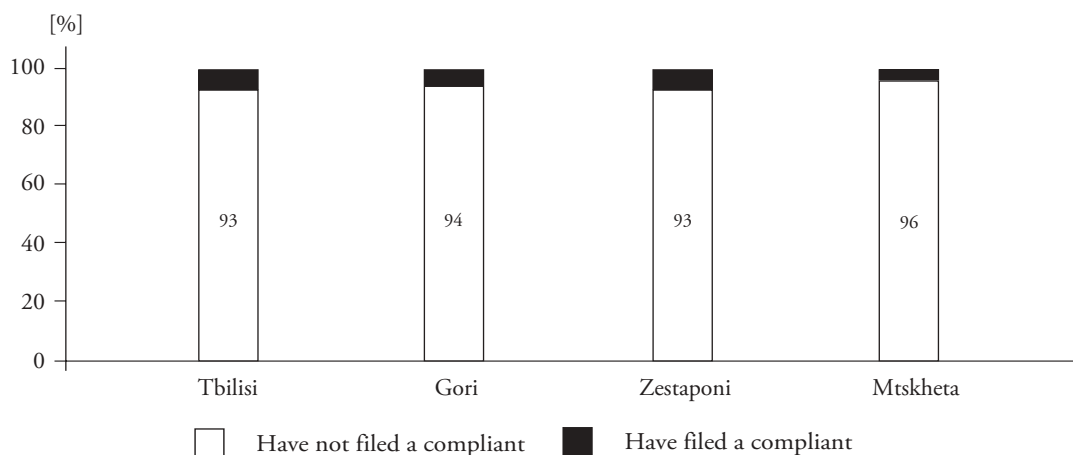
The willingness and ability of citizens to make their complaints known to their government depends on the ease with which a citizen can file a complaint. As noted, this ease itself depends on citizens’ ability to access information on complaint-handling mechanisms—how and where to register a complaint, hours of operation, telephone numbers, procedures, and so on. In other words, access to information requires clarity in procedures used to identify and reach a person or office that can help with a request or complaint.

In this regard, this study examined citizens who: a) filed a request, or b) did not file a request. In Figure 5, this data is presented as the percentage of respondents who found it difficult or impossible to request service and requests that were disposed of satisfactorily/unsatisfactorily (as judged by complainants).

For the purposes of this report, “unreported complaints” refers to those cases in which unsatisfied clients do not make their potential complaints known to a government through official filing procedures. Data on unreported complaints and related reasons for not reporting provide clues as to how a local government handles complaints and requests, and encourages or discourages citizen reporting.

Figure 5.

Reported and Unreported Complaints (as Percentage of Respondents Not Satisfied with Provided Services)



The study revealed that, although almost all respondents (90 percent in Mtskheta, 92 percent in Gori, and 100 percent in Zestaponi and Tbilisi) are unhappy with services provided by local government entities, only 4 percent in Mtskheta, 6 percent in Gori, 7 percent in Zestaponi, and Tbilisi had filed an administrative complaint to: the boss of a specific employee; an institution itself; a local executive branch; a local council; or a court. The study also found that the majority of complaints are submitted to local executive branches and local councils.

Based on the above data, the level of unreported complaints is extremely high (Figure 5). Despite dissatisfaction with received services, 96 percent in Mtskheta, 94 percent in Gori, 93 percent in Zestaponi, and 93 percent in Tbilisi never made their potential complaints known to any responsible agency or official.

What are the reasons for this striking tendency? The data suggests that the inaccessibility and inefficiency of complaint-handling and processing mechanisms play a significant role in deterring citizens from voicing complaints (Figure 6).

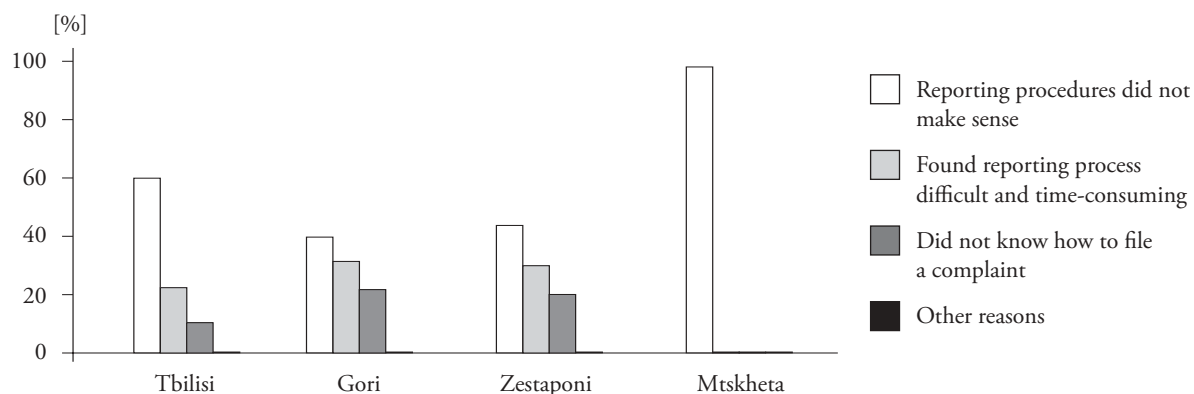
Most respondents contended that “it does not make sense to file a complaint” to local authorities. Specifically, respondents suggested that filing a complaint would not produce any meaningful outcome. This suggests a pervasive sense of powerlessness among the Georgian population. Many respondents also found that filing a complaint to be “difficult and time-consuming process.” This directly reflects the complicated (and discouraging) structure and procedures of the current complaint-filing mechanism. Finally, some respondents simply do not

know how to file a complaint. In Tbilisi, this might be explained by the size of the city. There are only a couple of agencies and offices in small towns, which simplifies the process for citizens. Tbilisi’s population is close to quarter of the country’s population; therefore, the number of public and local institutions and agencies is high. This likely contributes to confusion about how to approach the right institution with specific requests or complaints.

The Administrative Code provides that citizen requests for information or service should be answered in written form by the receiving (responsible) jurisdiction within 10 days, unless the request calls for special research that requires additional time. According to survey results, the median response time for each type of service request received, or for the resolution of justifiable complaints, varied between three days to two months. However, interviews with officials revealed that, due to the lack of citizen awareness, complaints are often filed inappropriately. For example, many complaints about local issues are submitted to central agencies and are either re-submitted at the local level to a responsible agency or simply filed away and ignored.

This study was performed with the assumption that the improved accessibility of complaint-filing mechanisms will likely result in an increase in the number of complaints. In addition, improved accessibility (convenience of intake of citizen requests, quality treatment, and speedy disposition) will serve to positively affect the image of local government and facilitate citizen-local government contact and partnership.

Figure 6. Reasons for Failing to File a Complaint



3.2.1 Client Satisfaction with the Quality of Treatment

In order to survey citizen satisfaction with treatment by a local government (when requesting information and services, or filing a complaint), this study used the following criteria to address public “happiness” with the jobs local government institutions provide:

- a) speed of information provision;
- b) simplicity of administrative procedures;
- c) fairness of personnel;
- d) quality of service;
- e) responsiveness of personnel; and
- f) professionalism of personnel.

Based on the above criteria, in all four localities, it appears as though the local population was extremely unhappy with local government performance. The most dramatic results were observed in Tbilisi, where 100 percent of respondents voiced dissatisfaction with all above-mentioned criteria. Figure 7.1 through 7.6 show the results of this research. Finally, it is important to note that during in-depth interviews, people frequently complained about: the readiness of officials to accept or demand a present, bribe, or favor; their unprofessional and incompetent approach; and their unhelpfulness (such as sending people from one office to another).

Figure 7.1
Dissatisfied with Speed of Service Provision [%]

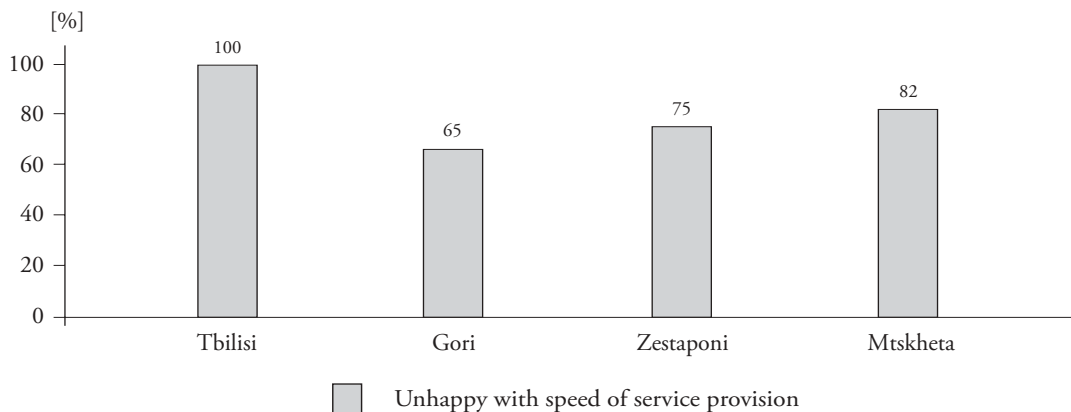


Figure 7.2
Dissatisfied with Administrative Procedures [%]

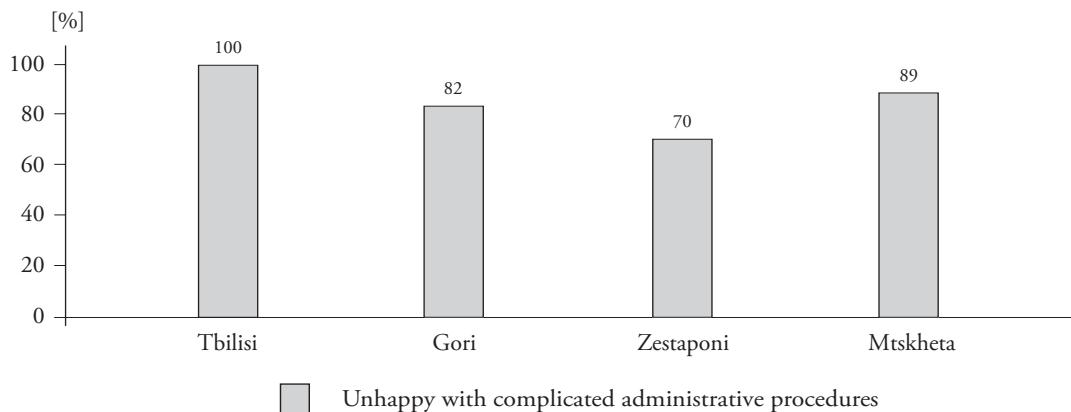


Figure 7.3.
Dissatisfied with Level of Fairness in Treatment by Personnel [%]

