



**Centre of Expertise
for Local Government Reform**



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REPORT ON MUNICIPAL AMALGAMATION AND POSSIBLE IMPACT ON TERRITORIAL REFORM OF UPPER TIERS OF GOVERNMENT

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Introduction

The present Report was requested by the Committee on State Building, Regional Policy and Local Self-Government of the Verkhovna Rada of Ukraine, within the framework of the Council of Europe Programme “Decentralisation and territorial consolidation in Ukraine” (2015-2017, funded by the Government of the Swiss Confederation).

In a first part, the report informs on how municipal amalgamation reforms influenced the upper tier of government in terms of territorial organization of the district/ county/ rayon level and of allocation of functions. It includes examples of such reforms in countries in Europe in the last two decades. In a second part, the report provides some reflection and response to specific questions asked by the Committee on State Building, Regional Policy and Local Self-Government of the Verkhovna Rada of Ukraine.

The Council of Europe would suggest discussing this report with the Ukrainian authorities in order to deepen the reflection on some cases, in the light of the specific environment of Ukraine.

Part 1 – Municipal amalgamation reforms and their impact on territorial changes of the upper tiers of government

In recent years, most of the territorial reforms implemented in European countries focused on the lowest – municipal – tier. A review of such reforms can be found in the Council of Europe toolkit “Territorial reforms in Europe: does size matter” (2017).¹ They were implemented in a dozen of countries.

In 2015, **Albania** went through a radical municipal amalgamation process, reducing the number of its municipalities from 380 to 61. There are 12 regions (quarks) in the country. Their councils are not directly elected, but they consist of representatives of municipal governments. The issue of revision of the regional organization was discussed during the preparation of municipal reform. It was a common opinion that new municipal organization requires refurbishment of the regional tiers. However it was decided to postpone this change to the next stage of the reform, which does not have a definite time-horizon yet. One of the reasons of that decision was that the change in the map of regions would require an amendment to the constitution.

Austria is a federal country, in which the organization of municipal tier differs from land to land. In 2015, an amalgamation reform was implemented in the land of Styria. The intermediate tier between municipality and *länder* is the *bezirke*. As a purely administrative unit, a *bezirke* does not hold elections and therefore does not choose its own officials. The amalgamation of municipalities had no direct impact on the *bezirke* tier, and obviously not on federal subjects (*länder*).

In 2006 **Denmark** went through a complex local government reform including both tiers of territorial organization, but also including changes in allocation of functions and financing local governments. In addition to reducing the number of municipalities from 271 to 98, the 19 counties were replaced by 5 regions. Some of the former competencies of the counties were transferred to en-

¹ The Toolkit “Territorial reforms in Europe: does size matter”, Centre of Expertise for Local Government Reform, Council of Europe (2017), drafted in cooperation with P. Swianiewicz, A. Gendźwił, A. Zardi will be available in due course. Material from this Toolkit can already be provided upon request.

larged municipalities. The main function which remained with the regions was in the field of health care.

In **England**, the structure of local government varies from area to area. In most of England, there are 2 tiers – county and district – with responsibility for council services split between them. In some parts of the country, one tier of local government – “unitary authorities” were created to replace the former two-tier local government (county and district) and provide all local government services in their areas. They have functions which were allocated both to districts and counties before the changes. The process was in a way an amalgamation reform, since “unitary authorities” are usually larger than former lower tier – district units. There are 55 “unitary authorities”, mainly in the cities, urban areas and larger towns.

Estonia for a long time tried to stimulate voluntary (or quasi-voluntary) amalgamation of municipalities. During the period 1996 – 2014, there were 30 such mergers leading to a reduction of the number of municipalities from 254 to 213 (sometimes more than two municipalities were involved in the merger). The second phase of the reform is being implemented in 2017, reducing number of municipalities to 79. There are 15 counties in Estonia – county state administration – run by governors (with no elected county government). The plan is to abolish counties in 2018, while their functions would be split between the local government and the central administration.

Finland has been undergoing continuous, step-by-step (or case-by-case) amalgamation reform which led to the reduction of number of municipalities from 460 in 1990 to 320 in 2014; there was a plan to reach the number of 100 municipalities, but it has been recently abolished. Finland has basically one tier of territorial organization, the upper tier being a network of (sometimes semi-compulsory) inter-municipal co-operation institutions. Therefore the municipal amalgamation process has not directly influenced the upper tier, but it might have an impact on inter-municipal arrangements.

