THE CHALLENGES AND OPPORTUNITIES OF KAKHETI MUNICIPALITIES IN THE FRAMEWORK OF THE REQUIREMENTS OF THE CODE OF SPATIAL PLANNING, ARCHITECTURAL AND CONSTRUCTION ACTIVITIES OF GEORGIA

NEEDS ASSESSMENT REPORT

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PREFACE

The goal of the present needs assessment is 1) to identify the main challenges in Kakheti municipalities in terms of meeting the requirements of the Code of Spatial Planning, Architectural and Construction Activities of Georgia[1] and, 2) to develop recommendations for creation of effective mechanisms and instruments in consultations with the relevant government officials and experts of the field to effectively mitigate these challenges.

Methodology

Taking into consideration the specifics of the topic of the needs assessment, a qualitative research approach was used. In particular, the analysis of secondary data and expert (in-depth) interviews to assess various aspects of urban planning problems. In-depth interviews were conducted with leading specialists of infrastructure, spatial arrangement, historic heritage/monument protection, construction and architecture services of local municipalities (face-to-face in case of Telavi, Akhmeta, Gurjaani, Kvareli, Lagodekhi, and via ZOOM in case of Sighnaghi, Dedoplistskaro and Sagarejo municipalities.

Face-to-face interviews were also conducted in Tbilisi with representatives of relevant departments of respective ministries and with experts, who had been either indirectly or directly involved in the process of the Code development.

In order to identify the wider context of existing problems and the rationale behind them, we also considered it important to analyze the existing urban planning and local development strategic documents at the municipal level. (See Annex #1, List of Strategic and/or Urban Planning Documents developed in Kakheti Municipalities).

After the development of the draft version of the report, a joint meeting was held with participation of all the above-mentioned stakeholders, as well as representatives of the non-governmental sector operating in the Kakheti region in order to validate the initial findings and collect additional insights. During the meeting, a number of important aspects were clarified and/or corrected, and have been incorporated in the final version of the report.

[1] Note on translation: Since there is no official translation of the Code in English, the translations of the Code used in the present document are unofficial translation of the authors and have to be treated as such.

CODE ON SPATIAL PLANNING, ARCHITECTURE AND CONSTRUCTION ACTIVITIES AND ITS SUBORDINATE ACTS

On July, 20th, 2018 the Code on Spatial Planning, Architecture and Construction Activities was accepted. It was fully enacted in 3rd June of 2019. Therefore, it was at this moment that the old legislation which regulated the related field starting from 2005, Georgia's Law on Spatial Arrangement and the Basis for Urban Development, was officially invalidated.

The new Code also combined in itself different separate laws on architecture, planning and building. From the day it was accepted there were 8 amendments made to the code. Today, there is a new package of amendments being prepared by the Ministry of Regional Development and Infrastructure.

The time period from the acceptance (July 2018) of the Code, till its full enactment (June 2019) was dedicated for the development of the subordinate acts explained under the article #142 paragraph 1, points "A - C", "F" and" N". This process of the development was conducted with some hindrances. Experts of the field claim that ministry hesitated to initiate processes, which led to the lack of time for the development of the named documents.
During this period based on the demands of the legislation next subordinate acts were developed:

- Rules for the preparation of the spatial and urban development plans (also known as Resolution 260)
- Main provisions on land use and development (also known as Resolution 261)
- Rules and conditions for the issuance of building permits and admission for usage
- Temporary rule for expert assessment of the issuance documentation and technical supervision on the building/construction processes

Paragraph also covers development of 3 additional subordinate documents till 2020, however as it is known, it was not yet done. These include:

- On the organization of construction activities and safety issues

- Rule for the determination on conceptual compliance and additional conditions for the infrastructural and related projects with possible impact on the national spatial development
- Rule for the production of documentation depicting construction processes by the side conducting construction works

It is also to be noted, that based on the amendment (N5693) made in December 2019, "G" and "M" points were removed from the paragraph. It was done without the due process of the holistic re-evaluation of the law. therefore, it is unknown if and how much it affects the integrity of its logical structure.