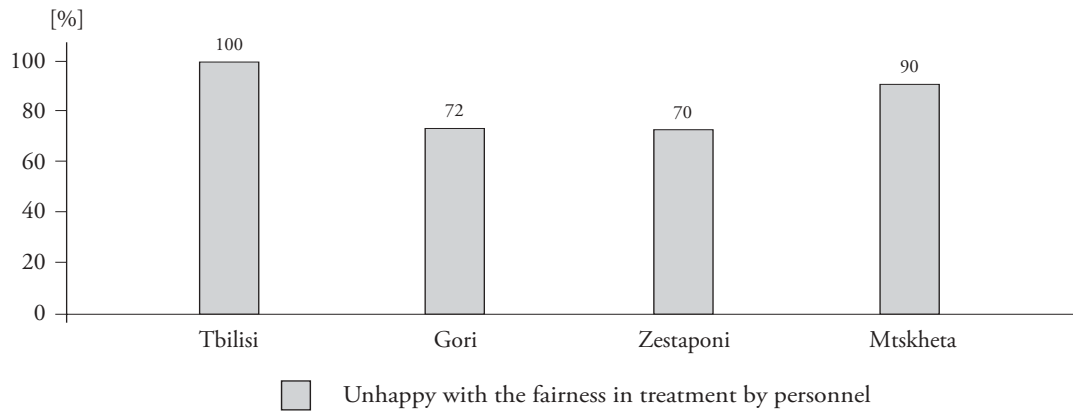


Figure 7.4.
Dissatisfied with Service Quality [%]

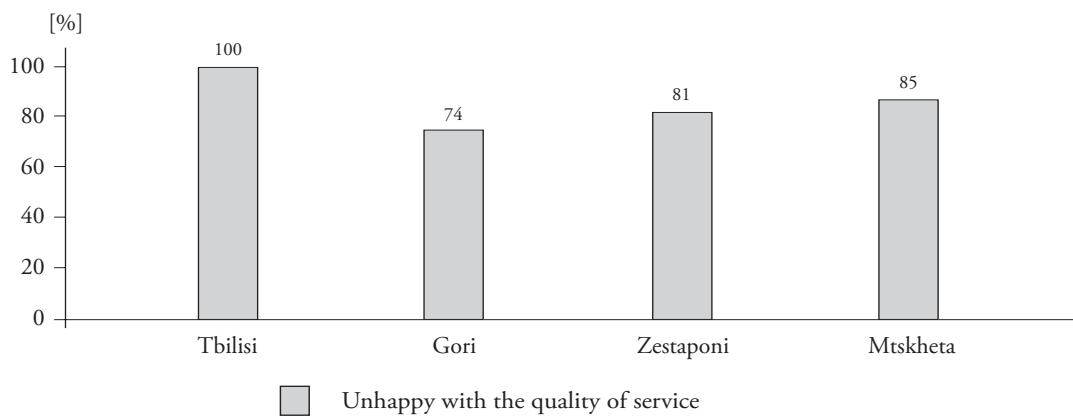


Figure 7.5.
Dissatisfied with Responsiveness of Personnel [%]

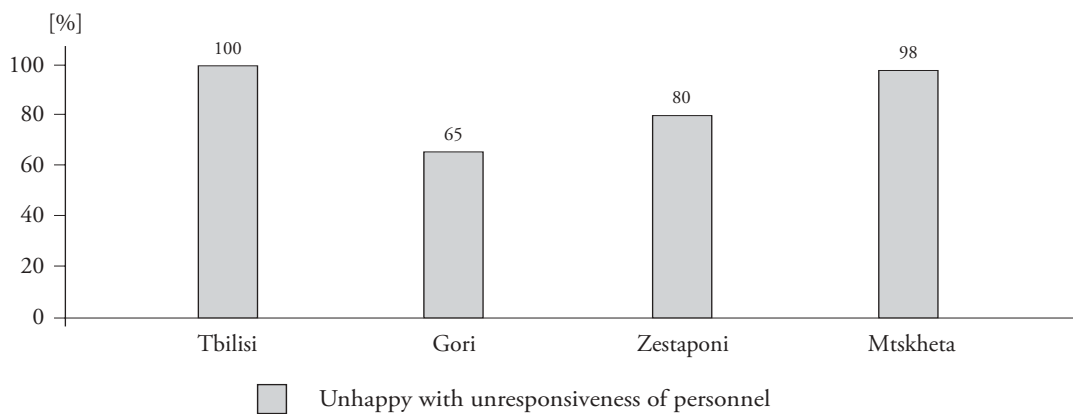
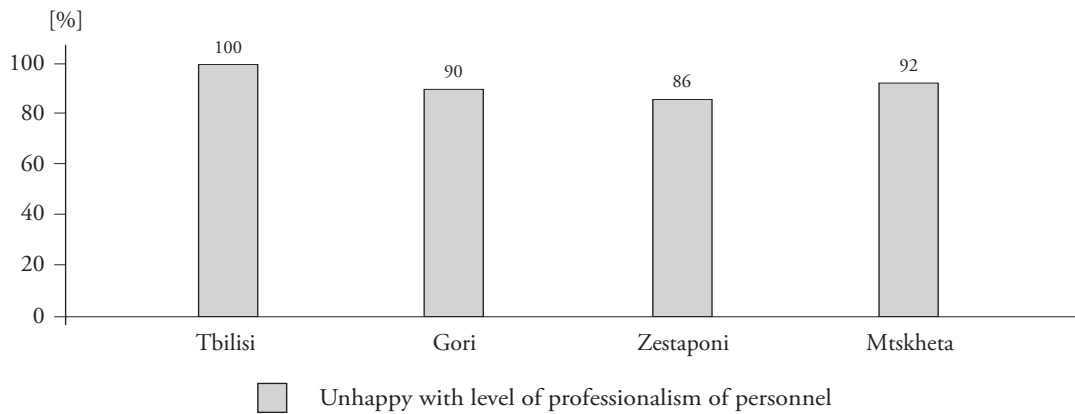


Figure 7.6.
Dissatisfied with Professionalism of Personnel [%]



3.2.2 Satisfaction with Response to Complaint as Judged by Complainant

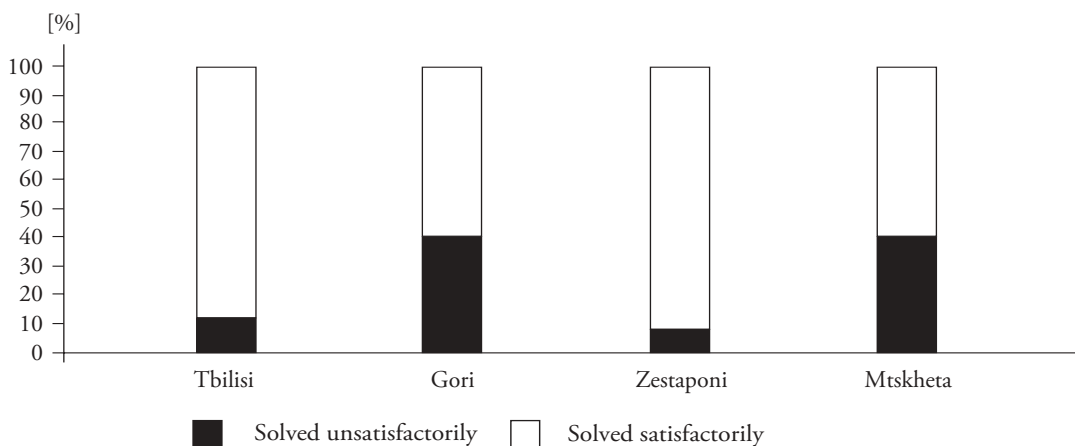
In all surveyed cities, a significant number of filed complaints had not been solved satisfactorily (as judged by complainants): 60 percent of filed complaints in Mtskheta, 92 percent in Gori, 60 percent in Zestaponi, and 88 percent in Tbilisi (Figure 8).

The study did not seek specifics on the topics of complaints; rather, details on where complaints were filed or requested. Data suggests that the highest number of complaints was filed with executive offices and local councils. In addition, research revealed that the highest number of satisfactorily solved complaints (as judged by complainants) were accommodated by local executive offices.

3.3 Relationship among Availability of Effective LIC and Public Awareness and Participation

The research revealed a significant dearth of those internal mechanisms and systems in Georgia’s local government structures that could serve as remedies against citizen abuses and facilitate effectiveness and quality in local government services. Internal accountability is weak, and management mechanisms are ineffective, providing room for unprofessional practices, unresponsiveness among local government employees and low-quality services delivered to constituents. As a result, citizens are unhappy with local government services, and confidence and trust in local government structures are low.

Figure 8.
Satisfaction with Complaint Response as Judged by Complainants
(Percent of Total Filed Complaints Identified by Respondents)



However, this study discovered that in cities with newly created structures—that is, LICs—the situation is more promising. The existence of an effective, newly created LIC, increased citizen awareness and increased public participation are all interrelated. For instance, in Mtskheta, the LIC has facilitated the provision of quality information to citizens, such that citizens feel informed and actively participate in local affairs. The level of attendance at council meetings and awareness about local budget was highest in Mtskheta, as well. Similar results were found in Zestaponi, another city with a functioning LIC, and with the second highest rate of council meeting attendance and awareness about the local budget. In these two cities, LICs appear as major sources of information on local affairs.

Despite the positive role of LICs in two of the four surveyed towns, LICs seem to have little effect in regard to public trust toward local government in these cities, or public opinion on responsiveness and accountability of local structures. Based on the fact that LICs were the only accountability mechanism found in local governments among those examined in this study, the design and introduction of other structures and mechanisms directed towards increased accountability is fundamental for reducing administrative abuses at the local government level.

4. POLICY OPTIONS

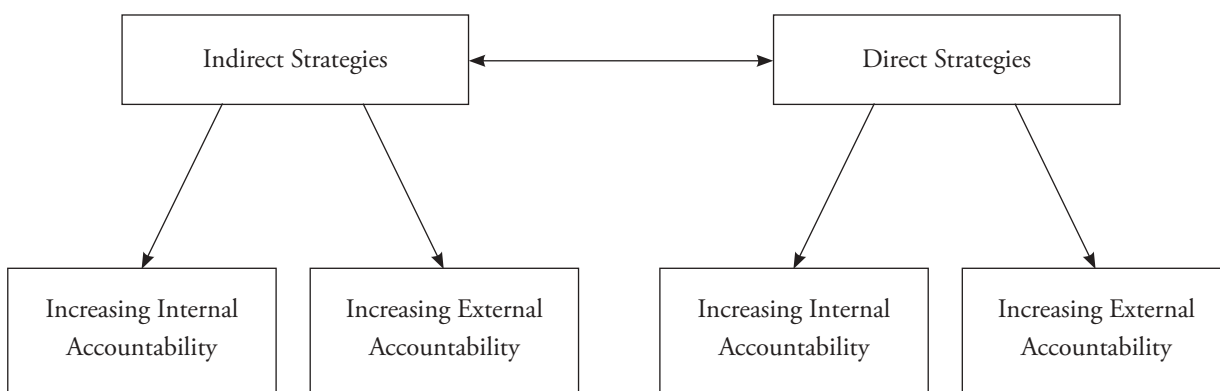
4.1 Indirect and Direct Strategies to Increase Accountability

In order to minimize abuses at the local level, various policies target increasing the accountability of local government structures and are oriented toward improving governance. This serves to reduce the overall need for complaints, or to reduce the incidence of reported and unreported complaints. More specifically, all required policies imply introducing mechanisms oriented toward:

- making existing answerability structures and procedures functional;
- establishing new accountability procedures and structures;
- increasing enforcement; and
- strengthening civil capacity (Brinkerhoff 2001).