In **France** President Holland announced the plan to abolish *departments* (tier between regions and *communes*) a few years ago. However, the plan has failed, but the number of regions was reduced from 22 to 13 in 2016. The reforms on a municipal tier concern new inter-municipal co-operation institutions (which increasingly take-over functions of individual *communes*) rather than classic amalgamation reforms.

In **Georgia**, the 2006 reform simply abolished the lowest level of organization. The former 65 *rayons* became the lowest (municipal) tier of local government.

In **Germany**, territorial reforms are decided by each of the *länder* separately. After 1990 the most of municipal amalgamations was implemented in the Eastern *länder* of former DDR (German Democratic Republic). The focus of territorial reforms was on the municipal level. Altogether the number of German municipalities was reduced from 15978 in 1990 to 11040 in 2014, with radical reforms in some *länder* and almost no change in some others. The number of counties has reduced as well – from 426 in 1990 to 294 in 2016. In addition to that number, there were 107 cities of special status – with county rights. Overall, the number of municipalities was reduced by roughly 30%; the number of counties changed to a similar extent, while the number of cities with special status changed less intensely (their number reached 117 in 1998). Two evocative changes in the number of cities were in Saxen in 2008 and in Mecklenburg in 2011, where the number of cities was reduced by four. In both cases the city level reform took place over 10 years after the most radical moment of the municipal reform. In general, reductions in the number of municipalities usually preceded the change on the county level.

In **Greece**, the territorial reform consisted of two phases: first implemented in 1999 and second in 2010-2011. The first one concerned just municipalities and did not touch the upper tier. The second phase influenced the 2nd tier, in the terms of functions: some of the former functions of 2nd tier have been re-allocated to enlarged municipalities. The summary of territorial changes is presented in the table 1 below.

Table 1 – Number of territorial units in Greece

	Deconcentrated state administration (prefectures)	2 nd tier local governments	Municipalities
Before 1999	13	50	5,825
1999-2010	13	50	1,033
After 2010	7	13	325

Source: Hlepas, Getimis 2011 Local Government Studies

Before the reform in 2014, **Ireland** was used to have 85 municipal and 29 county authorities. After the reform, there were 31 single-tier local authorities only. Irish regions are purely administrative units, with no elected local authorities.

In **Italy**, the on-going territorial reform is ongoing with the main idea to abolish the provincial tier (between municipalities and regions). The reduction in the number of municipalities might be a side-effect of the process, but it has not been in the main focus of the reformers. In some regions former functions of provinces are to be passed to inter-municipal cooperation institutions. In some others (e.g. Tuscany, to some extent also Emilia-Romagna) there are to be taken by regions. At least in some of the regions (e.g. Lombardia, most of Southern Italy) there is a clear opposition against abolishing provinces and it is difficult to predict at the moment the final outcome of the reform process.

Latvia reduced its number of municipalities from over 500 (527 directly before the reform, but 573 a few years before) to 118 in 2009. There were also 33 second tier units before the reform (26 *rayons* plus 7 cities), but this tier has been abolished after the amalgamation.

The territorial reform in the “**the former Yugoslav republic of Macedonia**” reduced the number of municipalities from 123 to 80 in 2002 (after earlier fragmentation from 34 to 123 at the beginning of 1990th). As a small country, “the former Yugoslav republic of Macedonia” has single-tier structure; therefore no direct effect for upper tier could be noted.

Netherlands has been continuously reducing the number of its municipalities from 672 in 1990 to 403 in 2014. There is a second tier of government in the Netherlands – 12 provinces – which plays relatively modest role in service delivery (mostly in the field of youth care). There have been no visible changes on the provincial tier due to municipal amalgamation. The creation of metropolitan regions has been a more important process.

Norway is currently undergoing ambitious process of municipal amalgamation reform. Even if the focus is on municipalities, the plan includes a reduction of the number of the upper level units – counties (*fylke*, from 18 to 11). The decision on county amalgamation was made in the Parliament on the same day as the decision on municipal amalgamation (8 June 2017). The decision focuses on the mergers of counties, but does not involve change in tasks allocation. An earlier decision (2015) involved a rather modest revision of task allocation in the preparatory phase of

the reform; also, that decision concerned more the municipalities than the counties. It should be noted that the county amalgamation was decided against the will of several of the counties involved. Also the results of recent national elections, in which parties opposing the reform gained more seats in the Parliament, suggests that there may be a possibility that some merger decisions may be still reversed.