Additionally, paragraph 142 determines more acts to be developed in the future, including point "J" – on the minimal insolation demands for buildings and structures, which is to be enacted at 30th December of 2021. At this stage, based on the article 74 of the code, demands on insolation are enforced by main provisions (Resolution 261):

"1. The purpose of regulating the boundary zones on a land plot/parcel is to ensure compliance with the requirements for insolation, natural lighting, ventilation, fire safety, evacuation and green development/landscaping.

…

4. Boundary zones for land plot/parcels are regulated by the Main Provision (Resolution 261)."

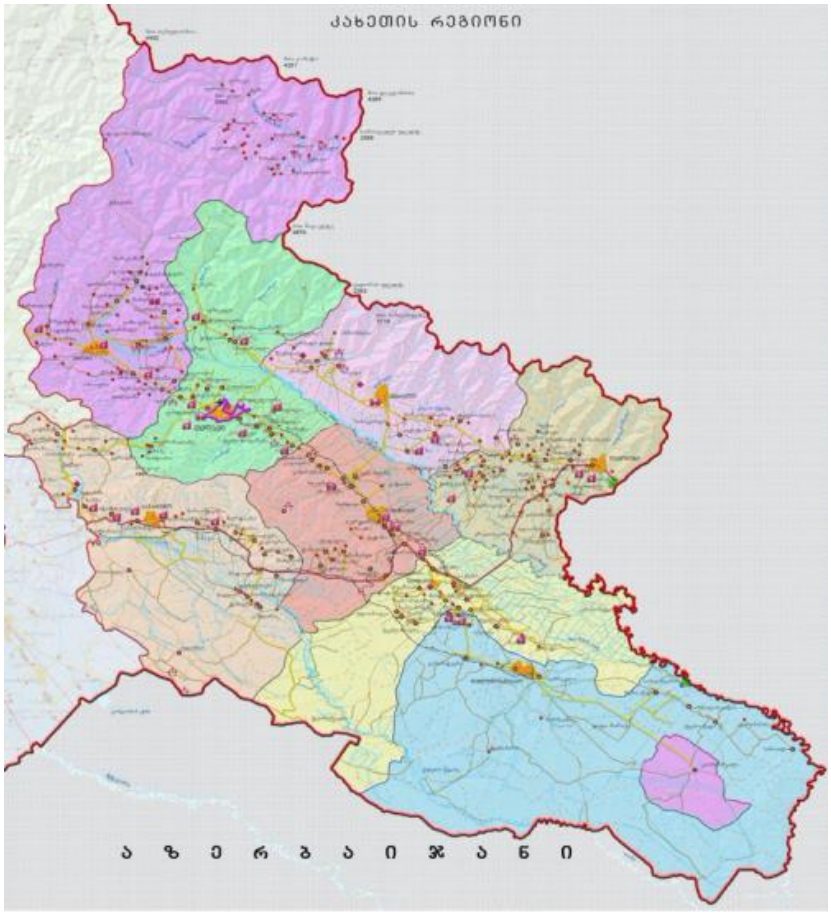
Consequently, it is to be assumed, that enactment of the separate act on the norms for insolation will lead to the review of the existing provisions on the subject and possible additional amendments in the Paragraph 74 of the code.

MAJOR SPATIAL-TERRITORIAL CHARACTERISTICS OF KAKHETI MUNICIPALITIES

Kakheti region is located in the eastern part of Georgia; it borders Azerbaijan in the east and south, and Russia - in the north. The region covers an area of 12,000 square kilometers, which is about 18% of the total area of the country; the population of the region according to Kakheti Region's Development Strategy 2014-2021 data is up to 407,000 people[2].

According to the administrative-territorial division of Georgia, Kakheti includes the municipalities of Akhmeta, Dedoplistskaro, Gurjaani, Lagodekhi, Telavi, Kvareli, Sagarejo, and Sighnaghi. (See Map # 1) The administrative center of the region is the town of Telavi. Overall there are 285 settlements in the region, including 9 cities: Akhmeta, Gurjaani, Telavi, Dedoplistskaro, Lagodekhi, Sagarejo, Sighnaghi, Kvareli, Tsnori, and 276 villages.