As suggested by Brinkerhoff (2001), strategies for decreasing citizen abuses at the local government level are grouped as “indirect” or “direct” (internal and external). Indirect strategies enable and facilitate con-

Figure 9. Policies Oriented toward Increased Accountability Mechanisms



ditions necessary for the introduction and effective functioning of accountability structures and mechanisms. For instance, they embrace legislative changes to empower local governments, anticorruption measures, and rule of law efforts. It is extremely important to integrate indirect strategies into overall administrative reforms; their role cannot be diminished.

This paper does not focus on external accountability mechanisms; rather, the provided policy options address making existing internal answerability structures and procedures functional, and establishing new accountability procedures and structures in local government institutions. Specifically, the paper targets the introduction of local government information centers and of central referral bureaus (CRBs, to be discussed). Such institutions (mechanisms) are important for:

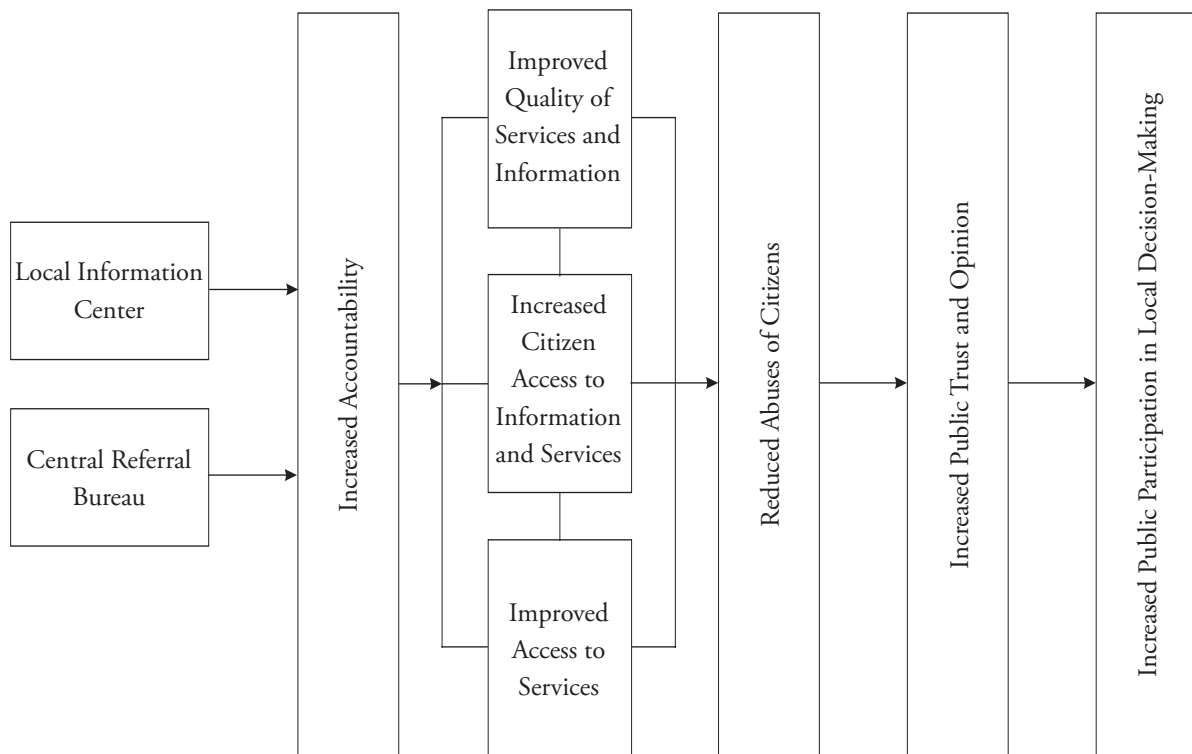
- increasing access to information;
- increasing access to services;
- improving quality of services;
- improving efficiency of internal management and operations; and
- improving the way services are provided to citizens (Figure 10).

The introduction of LICs and CRBs would assist in achieving goals of administrative reforms in a short period of time, have an immediate effect on the level of abuses and character of the citizen-local government relationship, uphold the legal framework, and not significantly drain financial resources.

4.1.1 Local Information Centers (LIC)

As this study suggests, LICs have the potential to facilitate public awareness and public participation at the local level effectively and in a short period of time. Therefore, LICs should be considered an important potential mechanism for decreasing administrative abuses at the local government level. Considering that LICs in Georgia are in initial stages of operation and that their financial resources are extremely limited, it is too ambitious to state that their existence has had (or not) a substantial impact on the level of accountability and transparency of local government agencies. However, evidence hints that they do appear to have a positive impact in a range of areas.

Figure 10. Administrative Remedies against Abuses at the Local Government Level



It is important to emphasize that there is an enabling legal framework for the establishment of LICs in Georgia. The establishment of LICs could be based on the commitment of individual municipalities and communities.

In short, local government information centers should fulfill the following functions:

- serve as a centralized place for citizens to obtain information about various issues (available services, eligibility criteria, service delivery procedures, standards);
- support participatory procedures to allow for citizen participation in decision-making on resource allocation and planning (public meetings, council meetings, budget hearings);
- accumulate and provide citizen feedback to local governments (hotline, open forums);
- promote partnerships among local governments, civil society organizations, and other groups;
- disseminate information to citizens and the media (bulletins, newsletters, press releases); and
- design and operate a website supplied with various local information that will act as a resource center for local citizens.

This paper recommends that such centers be based in non-governmental organizations, rather than as a part of local government agencies. Non-governmental organization-based LICs enjoy relative freedom from political pressure, and are more likely to serve as impartial mechanisms. As well, unlike impoverished public institutions, NGO-based LICs have more opportunities to raise funds through grants or entrepreneurial activities. In addition, the activities of an NGO can be monitored by oversight boards, which should include local community representatives.

Beyond these recommendations, for an LIC to function effectively, commitment from and cooperation with local self-government is necessary, as its operations are mainly based on information obtained from and provided by local government agencies and other public agencies at the local level. Any contribution from the local government side is important, and engages local government as a stakeholder. For instance, the major in-kind contribution of a local government may be office space. It is highly important for an LIC

to be physically located within the local government offices for two reasons. First, a physical closeness will ease tensions and increase the efficiency of local government-LIC communication. Second, it will facilitate public trust toward local government and individual representatives.

Certainly, local information centers will be heavily subsidized, with funding from outside sources, and particularly in the initial stage of their activities. A long-term strategy should focus on financial sustainability and securing funding from several sources. For instance, the local budget could co-fund LIC operations, along with non-local donor organizations. It is likely that donor funding will be needed, regardless—to obtain computers and other needed technical equipment. Currently, various donor agencies and governments are targeting local governance and public administration as part of broad development strategies in Georgia. Currently, the governments of the United States and Switzerland are significant financial contributors to LICs. In addition, various entrepreneurial activities (such as charging nominal fees for consultancy work or service provision) should be considered as sources of income. Fundraising activities could also focus on charity donations from private-sector organizations and individuals.

Despite the fact that municipalities can make decisions about the creation of such entities individually, the most efficient approach would be for a decision to be taken by an association of self-governments, to promote shared standards. This would represent a major commitment to accountability and transparency on behalf of local government. The establishment of LICs is feasible in a short period of time, within the current legal framework, and with existing resources.

In sum, the benefits of the proposed NGO-based LIC model include:

- freedom from political pressure;
- trust among citizens;
- close cooperation with local government, which is also an active stakeholder;
- monitoring and oversight by various sector representatives;
- efficient information provision to citizens (via visits, websites, telephone calls and so on); and
- diverse funding sources.

4.1.2 Central Referral Bureaus

Central referral bureaus (CRB) are a viable mechanism to promote accountability and prevent abuses at the local government level. A similar model in Poland has proved to be an effective mechanism for local government-citizen communication. This study suggests that a CRB take the form of a local government office, which would address citizen requests for service, citizen requests for information, citizen complaints, and citizen feedback.

Data indicates that citizens in Georgia do not tend to apply for information and services, and are reluctant to file complaints; they generally consider local agencies to be inresponsive, non-transparent, ineffective and unprofessional. The proposed CRB structure has been designed to ease and clarify the administrative procedures that customers must follow to apply for and obtain information and service and to file a complaint. In effect, the structure necessitates clear time-lines and accountability mechanisms, as well as a central database of all records, in order to keep track of the status of every request, report, and application (Figure 11).

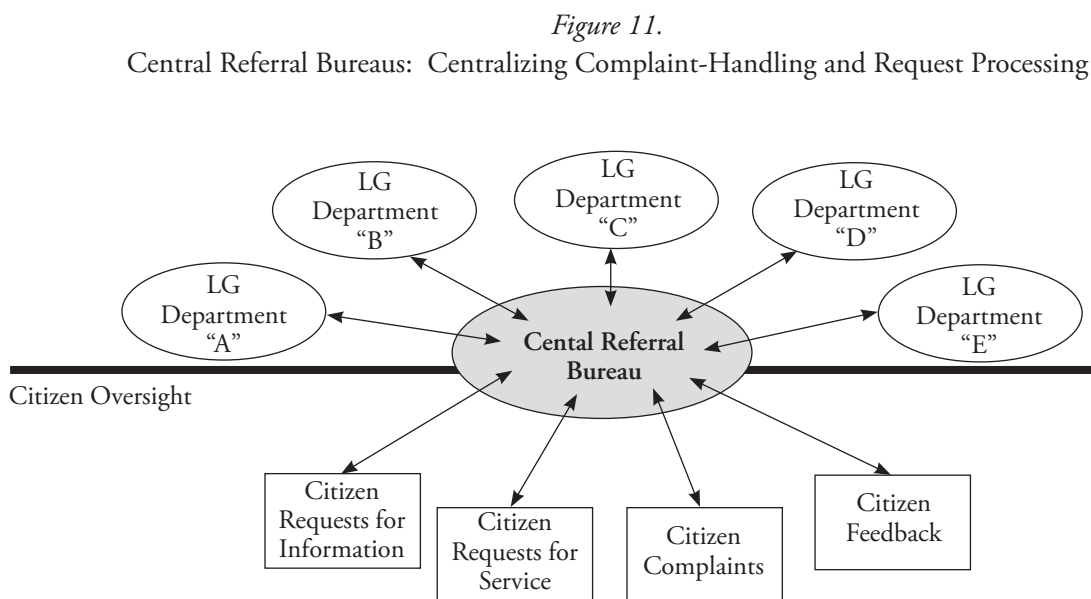
The establishment of CRBs does not require major policymaking initiatives. It does, however, change the relationship between citizens and their local government. Instead of being referred to various offices and departments with certain requests and complaints, citizens would communicate solely with a CRB. All

requests and complaints would be filed with a CRB as well, and responses would be addressed uniformly.