In **Switzerland** – similarly to Germany – municipal territorial organization is decided by cantons, which are subjects of the federation. After 1990 more or less radical amalgamation reforms were introduced in nearly half of cantons, reducing the number of municipalities from 2761 in 1990 to 2352 in 2014. The process did not affect any upper tier of government (since the next tier above municipality is canton).

A country-by-country sum-up of results of their amalgamation reforms is provided in Table 2.

Table 2 Impact on the second tier of government during/after municipal amalgamation reforms

Country	Changes on the second tier
Albania	No changes so far; but considered for the future
Austria	No clear impact
Denmark	Parallel reform of the municipal and county/regional tiers
England	Some new “unitary authorities” replaced former two-tier structure
Estonia	Planned abolishment of upper tier (state administration)
Finland	Only one tier (plus IMC institutions)
France	Planned reform of the 2 nd (department) tier, but abandoned for the moment
Georgia	Enlarged municipalities replaced former <i>rayon</i> level
Germany	Often reduction of the number of counties, but with time-lag after municipal reform
Greece	Reduction of state prefectures together with 2 nd phase of municipal amalgamation
Ireland	Change from two-tier to single-tier structure
Italy	Planned liquidation of provinces in the focus of the reform, but the final outcome not determined yet
Latvia	Upper tier abolished after municipal amalgamation
Macedonia	Not relevant – only one tier before and after the reform
Netherlands	No clear impact on provinces

Norway	Planned parallel reduction in the number of municipalities and counties
Switzerland	No tier of government between municipality and canton

Part 2 – Specific questions

Which system of administrative-territorial organization in the countries of the European Union is most spread: three-level (region, sub-region, community) or two-level (region, community)?

The answer to this question is complex. First of all, it would depend on how we define the number of levels: would this be about elected local (or regional) government only or it should also take into account the level which could be purely administrative with state administration (and with no elected body)? Also should we consider the complex architecture of inter-municipal institutions, which effectively forms a separate level (e.g. as in France, Finland, perhaps also in Portugal).

The typical territorial architecture depends on the size of the country. In several small countries in Europe there is only one-tier – “the former Yugoslav republic of Macedonia”, Malta, Luxemburg, Slovenia, Lithuania; Latvia and Estonia have recently gravitated in the same direction, and it would be difficult to expect more tiers there. If we define the size of a country by its population and not by its surface, in most of mid-size countries the dominant model is two-tier – Sweden, Norway, Denmark, the Netherlands, Hungary, Slovakia, Czech Republic; also Greece if we take into account their prefectures – see discussion in the first part of the paper. There are exceptions. Bulgaria has one sub-national tier. Finland might be classified as single-tier system as well, if we disregard the inter-municipal cooperation-level. On the other hand, Belgium has 3 sub-national tiers and Austria might be treated in the same way if we take into account the *bezirke* tier, which represents state administration (has no elected government).

Nevertheless, for the case of Ukraine, the experiences of larger countries (defined here as countries with over 20 million population) would perhaps be the most interesting. The situation of this group could be described as follows:

France has a 3-tier system with communes, departments and regions. However, the complex world of the French inter-municipal co-operation institutions might be seen as the fourth level, usually located between commune and department. One should keep in mind the recent initiative to abolish the department level. The plan has failed so far, but may return in the future.

As a federal state, **Germany** is untypical in this group. However, we can interpret the German as three-tier system with municipalities, counties and *länder*.

Italy has three levels of government: communes, provinces and autonomous regions. However, small communes are increasingly supplemented by inter-municipal communities, and the recent idea to abolish the provincial level should be kept in mind.

Poland has three levels of government since the reform 1998/1999 – municipalities, counties (*powiat*) and regions. The existence of the county level is contested by some experts, but there is no concrete plan of their abolishment at the moment.

Romania, which dropped below 20 million population threshold a few years ago, has just two tiers of government – relatively small *judets* and municipalities. The regional reform has been discussed for some time, but with no binding decision yet.

Spain (which is often seen as federal system as well) has three-level of government – communes, provinces and autonomous regions.