The region is characterized by a predominantly agrarian mono-economy and a rather low level of urbanization. Almost 80% of Kakheti population lives in rural areas. The rural settlements of the region are distinguished by a relatively high number of inhabitants and the population density. The mean size of the population per rural settlement is 1,200 individuals, which is twice the average size of a Georgian village.



Map #1. Kakheti Municipalities

Source: Telavi Land Use Master Plan Explanatory Card, 2020.

[2] Kakheti Region's Development Strategy 2014-2021.
http://gov.ge/files/275_38368_341843_136617.09.13%E2%80%931.pdf

Needs Assessment Results

The data obtained from the interviews can be divided into two categories. On the one hand, data and observations obtained directly on the ground, in the municipalities, and on the other hand, the assessments of experts of the field and representatives of relevant government agencies.

OPINIONS OF THE EXPERTS OF PLANNING AND RELATED FIELDS AND REPRESENTATIVES OF THE CENTRAL GOVERNMENT

As a general observation during the research, it is to be noted that level of the awareness towards the new Code by the experts of the field is somewhat limited. Nevertheless, general negative attitude towards the new Code persists, which is more of a mentality trend than a well justified position with solid arguments of specific individuals. Often, participants refuse or are unable to isolate specific problematic provisions of the law and feel more comfortable discussing it in more general terms. On the other hand, every participant of the interviews stated that development of the code was a change in a positive direction and that the regulations provided, even so are not faultless, are better than the ones existing before it.

Furthermore, experts are often having difficulties to identify separate regulations as a part of the Code itself or the subordinate acts - struggling to differentiate between them and their functions. As it was repeatedly stated during the interviews, confusion is mainly caused by violation of the legislative hierarchy between different acts.

Most of the participating experts were suggesting that the Code and subordinate acts are not sharing same logical approach and values and are in principal disagreement with one-another. The statement was not shared by the representatives of the ministry and authors of the Code. As they explain, the Code itself and the subordinate acts were developed by the same group of authors and the processes were conducted as one act, thus, as they see it, such disagreement between the documents is not possible. However, other than the direct authors of the Code, there was a large group of third parties and independent experts participating in the development of the Code. This, however, was not the case with the subordinate acts - during the interviews respondents would often explain, that they refused to participate in the

process for the development of the subordinate acts as they would see it to be rushed and inadequate and they envisaged the eventual outcome to be flawed as well.

Regardless the differences between the opinions on the subject above, each side has understanding of some provisions in the current legislation which can be mutually exclusive. Noteworthy is the fact that experts having different interpretations of same provisions have different opinions on which parts can be seen to be conflicting. It is clear, that the area for interpretations provided by the current legislation is wide and undetermined. More often, different interpretations are provided by the experts for the definition included in the glossary of the Resolution 260 and related regulations. Named definition explain “undeveloped land” as:

“Part of the settlement, which is not a part of the developed territory, is mainly covered with green and from which there is no building in 300m radius.”

Guidebook, developed by the Ministry, explains, that these definitions of the undeveloped land should be only used for this act (Resolution 260) and should be seen as more of an orientational recommendation instead of the legislative norm. during the interviews, the side also added, that by their interpretation of this subject, final call on the determination of the land as undeveloped, falls unto the local authorities and is to be done at their discretion.

Such view of the topic bases itself mainly in the proclaimed goal of the act depicted in its first article and the reading provided in the first paragraph of the glossary, explaining:

“Terms provided in this act and its appendixes have next definitions:”

While this provision might be ambiguous, part of the experts, claim that it is the ground to isolate provided definitions and use them only for the Resolution 260. Still, jurisprudential practices are not in line with this logic. As there are no alternatives suggested by the law, this is the only legislative definition available, thus it would be used by the court of law as a basis for any dispute based on the act or not.