Given the low level of computer use in local government structure in Georgia, it is not feasible at this point to expect the introduction of electronic complaint or request documenting, filing or tracking systems. However, the creation of centralized computer software for recording, processing, and accumulating data on complaints and reports could be made possible with a single computer, installed in a CRB, until a comprehensive system is launched. Therefore, “computerizing” a CRB would allow for the existence of centralized database for all requests, complaints and feedback, and would (temporarily) diminish the need to computerize all departments immediately.

Another important feature of a CRB is accountability: CRBs allow for citizen oversight and monitoring through access to data on requests, complaints, and responses; citizen satisfaction reports; and other feedback. This can be implemented through the development of a citizen monitoring committee, which would receive monthly (or otherwise regular) data from a CRB on requests and complaints. Such a committee would also review a local government’s institutional performance, according to obtained data.

Central referral bureaus create and promote shared standards within and among institutions, such as median response times, reporting requirements, and filing procedures used by various offices. Through CRBs, con-



tact with local governments will be streamlined: CRBs will reduce red tape and bureaucratic procedures and simplify access to services and information. They also promote quality control by facilitating access to information and services, and by verifying the accuracy of records, accurate documentation of results, and quality of responses. By accumulating data on citizen-local government communication, this mechanism would allow for monitoring of the performance and responsiveness of specific agencies and public servants, and facilitate the enforcement of sanctions against unsatisfactory or abusive behavior.

In sum, the proposed CRB model will lead to increased internal accountability in local agencies and increased responsiveness of local government agencies toward citizens, through shared standards, centralized monitoring systems, and increased monitoring by citizens. The establishment of CRBs does not require commitment by a national (central) government or long-term planning. It can be formed in a short period of time, with local financial resources. Although each municipality can individually decide to create a CRB, it would be most efficient if an association of self-governments were to decide to pursue such approach as shared policy.

5. CONCLUSION AND RECOMMENDATIONS

The establishment of local self-government in Georgia began in mid-1990s. However, overlaps in the functions and responsibilities of various levels of government, the absence of real decision-making authority at the local level, major deficiencies in intergovernmental fiscal relations, and the lack of professional capacity in local government have led to abuses of power. Opportunities for officials to avoid their responsibilities and to illegally consume power at the expense of the public interest have also emerged. The current system does not promote professional standards, incentive or enforcement mechanisms (rewards or sanctions), or professionalism (ethical behavior) among local public servants. It has fostered a lack of professional capacity in local government units, accompanied by corruption and misadministration. Respectively, poor services are being delivered to citizens, negatively affecting the well-being of local populations.

The lack of access to information and access to services, inefficiencies in complaint-handling mechanisms, and the poor quality of services provided to citizens at the local level have been evidenced by this research. Such citizen abuses inculcate mistrust and a negative image of local government bodies. Citizens are thus discouraged from communicating with their local government, and believe that they will not be provided desired information, quality service, or appropriate treatment.

This study examined the functioning of various answerability mechanisms in local governments and discovered that most have not yet been introduced. The ineffectiveness and non-transparency (opacity) of the request and complaint processing system—the difficulty of filing complaints or requests for information and service to responsible offices, and unsatisfactory treatment in terms of timing, courtesy, professionalism, responsiveness, and quality—have created disincentives for citizens to report legitimate complaints or requests for legitimate services. Dissatisfaction with the quality of services has led to a situation where much of the population avoids contacting their local government at all—as indicated by the high level of unreported complaints in all surveyed towns. This evidence indicates the need for clear procedures, high standards, and accountability mechanisms.

Meanwhile, clear progress has been observed in those cities where resources have been committed toward increasing transparency and public awareness-building. In cities with local information centers, and especially those with regular information bulletins, increased public awareness and improved citizen inclusion and participation in local governance have been detected. This suggests how specific administrative structures and mechanisms (LICs) can facilitate citizen-local government communication, and encourage prospects for participatory decision-making.

While this study suggests the need for internal, external, and preventive remedies, it has mainly focused on a discussion of internal and preventive remedies:

First, *legislative changes* are needed to empower local governments with the authority, resources, and property to function as meaningful decision-making bodies. Amending and enforcing the existing Law on Public Servants to account for professionalism is necessary, particularly to account for employment and career promotion (incentives). Stipulations (sanctions)

regarding public servants' inability to meet professional standards and requirements are also needed. Legislative changes should include:

- promotion criteria and mechanisms based on professional merit;
- incentive mechanisms;
- alignment of wages of local government servants with merit and professional qualifications;
- effective employee evaluation mechanisms (and means of enforcement);
- competitive job application processes;
- uniform job descriptions for various positions of local public servants; and
- ethics codes.

Second, *local information centers* (LIC) should be created in municipalities as non-governmental, non-partisan organizations to facilitate citizens' access to information. Local information centers can be created to foster commitment of individual local self-government bodies to their work; LICs should be linked by common enabling legislation—a collaborative policy endeavor to promote good governance nationwide. The establishment of LICs can be accomplished in a short period of time and co-funded by local budgets. The centers should then serve as an administrative remedy to improve the quality of local services and information provided to citizens; thus, they reduce or prevent the occurrence of circumstances leading to justifiable citizen complaints, reported or unreported.

In order to strengthen transparency and access to information, the *webpage* of each municipality should be designed by LICs. The pages would offer a sort of database of relevant legal, economic, and other informa-

tion. At present, local governments lack, the computer technology, know-how, and motivation to accomplish this task.

Third, *citizen referral bureaus* (CRB) should be created in every municipality. Such units, established within local self-governments, should act as a center for receiving citizen complaints, requests, and referrals and for receiving and responding to feedback concerning local administration. This would reduce administrative abuses at the local government level, improve citizen access to services and information and to complaint-handling mechanisms, and increase the effectiveness of mechanisms and quality of response.

These bureaus can be created within the existing legal framework, and can be based on the commitment of individual local self-government bodies. This can be accomplished in a short period of time and funded by local resources (the local budget).

Finally, it is necessary to promote the development of representative bodies of self-government units—*self-government association(s)*. These associations of governmental units and administrators could play a major role in sharing and lobbying for new progressive values and for promoting new practices among local self-governments nationwide. They are key to LICs, to the creation of CRBs, and to the design and introduction of ethical norms; they serve to design ethical codes and to introduce ethical “committees”; and they act as administrative mechanisms against abuses at the local government level. At this stage of the development of such associations, their further strengthening should be facilitated by technical assistance from the international community, based on best practices; they require the leadership and commitment of local self-governments.

NOTES

¹ See Shergelashvili 2002 for references on intergovernmental fiscal relations.

² By USAID, through the Urban Institute and National Democratic Institute, Open Society Foundation—Tbilisi, Georgia Foundation, the World Bank, British Embassy, GTZ, etc.

³ According to the data in National Democratic Institute 2002.

⁴ Administrative Abuse is an act of enforcement, promulgation of a norm, taking of a decision, or denial of a benefit by a state official, which is: illegal, a result of inappropriate exercise of discretion, or procedurally improper, irregular or erroneous. Administrative remedies are measures, mechanisms and structures oriented towards preventing or addressing the administrative abuses. The definition was developed collaboratively by Edwin Rekosh, PILI, and fellows of the LGI Fellowship Program, 2002–2003, Administrative Remedies at the Local Government Level.

- ⁵ Mainly from the United States Agency for International Development (USAID), though the Eurasia Foundation and the Urban Institute, and GTZ through Civitas Georgia.
- ⁶ Despite the internal availability of such a mechanism, it is not publicly accessible.
- ⁷ WUD 2001; Urban Institute 2001; ICCC 2002.

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THE VICIOUS CIRCLE:
WEAK STATE INSTITUTIONS, UNREMEDIED ABUSE AND DISTRUST



*Marek Jefremienko,
Halina Wolska*

Administrative Remedies for Abuses
in Local Government:
Poland

REPORTS FROM ARMENIA, BULGARIA, GEORGIA AND POLAND

Administrative Remedies for Abuses in Local Government: Poland

Marek Jefremienko, Halina Wolska

1. INTRODUCTION

1.1 The Project: Assessing Administrative Abuse and Remedies

This study aims to form a better understanding of administrative abuses and remedies in local government in Poland since the demise of state socialism. Particular areas of focus include: transparency in every sphere of local community life; management tools; citizen participation in local governance; and means of identifying potential administrative problems that can adversely affect a given community. Institutional development was of primary interest as well. The project serves to form a better understanding of possibilities for development in light of:

- effective and readable administrative and legislative means against abuse in local government performance;
- building and reinforcing the need for an ethical code and awareness of ethical standards and values; and
- clear administrative procedures.

By investigating typical abuses, the project was intended to analyze the particular tools to prevent abuse, and to formulate appropriate administrative and legal regulations (or alterations). The greatest challenge was to devise suggestions for effective legal means to break abuse-makers' solidarity and eventually to prevent any group abuse alliances.

Ultimately, this project has been undertaken with the intent to help civil or public servants to navigate through, or to comprehend, the structure of the

local government unit (LGU) and the organization of work, and to recognize undesirable, corrupt activities in context of transition. Conclusions are presented in the form of instructions on how to implement a particular procedure or tool.

Sample Recommendations:

The labor code of an office should be clearly formulated and easily accessible. For all routine tasks, especially those involving individual consideration, written and graphic procedures to enable control of work progress should be outlined. Procedures should clearly state the range of responsibility of a person in a particular job position for a particular task at a particular stage. They should also state actions to be taken in order to reach a desired effect.

1.2 Local Government in Poland: An Overview

Several features characterize the local government system in Poland. These include:

- considerably developed formal, legal, and institutional elements;
- a relatively high degree of decentralization, in comparison to other Central and Eastern European countries;
- extensive interference by politicians in the area of local financing;
- sustainable techniques of constructing, voting on, carrying out and presenting annual activity reports of authorities
- poor use of management tools (such as sector strategies, mechanisms to promote local dialogue and citizen participation, long-range financial analysis, and capital and performance budgeting);

- lack of transparency in local government finances;
- an antiquated legal framework;
- inadequate knowledge of public finance among elected officials; and
- political influence on local councils.

These features are interrelated, and play a significant role in creating, changing, and maintaining modes of governance in Poland—particularly with regard to the development of administrative institutions. Institutional development sits at the heart of local government decision-making, planning, and the articulation of community values. Failing to address the features listed above risks the capacity of local governments to provide quality services to its citizens.

Generally, there is a lack of a long-term perspective in the reform of public administration in Poland. This affects relations between administrators (public authorities, officials) and citizens, and hinders a comprehensive understanding of roles and responsibilities. This is felt most significantly within communities, at the local level. As well, there is little awareness of indicators that can be used to forecast and develop transparency, accountability, and so on in local government conditions.

Underlying these issues is an insistence on, or acceptance of, control, rather than an orientation toward more democratic policymaking and management. This study argues that progress can and will be made once central government and local policymakers, as well as citizens, demand timely, accurate and useful information upon which to make decisions.