United Kingdom is perhaps the most complex case, but in none of its part there is more than 2-levels of subnational government at the moment. In Northern Ireland, Wales and Scotland there are two levels (one of local governments and the region of Wales, Scotland or Northern Ireland themselves). In England there are areas with one and other parts with two level (district and county) system, and there is no systematic rule which help to predict which of the two systems may be found in a given place.

Overall, in most of the large European countries, there is a three-level system; however, (i) there are exceptions to this rule, (ii) in some of the countries, the mid-level was recently contested (Italy, France, and to a smaller extent in Poland).

Is the administrative-territorial structure of EU member states normally determined at the legislative level?

Is the whole administrative-territorial structure of a country stipulated by law: indicating the number, composition and name of regions, sub-regions (districts) and communities? Is the legal framework in EU members states stipulates the principles of the administrative-territorial system, the procedure for establishment, liquidation, change of boundaries of administrative-territorial units and its set up, in particular sub-regions (districts); if yes, then how it is implemented (in particular as regards set up and change of boundaries)?

Situation differs from one country to another. In some countries, each tier is mentioned in the constitution (e.g. Albania, Romania), sometimes including a list of concrete number and names of regions, which makes any territorial re-organization much more difficult to implement. But at the same time, it helps stabilize the situation of local and regional governments which has positive effects.

In other countries, the Constitution is more general and gives flexibility to the Parliament and the Government. Poland provides a good example. The Constitution chapter on territorial organization mentions directly *gmina* (municipal) level only; it does not provide a list of local governments, and after following certain conditions it allows to change the number or boundaries of municipalities. However, as regards other levels of government, it says: “other tiers of the government will be decided by the Parliament”. The origin of this stipulation is in a political compromise during the preparatory work to adopt the Constitution in 1997. There was no consensus on the number of sub-municipal tiers, so that very general formulation was agreed upon not to block the whole process of adopting the Constitution. That formulation allowed changing from two-level to three-level system in 1999, without amending the Constitution. Hypothetically it would also allow further changes (e.g. abolishing counties) in the future, if there is such political will.

Experience of EU member states in reforming sub-regional (rayon) level

Poland had two-level government with nearly 2,500 municipalities and 49 relatively small regions in the period 1990-1998. Elected local government operated on municipal level only; while the

regional tier was a level of state administration (regional tier of government was led by a governor appointed by the Prime Minister).

The reform of 1998-1999 changed the Polish system to three-tier with 16 regions, 315 counties (plus 66 cities with county status) and municipalities (their number and functions remained mainly unchanged). All three tiers have their elected governments and their own executive administration. On the regional level there is a dual structure with: (i) regional elected government having its own administration (led by the Marshall), and (ii) the state regional administration led by the governor. The 1998 reform was implemented after very short discussion and short preparatory phase. The process begun with the new government formed late autumn 1997. The plan to reorganize regional and local tiers was announced in early 1998. The Acts on county and regional governments were voted just a few months later - in June 1998, and the first elections to those tiers' councils were conducted in November 1998. The number of both regions and counties was contested.

The initial plan of the government was to create 12 regions, but that decision (voted by the Parliament) was vetoed by the President, and the number of 16 was an eventual compromise. Most of the experts suggested that the number of counties should be lower – around 200 – but after vital protests of local elites, the number of counties was increased to 308. After four years, in 2002, the new 7 counties were created, raising their number to current 315. Among the three tiers of sub-national government, the *gmina* tier remains the only one which is protected by Polish Constitution. *Gmina* is also the only tier which enjoys limited power of taxation, and also the highest share of sub-national budgets. A bulk of decentralized functions was also allocated to the municipal (*gmina*) level; consequently municipalities spend more than 70% of all sub-national budgets.

The county (*powiat*) level is currently considered to be the weakest element of the territorial architecture (with relatively limited scope of functions, and very weak own revenue base); some experts question the merit of its existence. The regional level plays an extremely important role in formulating and implementing regional development policies, including absorption of EU structural funds. The existence of regional government is not contested, although from time to time there are ideas of creation of the new regions (i.e. enlarging their number).

Conclusion

The information provided in this paper could be complemented by a discussion with the Council of Europe experts. Such discussion will allow the Ukrainian authorities to make further and better use of the expertise and experience of the Council of Europe experts, as well as for the Council of Europe experts to better understand the specific needs of the Ukrainian authorities.