Additionally, 2nd point of the 5th paragraph of the Resolution 260 provides next lines:

"Initiation of the preparation of Detailed Development Plan (DDP) is mandatory when at least one of the following circumstances exists:

…

B) Undeveloped territory is being developed"

Consequently, regardless if we agree or not with the suggested isolation of the definition for the act, this act itself determines it to be impossible to develop the land that is not a "Part of the settlement, which is not a part of the developed territory, is mainly covered with green and from which there is no building in 300m radius" without first initiating processes for development of DDP.

Experts also mention that, these norms are in logical disagreement and conflict with the provisions of the law, which require of one - searching to acquire a building permit, to perform research on the area around the project land with radius of 50m.

Some of the experts also added that this part of the law can be seen to be "conditioned" – based on condition. They are clarifying, that local municipal authorities are allowed to individually review different cases and determine if the development of DDP is needed and/or efficient. However, the text included in the act is of an imperative nature, it is no suggestion, and uses position "mandatory".

To better understand the issue, it is important to know that for such areas, it would be also pretty much impossible to create a DDP. To achieve a decision on acceptance of such DDP, existence of "higher level zoning documentation" is required by the law. Initiation of the development of such a document is also specified by the law, selecting governmental side as a sole actor in this case.

Most of the planning experts agree that logically and ideally, such measures protecting municipal interests, might be correct, but this norm is admitted to be impractical and incohesive with the existing socio-economical environment. It is often stated, that even if we would ignore economical side of the issue, there are not enough qualified experts in the country to support processes needed for such management of the subject.

In the face of reality of practical impossibility to follow such provisions, they are often ignored on site - as experts explain it might be negatively affecting public acknowledgment of this law, as well as, general rule of the law in Georgia as such.

Many experts agree that area for the possible interpretation provided by the current law is too wide and provisions need to be more specific. They say, that it is also often unclear what different documents required by the law - like vision, concept, strategies and vitality assessments – consist of in reality and what should they include exactly. Additional questions arise regarding the recommendatory appendixes added to the Resolution 260. Experts as well as representatives of different official sides struggle to explain what power such appendixes have and how exactly they are supposed to be used in practice.

During the interviews the opinion was voiced that based on the shortage of the experts in the field in Georgia, it is not realistic to expect to have thorough professional discussion and achieve agreements on each such individual case at the local municipal level. Which, makes it practically impossible to conduct different planning phases in manner envisaged by the Code, creating space and actually pushing sides towards informal deals bypassing the law.

Regarding this subject apart from the needed concretization of the provisions, experts also mention desire to simplify bureaucratic structures and demands of the law. Specifically, they say that some of the documents (no direct documents were named) required for the spatial plans by mandatory and recommendatory lists provided in the Resolution 260 are extra and have no clear usage towards the goals of the planning.

Similarly, lack of the "standards" (formal examples/best cases) and need for their development is often mentioned. According to the opinions of private parties personally participating in the spatial planning processes, municipalities lack ability to determine which document is acceptable and thus are driven to delay and needlessly prolong decision making processes, or if possible - avoid such responsibilities all together.

Opinions differ on the subject of the establishment of the unified governmental entity/institution responsible for the national spatial planning and urban development polices

and regulations. Part of the interviewed experts consider it to be necessary mainly based on the international experience. They also explain that planning field is of a specific character and is undividedly connected with definition of the public interests in the country, hence government is obliged to have permanently active and flexible (as public opinion is itself flexible) institution defining the related policy providing protection of interests of all included parties.

Other part of the professionals working in the field, are saying to be cautious of the risks related to such establishment. They explain that it will impose needles limitations on the free market and eliminate possibilities for the competition, leading towards decrease of the already low professional quality. based on the situation in the field and in country generally, today society is not ready for such organizational structure and it will lead only towards the increased corruption – they say.

It is to be noted that representatives of the ministry of the regional development and infrastructure conveyed that package of amendments for the law is being worked on, however no specific details were available at the moment of the interviews to be discussed. They also mentioned that possibility of the development of consultancy group or agency is being discussed within the ministry, but no clarifications were provided on this subject as well.