Securing a legal framework for local government transparency and the implementation of anti-corruption tools have proven to be difficult tasks. Difficulties, importantly, arise from the fact that rules and regulations in public administration are generally made by politicians, and not by managers. As such, they reflect an interest in controlling and reporting, and not in management and trends or process analyses.

The local government legal framework opens a broad spectrum of possibilities for intelligent and flexible decision-making and for responding to community needs. But, as politicians, local authorities tend to narrow their interests and focus on “defending their posts,” rather than on modern management tools to seek out, develop, and make use of new ideas for the benefit of a whole community.

1.3 The Significance of Institutional Development of Local Government in Poland

Institutional development is at the center of local government reform in Poland. The process significantly influences the extent to which (how and if) democracy functions within particular communities. Institutional (and organizational) development and changes have a legal basis, are based on decisions and projects of local councils, and fall within the competence of these councils.

Currently, there are many obstacles to institutional development in the country—some of which are related to the present proportional (rather than simple majority) election system. Municipalities typically lack well-rooted principles that link transparency and anti-corruption objectives to institutional development realities. Procedures to make transparency and anti-corruption efforts the focal point for determining community priorities are inadequate, and ethical standards, benchmarks and transparency in local financing are insufficient. Generally, there is little understanding of how to make use of tools for effective local government management, and much planning is made with little foresight; local governments lack long-term perspective in policymaking, and tend to focus on short-term “quick fixes.” Finally, there is little communication between central and local government agencies, and between local governments and subsidiary organizations in combating corruption.

1.3.1 *The Problem of Corruption*

Unlawful activities and mal-administration are formal subjects of concern, codified by Polish legislation. They have little bearing, however, on the actual ethical state of local government performance. Solidarity among administrative “abusers,” and an unwillingness to jeopardize connections among colleagues, complicates the prosecution process; a great deal of unlawful activity is not dealt with formally.

Over the past ten years, the pursuit of democracy has not yet achieved a coherent, consensual understanding of values and ethical norms, or of the ethical assessment of events and processes in public life in Poland. However, ethical standards and ethical awareness of

public servants' work are crucial for eliminating abuse, especially in regard to particular conflicts of interests, where legislative means do not give clear guidance.

Indeed, ethical standards and awareness are part and parcel and effective governance. Efforts to restore ethics in governance now comprise a "global" campaign waged by central and local governments authorities and various non-governmental organizations and associations. Without ethical standards and awareness, the discrepancy between legal regulations and the actual (un)lawful course of current affairs will undermine democratic development in virtually all spheres of public life.

Regrettably, insufficient attention has been paid to institutional tools of prevention and responses to bribery, the pursuit of private interests, nepotism and "favoring," illicit behavior, or other forms of mal-administration in Poland. It is crucial to affirm the value of such tools—such as effective prosecution for all forms of abuse—within the local government structure.

1.4 Overview of Research and Methodology

To assess the performance of local governments in Poland, a project-specific methodology was developed. We researched the state of institutional development in selected local government units, with a two-fold focus. Specific attention was paid to the organization of office work, and particularly on how this work is oriented toward citizens, in regard to the range and performance of services and procedures performed. As well, citizen perceptions of, and participation in local government, along with governance awareness, were investigated. The influence of these areas on administrative abuse was then analyzed.

Research was carried out in 10 towns and cities at various levels of stages of institutional development. The level of institutional development was determined by a set of previously defined anti-corruption tools and procedures. Data was gathered through extensive surveys and questionnaires of local authorities and citizens (Appendices 1 and 7). Data collection involved extensive questionnaires and interviewing, and made use of both qualitative and quantitative criteria. Whereas previous research and studies on local government in Poland had used only quantitative criteria (such as

average income, investment figures, and so on); this project used qualitative criteria based on analysis and assessment of professionalism in local government performance.

Data assessment—which differed according to local government—took the form of a matrix. The level of institutional development was marked individually, on a separate matrix, for each local government and scored accordingly. This research served to identify relationships between the functioning of different tools and procedures of governance and the level of abuses, as measured by certain parameters.

Questions for officials and citizens (customers) were clearly and precisely formulated, and covered areas such as:

- the quality and level of finance management;
- the quality and level of local government development management;
- relationships and organization between and within local government offices, and how this affects service; and
- the level of social communication and citizen participation.

For assessment purposes, points (0, 1, 2, or 3) were given according to the answer. The total number of points indicates the level of professional management of a local government. For example, points could be gained for introducing tools to make local management more efficient, for a certain approach to local government development, for a particular attitude to investors or for the scope of urban development planning.

2. PRESENTATION OF INSTITUTIONAL DEVELOPMENT DATA: MUNICIPALITIES

Municipalities fall into one of four groups, according to population size.

The first group consists of Parysów, Lesznowola, and Prażmów, all of which are situated in Mazovian province, and have from 4,200 to 12,000 inhabitants. The Commune of Lesznowola lies next to Warsaw, adjoining it on the east side. Low, detached houses predominate. The western part of the Lesznowola is characterized by exceptional natural and scenic features. Its location on the Warsaw-Cracow road and railway

line, close to the extensive Warsaw market and with access to highly skilled labor, is an important advantage in attracting investors. Prażmów is a typical semi-urban locality. Economic activity revolves around electrical engineering, trade, and tourism. These areas are not particularly well developed.

Grodzisk Mazowiecki, Łomianki, and Konstancin-Jeziorna comprise the second group. The township of Grodzisk has an area of 10,723 hectares (ha) and consists of the town of Grodzisk Mazowiecki (1,319 ha) and 33 villages. Łomianki is one of the seven communes that lie next to Warsaw. Because of its attractive position, Łomianki enjoys economic success in the areas of transport, tourism, and recreation.

The third group includes Ciechanów, Piotrków Trybunalski, and Tomaszów Mazowiecki. These are described as “middle municipal communes.”

Finally, the last group consists of the biggest urban areas: Warszawa-Ursynów (which is not a commune, but a quarter), Płock, and Radom. Płock is a town with

over 130,000 inhabitants, situated in the center of Poland, within the Mazowieckie Voivodship. Mazowieckie is the largest *voivodship* in the country, and offers ideal conditions for the largest market in Central Europe. Radom is the 14th largest urban center in Poland in terms of population. Its convenient location (100 km from south Warsaw), with access to an extensive network of roads and railway lines, is one of its significant advantages. Radom has plenty of legally secure real estate that can be developed for manufacturing. The majority of such land is situated in the Special Economic Zone (SEZ). Launching new economic activities in Radom is quite easy, because of the city's reserves of skilled labor trained in tanning, footwear manufacture, electrical engineering, power engineering, service industries and trade. The city's prime location, proximity to leisure and recreation opportunities, and its developed network of cultural facilities also provide many features attractive to investors and visitors.

Table 1.
Group A (<15,000 Inhabitants)

Municipality	Points	Rank
Lesznowola	32	1
Parysów	27	2
Prażmów	12	3

Table 2.
Group B (15,000–40 000 Inhabitants)

Municipality	Points	Rank
Grodzisk Mazowiecki	39	1
Konstancin-Jeziorna	35	2
Łomianki	30	3

Table 3.
Group C (40,000–100,000 Inhabitants)

Municipality	Points	Rank
Piotrków Trybunalski	34	1
Ciechanów	33	2
Tomaszów Mazowiecki	4	3

Table 4.
Group D (>100 000 Inhabitants)

Municipality	Points	Rank
Płock	29	1
Radom	28	2
Warszawa-Ursynów	25	3

Table 5.
All Municipalities Together

Municipality	Points	Rank
Grodzisk Mazowiecki	39	1
Konstancin-Jeziorna	35	2
Piotrków Trybunalski	34	3
Ciechanów	33	4
Lesznowola	32	5
Łomianki	30	6
Płock	29	7
Radom	28	8
Parysów	27	9
Warszawa-Ursynów	25	10
Prażmów	12	11
Tomaszów Mazowiecki	4	12

3. SURVEY PROCESS AND PARTICIPANTS

3.1 Respondents: Public Servants

Surveyed respondents: Adult respondents from administrative offices of local governments (of various sizes) who had served over the previous four years were surveyed. Respondents' gender, age, and frequency of use of public services in municipalities and communes are presented in the figures below (Figures 1, 2, and 3).

3.2 Respondents: Citizens

Data for analysis was gathered through a survey questionnaire (Appendix 7: Citizen Questionnaire). Questions 7.1, 8.1, and 9.1, concerning descriptions of corruptive situations, were not considered in the quanti-

tative analysis of the survey results. Rather, they are of merely informative character. The questionnaire allowed the interviewer to note the manner in which the respondent replied or the comments he or she formulated, and thus to develop a more well rounded understanding of the context.

Respondents were customers of municipal and commune administration offices. In order to avoid situations in which the respondent was part of the office staff, the interviewer first explicitly asked, "Are you a customer in this office?" If the answer was positive, the interview process would begin.

In some localities, the small number of customers required different methods. In Parysów, Ciechanów, Piotrków Trybunalski, and Konstancin-Jeziorna, the poll was carried out in the streets. In such cases, the first questions were: "Do you live in this municipality?" and "Have you attended to any business in the local administration office?" With a positive answer, the interview process would begin.

Figure 1.
Respondents by Gender

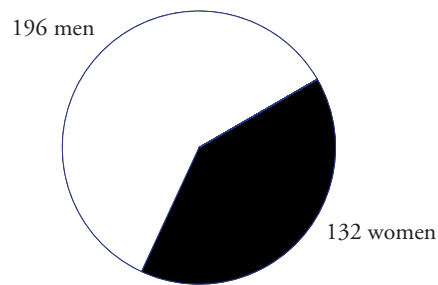


Figure 2.
Respondents by Date of Birth

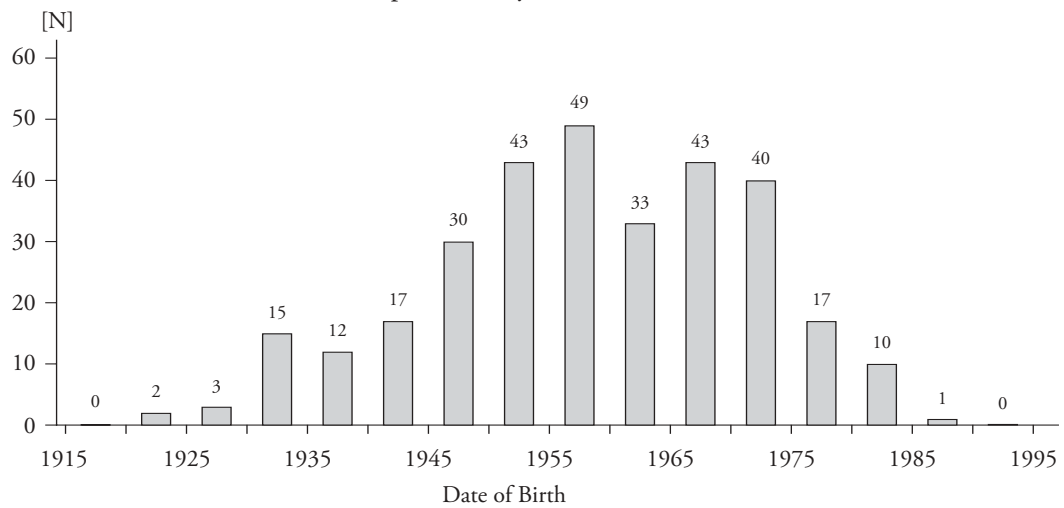
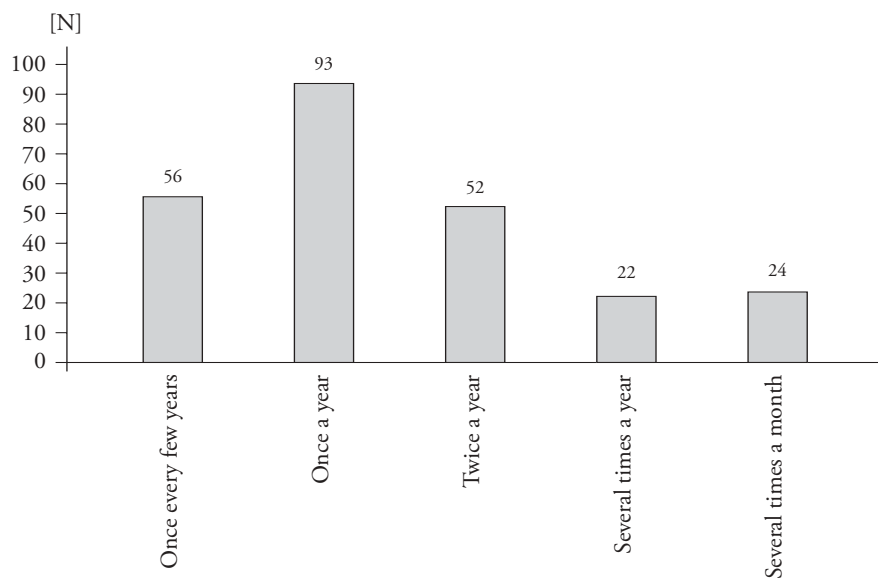


Figure 3.
Frequency of Use of Public Services



4. HYPOTHESES

The survey developed for the project was used to verify three hypotheses:

1. In municipal and commune administration offices of higher institutional development, customers describe a lower intensity of corruptive behavior.
2. In municipal and commune administration offices of higher institutional development, customers describe higher satisfaction with the services rendered by these offices.
3. In municipal and commune administration offices of lower corruptive behavior, customers describe higher satisfaction with the services rendered by these offices.

4.1 Hypothesis 1

In municipal and commune administration offices of higher institutional development, customers describe a lower intensity of corrupt behavior. This implies that an office with a high rank with respect to tools for management and customer service should also win a high rank in the rating assessing corruptive behavior. In other words, a high rank in the corruption rating means a small number of cases of corruptive behavior.

4.1.1 Results

Hypothesis 1 was not confirmed, which means that the survey did not demonstrate an essential relation between high institutional development and low corruption level.

Questions 7, 8, 9, and 10 (below; see also Appendix 7) were of basic significance for the given hypothesis. In accordance with these questions, ratings of administration offices in which customers describe having come across corruptive behavior were determined. The rank of a given municipality or commune depended on the total of indicators.

The indicators were calculated by first scoring each answer (points are marked in bold).

Question 7. Have you come across situations in which bureaucrats abuse their position in order to provide support to their relatives or friends, or companies run by such people?

0 No.

1 Yes, I have heard of such cases from the media (papers, radio, TV).

1 Yes, I have heard of such cases from my friends, family, and colleagues.

2 Yes, I have personally come across such cases.

Question 8. Have you come across cases of bureaucrats accepting bribes?

0 No.

1 Yes, I have heard of such cases from the media (papers, radio, TV).

1 Yes, I have heard of such cases from my friends, family, and colleagues.

2 Yes, I have personally come across such cases.

Question 9. Have you felt obliged over the last four years to bribe a bureaucrat in order to solve your problem?

1 Yes.

0 No.

Question 10. We occasionally hear of public officials who benefit from the position they hold; do you think that in your municipal/commune office:

1 There are such people, though very few.

2 There are many such people.

0 There are no such people employed in this office.

Second, for all the municipal and commune administration offices, the total score (respondents' replies) to particular questions was divided by the number of valid answers. Every local administration office was attributed four indicators (one relative to each question) that, when added, created the ranking (Table 6).

Lesznowola, ranked first, had the lowest number of corrupt behavior observed by customers of a given administrative office. In contrast, customers of Ursynów (Warsaw), Radom, and Prażmów reported numerous cases of corrupt activity. The ratio of customers who felt obliged to bribe an official (Question 9) was the same in Ursynów and Radom. No other municipality reached anywhere near this score. Ursynów also ranked low for Question 8 and Question 10, while Radom had the highest corruption rating in Question 7.

Table 6.
Hypothesis 1a

Municipality	Question 7	Question 8	Question 9	Question 10	Total	Rank
Lesznowola	0.38	0.09	0.00	0.29	0.76	1
Łomianki	0.43	0.20	0.00	0.73	1.36	2
Parysów	0.61	0.15	0.07	0.58	1.41	3
Ciechanów	0.46	0.13	0.03	0.93	1.55	4
Piotrków	0.50	0.10	0.10	0.89	1.59	5
Tomaszów	0.62	0.26	0.03	0.93	1.84	6
Płock	0.64	0.41	0.06	0.92	2.03	7
Konstancin-Jeziorna	0.66	0.33	0.13	0.93	2.05	8
Grodzisk	0.51	0.48	0.03	1.04	2.06	9
Prażmów	0.82	0.29	0.18	1.17	2.46	10
Radom	0.93	0.33	0.26	1.13	2.65	11
Ursynów	0.46	0.63	0.26	1.31	2.66	12

This ranking was compared to the rank scored by a given local administration office with respect to its institutional development (Table 7).

In order to investigate the correlation between the intensity of corrupt behavior and the level of institutional development, we made use of Spearman Rank Correlation. Spearman Rank Correlation is a statistical

analysis, used to investigate a correlation (concurrence) of variables. It compares rankings of local administration offices in order to identify and assess the occurrence of a strong correlation. Correlations range from -1 to $+1$, where 0 stands for a total lack of correlation and 1 for a full correlation. A positive correlation indicates “direction.”

Table 7.
Hypothesis 1b

Municipality	Points	Rank
Grodzisk Mazowiecki	39	1
Konstancin-Jeziorna	35	2
Piotrków Trybunalski	34	3
Ciechanów	33	4
Lesznowola	32	5
Łomianki	30	6
Płock	29	7
Radom	28	8
Parysów	27	9
Ursynów	25	10
Prażmów	12	11
Tomaszów Mazowiecki	4	12

4.1.2 Analysis

The survey has not proved any significant relationship between corrupt behavior in a local administration office and the level of institutional development. This does not prove, however, that such a relationship does not exist at all. Survey results might have been influenced by several factors. These include:

- The polled sample may have been not large enough.
- In order to achieve optimal survey objectivity, the poll should have been carried out with a random selection of the polled customers.
- Corruption is a crime; respondents may have been reluctant to admit their involvement.
- Certainly, most people hesitate to speak badly of their family and friends. This may also apply to their local administrators, particularly in smaller municipalities (e.g. Lesznowola, Parysów). In such communities, local officials tend to be either the respondents' relatives or friends. This may be best exemplified by responses such as: "There is no corruption here. Here all the people are good," or "There has never been corruption here, and there never will be."

In order to gather more reliable data, a project of far larger scope is necessary. A random selection of respondents and a bigger number of respondents imply very high financial costs. We argue that, due to the im-

portance of these issues for good governance in Poland, support for further examination is worthwhile.

4.1.3 Responses to Question 11

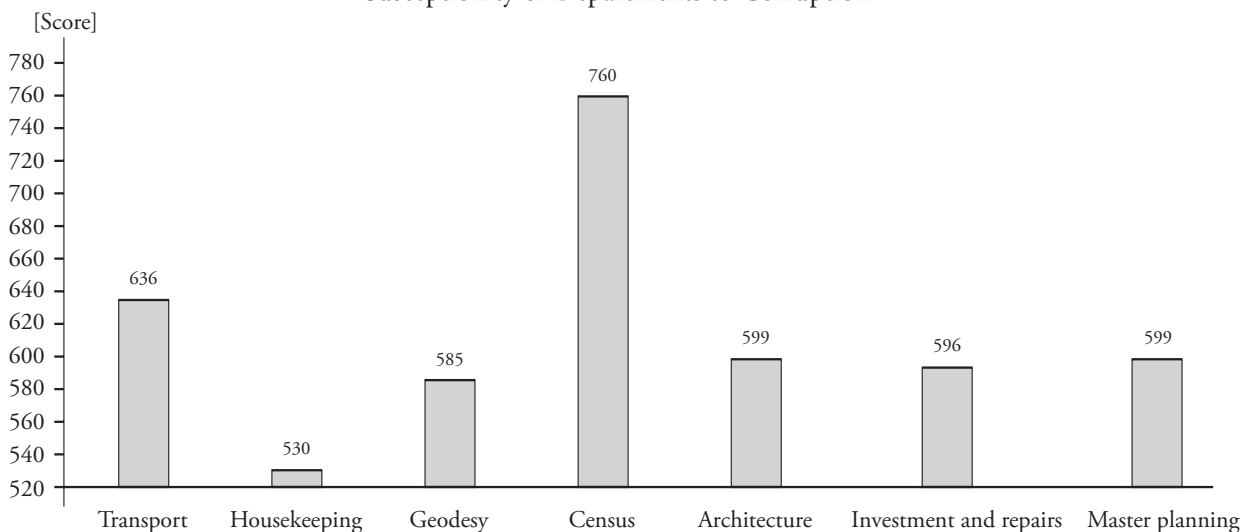
Respondents were also asked to what extent particular administration office departments are susceptible to corruption. Indicators were calculated in order to establish departmental rankings, and to show susceptibility to corruption. Indicators were calculated as for Questions 7 to 10—as a total of particular scores divided by the number of valid responses. A scale of 1 to 4 was used, with 1 being "very susceptible" and 4 being "not susceptible at all."

Respondents' answers suggest that (from most to least) the Department of Land Survey and Land Development, the Department of Investment and Modernization, and the Housing Department are most susceptible to corruption. The department least susceptible to corruption is the Census Department. All the results are shown in Figure 4.

4.2 Hypothesis 2

In municipal and commune administration offices of high institutional development, customers describe higher satisfaction with the services rendered by these offices. This hypothesis implies that a local administration office that has been ranked high in the rating of admin-

Figure 4. Susceptibility of Departments to Corruption



istration offices with respect to the management tools used and to customer service should also rank high in the rating assessing customers' satisfaction with the services rendered.

4.2.1 Results

The hypothesis has not been confirmed: no essential relationship between a high level of institutional development and a low corruption level appears to exist. Question 6 (below, also Appendix 7) was important for this hypothesis. Answers were attributed the following scores:

- 0. I believe that my local administration office may serve as an example to other such offices.
- 1. Things are quite good, though a lot still need to be changed.
- 1. I cannot formulate any serious criticism of my local administration office.
- 2. I receive too limited information on the activity of the office.
- 2. I feel confused here.
- 2. I usually have difficulties with solving my problem here.