MUNICIPAL EXPERIENCE

The primary interest of the research was to assess practical applications of the existing legislative basis. Thus, interviews with municipal representatives and research on local realities is main source of information. Research revealed critical scarcity of the experience of spatial and urban planning at municipal level. Even in cases, when there are existing projects on site, related planning and project management experiences is not accumulated locally – planning processes themselves are often bypassing municipalities - done by central government or private sides based also centrally at Tbilisi. Despite the demand by the law and assigning municipalities exclusive right on planning, local involvement in such projects is more often than not - restricted to general information sharing.

It is noteworthy, that in each municipality of Kakheti region, formally there is an agency responsible for the spatial planning, separately or under the jurisdiction of other municipal services. Most of the surveyed municipalities also have a separate specialist on the position for spatial planning and urban development. However, during the interviews it was apparent that employees aren't aware of any specific duties that would separate these specialists from others related to the architectural services.

Awareness regarding the specific provisions of the law at the municipality level is low. Often, there is no information or knowledge regarding additional subordinate acts regulating the planning field. Municipal Experience of working with Resolution 260 on main provisions of the spatial planning is close to nonexistent. It habitually leads to the neglection of separate demands of the legislation. There is no experience of working with recommendatory part of the legislation as well.

Under the new legislation in Kakheti region four municipalities have developed different spatial and urban planning documents, including Akhmeta, Telavi, Gurjaani and Kvareli. As noted above, even so these municipalities do have actual documents, information regarding their provisions or experience of their development at the local level is extremely scarce. These projects were managed and developed by the experts and private organizations/companies based in Tbilisi. Additionally, locally municipal services and agencies proved to be inefficient in supervising or other forms of involvement in the process itself - missing on opportunities to acquire and accumulate related experiences. Similarly low is the level of understanding of the findings and decisions of these projects directly at the services responsible for their implementation (architectural and spatial planning services at municipalities, or alternatives of their).

It is worth noting separately that Kvareli municipality had an attempt to develop DDP without central involvement, with direct communication to the interested parties (owner and investor). At this moment project is being reviewed at the city council. however, during the local interviews, it was mentioned that process is delayed due to lack of the related experience and understanding of the issues. It was also explained that there are some possible misunderstandings regarding details of the administrative proceedings related to the

subject – they say it is unclear exactly how, in which form and based on what documentation should the DDP be reviewed/adopted. Some concerns also were raised regarding the technical shortcomings of the named document. The DDP covers the area which following the Resolution 260 (A 3, P 5) should be defined as “undeveloped”, thus by the same legislative act should require existence of the “higher level of the General zoning”.

Acknowledging critical scarcity of the experience related to spatial planning and urban development at the municipal level, in order to create broader understanding on the subject, research of the non-directly related, but neighboring issues, like processes for preparation of land development terms for the sides seeking building permits, was considered as a helpful addition. While, usually land development terms would be prepared based on the urban zoning documents and serve as structural “bridge” between provisions of the urban and architectural nature, in the absence and admitted impossibility to develop spatial documentation, it formed itself as a “cheap” substitute for the estimation of territorial arrangement of the urban and nonurban structures. Locally land development terms are usually seen as some kind of an on-site tool for the spatial planning, which is frequently done based on the general architectural understandings, with neglect for the due urban and related planning issues. Often, it is done non-formally, verbally without the actual documentation of the decisions.

It is to be noted, that even so legislation demands to formally issue land development terms in writing, as a document, some municipalities have no understanding or experience of the issues, and are doing it verbally. Furthermore, this makes it impossible to reference the document, as it is demanded by the Code, in a building permit later. It renders questionable validity of the issued documentation as a whole. If such permits would be dimmed invalidate, it would arise the issues of the legality of the permits and the processes following them. However, based on the citizens right on fair expectation, that formally issued governmental documents are true, actions made based on such permits by the private side are not likely to be fined or reversed.