Responses were divided into two groups: positive and negative. Positive answers had a score of 1,

whereas a score of 2 was read as negative. The answer "I believe that my local administration office may serve as an example to other such offices" was considered to express maximum satisfaction with the functioning of the municipal and commune administration; it was attributed a score of 0. Only 16 respondents in the whole survey gave such answer.

In order to calculate results, a method identical to that used for Hypothesis 1 was applied. The indicator of customers' satisfaction was calculated by dividing the total of scores by the number of valid answers (Table 8).

Again, Lesznowola ranks highest in terms of customer satisfaction with the functioning of the municipal or commune administration.

The above ranking, identical to that used in Hypothesis 1, was compared by means of Spearman Rank Correlation (to allow a comparison between ranks in two different rankings), ranking municipal and commune administration with respect to their institutional development level. The resulting 0.21 correlations are not statistically significant.

4.2.2 Analysis

The survey did not demonstrate any significant relationship between the institutional developments of municipal or commune administration office and the

Table 8.
Hypothesis 2

	Indicator	Rank
Lesznowola	1.03	1
Łomianki	1.13	2
Grodzisk	1.22	3
Prażmów	1.23	4
Parysów	1.23	4
Piotrków	1.23	4
Ciechanów	1.36	7
Radom	1.40	8
Ursynów	1.43	9
Tomaszów	1.43	9
Płock	1.46	11
Konstancin-Jeziorna	1.53	12

level of satisfaction of their customers. Similarly, as in the case of Hypothesis 1, a significant correlation has not been discovered (if it exists), possibly due to the size and lack of a representative character of the sample.

It is possible that customers of a local administration office are hardly aware whether their office is institutionally developed or not. For such assessment they would require some comparison or reference. Very often the municipal or commune office is the only office they deal with. It would have been much easier to investigate a possible correlation between an institutional development of a given administration office and its customers' satisfaction if one respondent were to use the services of more than one office, one of high institutional development level and one of a low institutional development level.

4.3 Hypothesis 3

In municipal and commune administration offices of relatively little corrupt behavior, customers describe higher levels of satisfaction with the services rendered by these offices. This would imply that if a given municipal or commune administration office has ranked high for corruptive behavior (meaning that the respondents pointed to a limited number of cases of such

behavior), it should also rank high for customer satisfaction.

4.3.1 Results

The hypothesis has been confirmed. This means that the investigation has demonstrated a statistically significant relationship between a low level of corruption and a high customer satisfaction level. In order to investigate this correlation, two rankings established for Hypotheses 1 and 2 were used (Table 9).

In the case of the current hypothesis, as in that of Hypotheses 1 and 2, Spearman Rank Correlation has been used. The resulting 0.52 correlations are statistically significant.

4.3.2 Analysis

The survey demonstrated a relationship between low corruption level in local administration offices and customer satisfaction. Bearing in mind the results of the verification of Hypothesis 2, it could be suggested that honesty of bureaucrats employed in a given administration office has more of an impact on the level of customer satisfaction than does the level of an office's institutional development.

Table 9.
Hypothesis 3

	Satisfaction ranking	Corruptive behavior level ranking
Lesznowola	1	1
Łomianki	2	2
Grodzisk	3	9
Prażmów	4	10
Parysów	4	3
Piotrków	4	5
Ciechanów	7	4
Radom	8	11
Ursynów	9	12
Tomaszów	9	6
Płock	11	7
Konstancin-Jeziorna	12	8

In Poland, people have grown accustomed to a certain mode of local administration, and how certain offices function. As such, citizens tend to be neither surprised nor indignant if they find no central customer service or if they wander from one department to another to attend to their needs. However, as Lesznowska and Łomianki demonstrate, a lack of corruption (as described by the respondents) translates into satisfaction with the functioning of an administration office.

4.4 Recapitulation

The survey did not demonstrate a significant relationship among the level of institutional development of a municipal or commune administration office, the level of corruption, and customer satisfaction. Importantly, this research should be considered as a preliminary poll, providing insufficient data to make substantial, meaningful conclusions. In order to conduct a fully reliable survey, a random sample of respondents would be needed. With the available data, this study thus only sketches certain tendencies and trends, which should be followed by a much more sophisticated survey.

5. POLICY OPTIONS AND RECOMMENDATIONS

Areas of reform and actions needed at the level of local government are numerous, and require a range of formal, legal, and institutional solutions. This study proposes the following:

- Raise professionalism in management through institutional procedures;
- Introduce ethical standards and guidance on how to carry out responsibilities and build public trust;
- Develop and utilize various benchmarks and standards as management tools for assessing municipal accountability;
- Develop and implement formal procedures as tools to promote citizen participation;
- Publish, disseminate, and promote access to information to increase transparency; and
- Encourage input from citizens and the business community concerning interests and priorities.

Policy options that aim to overcome local administration abuses can be separated effectively into three spheres. The first pertains to institutional development. The second sphere concerns the identification of corruption in local administrations, and sanctions against corrupt bureaucrats. The detection and prevention of corrupt activities and individuals might take the form of an apolitical monitoring system. Finally, policy options can serve to emphasize the prevention of corruption, rather than the detection of corrupted bureaucrats.

As regards the third policy sphere, the above-described survey proves that, due to an insignificant relationship between institutional development and corruption, and due to low levels of corruption detection and punishment, this third policy option appears most effective in the Polish case. This option would promote the creation of a more transparent, accountable municipality; emphasis should be placed on preventing violations of law, rather than on detecting and punishing the guilty.

As a final note, administrative department or unit heads (*wójt*, mayor, President) will benefit from the proposed recommendations, in that their respective offices can be reorganized and “freed” from corrupt behavior and conflicts. In turn, departments and units will function more effectively and efficiently.

5.1 Establishment of Local Standards: Procedures and Enforcement

5.1.1 *Targets and Tasks*

Effectiveness in local administration requires the establishment of processes that will improve service standards and limit corruption. This study proposes four target areas to improve local governance. First, complete and precise standards and procedures limiting the arbitrary character of decisions made by commune bureaucrats must be developed. Second, the professional character of local administrations should be emphasized, by parsing decision-making and executive powers. Third, periodic control of the functioning of local governments is needed, in light of limiting corrupt practices, through state monitoring institutions, NGOs or a free and critical media. Finally, this study advocates the introduction and/or consolidation of local, internal anti-corruption control systems.

To reach these targets, this study recommends several activities. Activities at the public level include: the introduction of criteria (roles and responsibilities) for particular positions, as well as transparent “hiring and firing” procedures (specification of professional profile, position description, specification of required skills); and the implementation of mechanisms to ensure the fulfillment of obligations in keeping with Supreme Control Chamber (NIK) requirements. Additional activities must serve to introduce executive-disciplinary mechanisms; to foster transparency (particularly in regard to administrators’ possessions or holdings); and to introduce standards which limit the acceptance of gifts and donations, and which define the groups for which the acceptance of gifts and donations is inadmissible.

5.1.2 *Public Procurement*

Activities regarding public procurement should involve introducing standardized tendering documentation at the local level; developing guidelines for evaluating tendering bids; analyzing the possibility of a two-level decision-making procedure (with the

first level for evaluation and recommendation, and the second for decision-making); and introducing a “negative list” of corrupting businesses, activities or individuals.

5.2 Closing Remarks: Promoting Transparency

This study advocates the model of a transparent locality elaborated by Swianiewicz (ed.), which includes the above-mentioned, quality-improvement procedures (2001). Specifically, special emphasis should be put on developing a work timetable, regulations and procedures, an employee evaluation system, and access to information and legal regulations.

The existence of the above elements (and abiding by the “rules of the game”) will safeguard transparency and facilitate adherence to principles which promote good governance. This will help local bureaucrats to systematize their knowledge concerning the organization of work in a given administration, and to understand the centrality of professional behavior to effective, efficient relations between citizens and local administrators.

APPENDICES

1. Survey: Institutional Development Versus Abuses in Local Administration

Within local government...

- Are there written instructions that describe turnover of documents?
- Is there a registry of all client services available?
- Is there a procedural or ethical code for all organizational procedures performed?
- Are there ethical codes for individual employees, of different positions?
- Is there an electronically-driven, document-management system?
- Has any ISO certificate been achieved?
- Have quality management procedures implemented?
- Does a human resources development program exist?
- How many development and vocational trainings exist?
- How many staff members have participated in development and vocational training?
- Is there (in writing) a city development strategy, which has been formally accepted?
- Are multiyear, financial forecasts of city revenues and expenditures formulated and available (by four-year period)?
- Is there a multiyear Capital Investment Program? If so, was a set of standardized project selection criteria used in CIP formulation?
- Is there a task budget in use?
- Has a set of performance measurement indicators been elaborated?
- To what extent and how is competitive bidding performed?
- How many appeals to bids are registered in a year?
- Have any complaints been voiced against staff members?
- Are regular hours available during which citizens can communicate directly with local officials? How often, and with whom?
- What is the format of citizen-local government interaction?
- Is there a simplified (but accurate) city budget made accessible to citizens?
- Is there a Citizens Service Bureau (CSB)?
- How are requirements for submitting complaints, requests, and so forth made accessible to citizens? Are formulated written descriptions of all administrative procedures available for clients in the City Hall Office?
- How often do local officials meet with local businesses?
- Does the municipality maintain its own website?
- Are local government strategies published and made accessible to citizens and to all staff members?
- How often do local administrators of different departments and levels meet?
- Does the administration consider the size of the local population, and the age, socioeconomic, occupational and educational profile of citizens, particularly regarding complaints and requests?

2. Survey: Overall Results

Indicator	Municipality with population of:											
	< 15,000			15,000 to 40,000			40,000 to 100,000			> 100,000		
Municipality***	1	2	3	4	5	6	7	8	9	10	11	12
Competitive bids, 2001 (#)	39	202	18	69	30	94	33	139	47	92	360	5765
Appeals to competitive bids	0	0	0	0	1	2	0	2	N/a	7	5	3
Meetings with representatives of local business organizations (per annum)	2-3	3	N/a	3+	3+	2-3	3+	2-3	N/a	3+	3+	1
Existence of written instructions describing document turnover	Yes	Yes	No	Yes	No	Yes	Yes	No	N/a	Yes	Yes	No
Register of available client services	No	No	No	Yes	No	No	No	No	N/a	Yes	No	Yes
Code of all organizational procedures performed	No	No	No	No	No	No	No	No	N/a	No	No	No
Electronically-driven document management system	No	No	No	No	Yes	No	No	No	N/a	No	No	No
LG development strategy	No	No	No	No	Yes	No	Yes	Yes	Yes	Yes	No	Yes
MThe multiyear financial forecast of city revenues and expenditures	Yes	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Multiyear CIP; possibility for citizens to propose investment project	Yes	No	No	Yes	No	Yes	No	Yes	N/a	No	No	Yes
Task budgeting	No	No	No	No	No	No	No	No	No	No	No	No
Simplified city budget for citizens	Yes	Yes	Yes	Yes	N/a	Yes	Yes	No	Yes	No	Yes	No
Website	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes
Registered for development and vocational trainings, 2000	Yes	Yes	N/a	Yes	Yes	Yes	Yes	Yes	N/a	Yes	Yes	Yes
Staff members who participate in development and vocational training	92	12	20	49	94	59	37	181	N/a	236	346	175
Set of performance measurement indicators	No	No	No	No	No	No	No	No	No	No	No	No
Codes of ethics	No	No	No	No	No	**	No	No	N/a	No	No	No
Disciplinary sanctions												
Executives with weekly duty hours for citizens	Some	Some	Some	All	Some	All	Some	All	N/a	All	All	Some
Duty hours per week of each individual member of the Executive Board	6	40	12	6	4	5	4	4	N/a	2	11	8

* N/a: lack of data.

** Council's code of ethics.

*** Municipality: 1 Lesznowola; 2 Parysów; 3 Prażmów; 4 Grodzisk Maz; 5 Łomianki; 6 Konstancin-Jeziorna; 7 Ciechanów; 8 Piotrków Tryb.; 9 Tomaszów Maz; 10 Płock; 11 Radom; 12 Warszawa-Ursynów.

3. Group A: < 15,000 inhabitants

Indicator	15,000 inhabitants (points)		
	Lesznowola	Parysów	Prażmów
Competitive bids, 2001 (#)	39 (1)	202 (3)	18 (1)
Appeals to competitive bids	0 (3)	0 (3)	0 (3)
Meetings with representatives of local business organizations (per annum)	2–3 (1)	More than 3 (3)	N/a (-1)
Existence of written instructions describing document turnover	Yes (3)	Yes (3)	No (0)
Register of available client services	No (0)	No (0)	No (0)
Code of all organizational procedures performed	No (0)	No (0)	No (0)
Electronically-driven document management system	No (0)	No (0)	No (0)
LG development strategy	No (0)	No (0)	No (0)
Multiyear financial forecast of city revenues and expenditures	Yes (3)	No (0)	No (0)
Multiyear CIP; possibility for citizens to propose investment project	Yes (3)	No (0)	No (0)
Task budgeting	No (0)	No (0)	No (0)
Simplified city budget for citizens	Yes (3)	Yes (3)	Yes (3)
Website	Yes (3)	No (0)	No (0)
Registered for development and vocational trainings, 2000	Yes (3)	Yes (3)	N/a (1)
Staff members who participate in development and vocational training	92 (3)	12 (1)	20 (1)
Set of performance measurement indicators	No (0)	No (0)	No (0)
Codes of ethics	No (0)	No (0)	No (0)
Disciplinary sanctions	No (3)	No (3)	No (3)
Executives with weekly duty hours for citizens	Some (2)	Some (2)	Some (2)
Duty hours per week of each individual member of the Executive Board	6 (1)	40 (3)	12 (1)

4. Group B: 15,000 to 40,000 inhabitants

Indicator	15,000–40,000 inhabitants (points)		
	Grodzisk Maz.	Łomianki	Konstancin-Jeziorna
Competitive bids, 2001 (#)	69 (2)	30 (1)	94 (3)
Appeals to competitive bids	0 (3)	1 (2)	2 (1)
Meetings with representatives of local business organizations (per annum)	3 + (3)	3 + (3)	2–3 (2)
Existence of written instructions describing document turnover	Yes (3)	No (0)	Yes (3)

Indicator	15,000–40,000 inhabitants (points)		
	Grodzisk Maz.	Łomianki	Konstancin-Jeziorna
Register of available client services	Yes (3)	No (0)	No (0)
Code of all organizational procedures performed	No (0)	No (0)	No (0)
Electronically-driven document management system	No (0)	Yes (3)	No (0)
LG development strategy	No (0)	Yes (3)	No (0)
Multiyear financial forecast of city revenues and expenditures	Yes (3)	Yes (3)	Yes (3)
Multiyear CIP; possibility for citizens to propose investment project	Yes (3)	No (0)	Yes (3)
Task budgeting	No (0)	No (0)	No (0)
Simplified city budget for citizens	Yes (3)	N/a (-1)	Yes (3)
Website	Yes (3)	Yes (3)	No (0)
Registered for development and vocational trainings, 2000	Yes (3)	Yes (3)	Yes (3)
Staff members who participate in development and vocational training	49 (1)	94 (3)	59 (2)
Set of performance measurement indicators	No (0)	No (0)	No (0)
Codes of ethics	No (0)	No (0)	Council's code (3)
Disciplinary sanctions	No (3)	No (3)	No (3)
Executives with weekly duty hours for citizens	All (3)	Some (2)	All (3)
Duty hours per week of each individual member of the Executive Board	6 (3)	4 (2)	5 (3)

* Lack of data.

** Council's code of ethics.

5. Group C: 40,000 to 100,000 inhabitants

Indicator	40,000–100 000 inhabitants (points)		
	Ciechanów	Piotrków Tryb.	Tomaszów Maz.
Competitive bids, 2001 (#)	33 (1)	139 (3)	47 (1)
Appeals to competitive bids	0 (3)	2 (2)	N/a (-1)
Meetings with representatives of local business organizations (per annum)	3 + (3)	2–3 (2)	N/a (-1)
Existence of written instructions describing document turnover	Yes (3)	No (0)	N/a (-1)
Register of available client services	No (0)	No (0)	N/a (-1)
Code of all organizational procedures performed	No (0)	No (0)	N/a (-1)
Electronically-driven document management system	No (0)	No (0)	N/a (-1)
LG development strategy	Yes (3)	Yes (3)	Yes (3)

Indicator	40,000–100 000 inhabitants (points)		
	Ciechanów	Piotrków Tryb.	Tomaszów Maz.
Municipality			
Multiyear financial forecast of city revenues and expenditures	Yes (3)	Yes (3)	Yes (3)
Multiyear CIP; possibility for citizens to propose investment project	No (0)	Yes (3)	N/a (-1)
Task budgeting	No (0)	No (0)	No (0)
Simplified city budget for citizens	Yes (3)	No (0)	Yes (3)
Website	Yes (3)	Yes (3)	Yes (3)
Registered for development and vocational trainings, 2000	Yes (3)	Yes (3)	N/a (-1)
Staff members who participate in development and vocational training	37 (1)	181 (3)	N/a (-1)
Set of performance measurement indicators	No (0)	No (0)	No (0)
Codes of ethics	No (0)	No (0)	N/a (-1)
Disciplinary sanctions	No (3)	No (3)	No (3)
Executives with weekly duty hours the citizens	Some (1)	All (3)	N/a (-1)
Duty hours per week of each individual member of the Executive Board	4 (3)	4 (3)	N/a (-1)

6. Group D: > 100,000 inhabitants

Indicator	More than 100,000 inhabitants (points)		
	Płock	Radom	Warszawa-Ursynów
Municipality			
Competitive bids, 2001 (#)	92 (1)	360 (2)	5765 (3)
Appeals to competitive bids	7 (1)	5 (2)	3 (3)
Meetings with representatives of local business organizations (per annum)	3+ (3)	3 + (3)	1 (1)
Existence of written instructions describing document turnover	Yes (3)	Yes (3)	No (0)
Register of available client services	Yes (3)	No (0)	Yes (3)
Code of all organizational procedures performed	No (0)	No (0)	No (0)
Electronically-driven document management system	No (0)	No (0)	No (0)
LG development strategy	Yes (3)	No (0)	No (0)
Multiyear financial forecast of city revenues and expenditures	Yes (3)	No (0)	Yes (3)
Multiyear CIP; possibility for citizens to propose investment project	No (0)	No (0)	Yes (3)
Task budgeting	No (0)	No (0)	No (0)
Simplified city budget for the citizens	No (0)	Yes (3)	No (0)
Website	Yes (3)	Yes (3)	Yes (3)
Registered for development and vocational trainings, 2000	Yes (3)	Yes (3)	Yes (3)

Indicator	More than 100,000 inhabitants (points)		
	Płock	Radom	Warszawa-Ursynów
Staff members who participate in development and vocational training	236 (2)	346 (3)	175 (1)
Set of performance measurement indicators	No (0)	No (0)	No (0)
Codes of ethics	No (0)	No (0)	No (0)
Disciplinary sanctions			
Executives with weekly duty hours for citizens	All (3)	All (3)	Some (0)
Duty hours per week of each individual member of the Executive Board	2 (1)	11 (3)	8 (2)

7. Citizen Questionnaire

Please read carefully and answer honestly.

PERSONAL INFORMATION

1. Date of birth: _____
2. Sex: Female ___ Male ___

GENERAL INFORMATION

3. How often do you settle your matters in the City Office?
 - I am here for the first time.
 - Once a year.
 - Twice a year.
 - Several times a year.
 - Once a month.
 - Several times a month.
4. What kind of matters do you settle in the City Office?
 - Private.
 - Official.
5. Which municipal departments do you contact to settle your matters?
 - Transport.
 - Housekeeping.
 - Geodesy and land-surveying.
 - Architecture.
 - Investment and repairs.
 - Master planning and environmental pollution.
 - Others.

6. Please underline the phrase that describes best your opinion about the work of your local government.

- I have no opinion.
- It is confusing.
- I have too little information.
- It works well, but many changes are needed.
- It is difficult to settle matters with the local government.
- I believe my City Office is a paragon for the others.

QUESTIONS CONCERNING CORRUPT BEHAVIOR

7. Have you ever been confronted with a situation when employees left their posts to support or protect their families, colleagues, or enterprises? (Underline more than one.)

- No.
- Yes, I know about such cases from media (press, radio, TV).
- Yes, I know about such cases from my colleagues, family, friends.
- Yes, I had contact with such a case personally.
- I don't want to answer this question.

7.1 If yes, please describe the situation:

8. Have you ever come into contact with bribery within a municipal office? (Underline more than one.)

- No.
- Yes, I know about such cases from media (press, radio, TV).
- Yes, I know about such cases from my colleagues, family, friends.
- I don't want to answer this question.

8.1 If yes, please describe the situation:

9. Have you been obliged to give a bribe in a municipal office during last four years?

- Yes.
- No.
- I don't want to answer this question.

If yes, please describe the situation:

10. From time to time, is it considered normal for functionary bribery to occur in your municipal office?

- There are some instances, but few.
- There are a lot.
- There is a particular responsible individual.
- It is difficult to say.

11. Which department is exposed to corrupt practices? Please rank the following from 1 to 7, with 1 referring to the department mostly exposed.

- Census (a register of the citizens).
- Transport.
- Housekeeping.
- Geodesy and land-surveying.
- Architecture.
- Investment and repairs.
- Master planning and environmental pollution.
- Others.

12. If you have some remarks concerning corrupt behaviors, please write about them.

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The Vicious Circle: Weak State Institutions, Unremedied Abuse and Distrust is the product of a collaboration between the Public Interest Law Initiative (PILI) and LGI.

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