Another question regarding to such flawed issuance of the land development term should be revealed at the phase when the construction works are done and the building submitted to

be admitted for exploitation. During these processes, supervising agencies should be comparing existing documentation with the outcomes of the building processes. This should prove to be impossible if the documentation provided is incomplete. Nevertheless, there are no cases when such situations being documented.

OVERVIEW OF STRATEGIC DOCUMENTS DEVELOPED IN KAKHETI MUNICIPALITIES (In the field of spatial planning, architectural and construction activities)

As highlighted in the 2020-2021 Local Economic Development Plan of one of the studied municipalities[3], "... in recent years, in parallel with the business development trend, the demand for buildings, land and infrastructure is growing. As a result, the Economic Department of the Municipality City Hall identifies the lands on the territory of the municipality, registers the unregistered lands in the ownership of the municipality, and makes an inventory of the City-owned buildings."

The "Regulatory and Institutional Framework" section of the above-mentioned document, states that while acknowledging the fact that some bureaucratic barriers have been removed, business representatives still indicate at the existence of a number of restrictive regulations and administrative rules. For instance, they state that "the biggest problem is going through all the procedures to get a construction permit. There is no coordination between agencies in this area and different agencies require the same information to be provided. Each separate approval takes time and applications for construction permits are not processed by all responsible agencies at the same time, and the next agency is waiting for the results of the previous agency. […] Thus, the preparation and issuance of land and property registration documents proceeds with some delays and obstacles ... ".

Local economic development documents of all eight municipalities contain parts similar to the one cited above. Interviews conducted in the framework of present needs assessment made it possible to clarify to some extent what is meant by bureaucratic barriers, obstructive regulations, or uncoordinated inter-agency work.

[3] In the framework of EU funded initiative "Mayors for Economic Growth" technical support has been provided to all Kakheti Region's municipalities to develop Local Economic Development Plans for 2020-2021.

However, beyond these specific challenges (a summary of which is presented in the "Key Findings" section of the study) stand the reasons that cause them, including a broader political, institutional, socio-economic, and cultural context, that impacts them. Importantly, at the local level it is impossible to ignore the fact that the municipalities are not yet sufficiently aware of the essence and value of spatial or urban planning documents as such; therefore, they are not used as an important "tool" for stimulating and improving the socio-economic or physical environments of municipalities.

It is precisely why in the local economic development plans developed by the municipalities, there is no mention of the need to develop spatial or urban planning documents. The needs assessment have demonstrated that in many cases, behind the opinions expressed by the representatives of the municipal executives, stating that it is necessary to develop city planning documents for their municipalities, it is difficult to arrive at specific understanding what is meant there, and more specifically, what hierarchy document they refer to[4]. Cases have been identified where some of the problems they describe are not at all related to the presence or absence of a specific urban planning document; in some other cases the problems do relate to urban planning documents, although not to the existence of a document of a specific hierarchy, that could solve this or that problem.

This is confirmed by the fact that in four municipalities of Kakheti there are developed urban planning documents at various levels, some of which have been approved and / or agreed upon already. Although most of them were funded by the central government and have been developed by private companies / organizations, local self-governments, specifically, executive bodies, have ample time and possibility, including the legal and administrative leverage, to be actively involved in the process of drafting the relevant documents in case if they expressed the desire/wish to do so.

However, as practice shows, on the one hand the majority of municipalities are still characterized by a certain "complex" when it comes to cooperation with the central agencies,

[4] Article 5 of the Code specifies spatial planning and urban planning systems according to their hierarchies and compatibilities.
https://www.matsne.gov.ge/ka/document/view/4276845?publication=8

which is why they distance themselves from and often lack establishment of effective communication with governmental agencies and ministries, educational institutions and so on. On the other hand, there is a lack of trust between the local population and self-governments and inclusion of local communities in the decision-making processes is rather low[5]. The population is not properly/adequately informed about activities of local self-government in the field of urban and spatial planning. Information on municipal websites related to urban planning, architectural or construction issues is critically scarce or non-existent.

There are cases when legislative acts that have been declared invalid/outdated for several years are still uploaded on the municipal websites instead of the current legislative regulations[6].

Due to insufficient and inefficient communication, the local population is not properly informed, and no broad involvement of the population is ensured in the process of development of new legislative initiatives, projects and programs planned in the municipalities. As a result, no feedback is being provided from the population. Thus, the principles of "participatory planning" are largely disregarded. According to an amendment to the Local Self-Government Code in 2015[7], municipalities were obligated to establish new additional forms of citizen participation (such as, Civic Advisory Councils, Civic Councils). And while almost all Georgian municipalities did establish these councils, it would be difficult to assess at this stage to what extent they serve as effective “instruments” to ensure citizen participation in all the municipalities.

As mentioned in the beginning of this chapter, there is a wider range of reasons behind the challenges / problems discussed above and, in a certain sense, together with the local self-governments, the role of central governmental agencies in solving them is crucial. This topic

[5] More on the assessment of existing mechanism of civic participation in Georgia could be found here: https://rm.coe.int/1680784818

[6] As it has been identified during the needs assessment, the problem associated with the web-site information updates is not a new one and has had quite a long history. Already in 2016 TI Georgia’s study illustrates this very well. https://www.transparency.ge/ge/blog/arasruli-inpormatsia-kakhetis-municipalitetebis-administraciuli-organoebis-vebgverdebze/?custom_searched_keyword=%E1%83%99%E1%83%90%E1%83%AE%E1%83%94%E1%83%97%E1%83%98

[7] https://matsne.gov.ge/ka/document/view/2244429?publication=55

is discussed more in the respective parts of the report. However, regardless of the level of involvement of the central governmental agencies in the development of urban planning documents, in any case, the processes of approval of city/urban planning documents and their proper/effective implementation after the approval, is a difficult process itself.

KEY CHALLENGES AND POSSIBLE SOLUTIONS IDENTIFIED IN THE FIELD OF SPATIAL PLANNING, ARCHITECTURAL AND CONSTRUCTION ACTIVITIES IN KAKHETI MUNICIPALITIES

Under current law, spatial planning and urban planning issues are defined in general terms; because of that, in practice, on the local level, it is often difficult to separate them from architectural activities. The legal explanations given in the law are as follows:

Spatial planning:

"Geographical depiction of the economic (including agriculture, manufacturing, logistics and transportation and etc.) social, cultural and ecology related policies of the society, which is shaped based on complex and multidisciplinary approaches and provides unified strategy for the balanced development and physical arrangement of the space."

Urban planning:

"Process for the development of urban plans for settlements and different territories with the goal to provide decent, healthy and safe environment for the living, business and recreation of a human based on the principal of the sustainable development and cultural heritage protection."

Spatial and urban planning and related actions are additionally regulated by the Resolution 260 of 03/06/2019 "Rules for the preparation of the spatial and urban development plans" and its annexes. Most of the annexes are provided as recommendations. There were different opinions named by the specialists on the issues related to the direct functions and practical applications for these annexes

Architectural activity (Article 3. d of the Code of Spatial Planning, Architectural and Construction Activities of Georgia) “Activities that include the design of a building, structure, interior, exterior, solving spatial planning issues, assigning tasks for the design of engineering-technical, technological and other aspects/parts of the project”;

Construction (Article 3 Ts/ծ. of the Code of Spatial Planning, Architectural and Construction Activities of Georgia) "A set of actions/activities carried out during the preparation of the construction site, new construction, reconstruction, dismantling, conservation and / or repair of buildings or their parts."

These activities are additionally regulated by the Resolution 261 of the Government of Georgia (June 3, 2019) on the main provisions of the regulation of the land use and development and the annexes to this Resolution.

KEY FINDINGS

Present study in the field of architectural and construction activities has made it possible to identify the following key findings:

EXPERIENCE RELATED TO SPATIAL PLANNING AT MUNICIPAL LEVEL IS EXTREMELY SCARCE

During the research most often deficiency of available financial and human resources was named as the main cause for the lack of the on-site practical experience for the municipalities. Experts also mentioned lack of so called “standard/best case documents” (exemplary manual), which as they explained, would allow to operate more effectively in the existing conditions of the restricted resources.

On the other hand, it should be noted that, that part of the interviewed experts, as well as representatives of the Ministry, are hesitant to agree with the advisability for the preparation for such “standards/best cases”. They fear that it will restrict exclusivity of the right of municipalities on the land use related planning. These experts explain that, such manuals will degrade planning processes to simple technical bureaucracy, stripping it of its creative nature. Supporters of such understanding often say that it is impossible to unify process beyond some degree and at some level each separate case needs to be professionally and individually reviewed and solved. Nonetheless, they also admit that nationwide there are not enough resources currently available to effectively perform such works.

This last position is at some level also shared by the Code: it leaves a wide range of issues without direct regulations, providing only general understandings. As its authors explain, liberal approaches used for the preparation of the legislator documents were meant to encourage development of the local markets. In practice, more often than not, it proved to have opposite effects – provisions deprived of concrete interpretations by the law, are often ignored, or if ignoring them proves to be impossible, actions related to such regulations are deemed to be impossible or forbidden.

BIG PART OF THE DECISIONS MADE AT MUNICIPAL LEVEL ARE NOT MADE BASED ON THE EXISTING LEGISLATION

It is becoming a habit to consider some of the provisions of the newly introduced Code to be unsuitable for the local socio-economic realities. Additionally, the law attempts to unify part of the nationwide planning practices, which is often considered as a rough interference neglecting local peculiarities and are viewed to be impossible to comply with. Nevertheless, it Is not rare to find legislation being neglected not on the bases of its "roughness", but for the issues related with the low levels of the awareness at the municipalities.

Article 68, of the Code, which regulates planning and development for the undeveloped lands, is practically completely ignored at the municipal level. As this article defines it:
"For the land parcels, outside of the systematically built-up areas, which aren't cover with DDP, building permits can be issued only for the functions defined by the land itself (other than residential functions and buildings defined by Main Provisions), based on the demands provided by spatial and urban (if such exists) plans in act and Main Provisions, if it is does not conflict with public interest."
It is worth noting, that this record in the law defines that all conditions are to be met simultaneously and not separately and uses words "can ... only" to determine the strictness of the provision. As such it defines 5 conditions:

- Compliance with the territories existing function;
- Compliance with the demands of the spatial planning documents;
- Compliance with the demands of the urban planning documents – if such exists;
- Compliance with the demands of the Main Provisions;
- Compliance with Public interests.

Furthermore, addition "if such exists" is done only regarding urban planning documents and not towards spatial planning ones.
Also, law doesn't provide clear explanation on what exactly "systematically built-up areas" are and how should they be defined. As the only logically related provisions existing in the legislation experts usually outline definition for the "undeveloped land" provided by the Resolution 260.
As the outcome of such logic, for the land parcels not covered by DDP-s and which:

- Aren't defined as a part of a built-up area
- Are mostly green
- Have no building around in the radius of 300m

Building permits can be issued "only" based on spatial plans and main provisions, and in cases where such are available – demands of the urban plans, without changes made to the function of the land.

Even if we would consider both, spatial and urban plans not to be mandatory for such cases, it should be impossible to determine "function of the land" without such documentations and to fulfill the demand on compliance with the function of the land. It is also to be explained that, based on the logic provided by the Code, decisions regarding the function of the land are made by the city council, not the municipal services.

Such are the circumstances with the most cases of the development outside the immediate borders of the cities in Kakheti, as well as within the cities themselves in some cases.

In addition, for such cases, preparation of DDP-s is not an option as well. These documents to be admitted for the undeveloped land require existence of the hierarchically dominant plans:

"Article 3 …

5. Absence of the hierarchically superior plan or its part doesn't prevent preparation of the plans hierarchically below. For the undeveloped lands, Detailed Development Plan is prepared only in cases provided by the superior documents."

Inconsistency of this provision with the reality, is a widely shared opinion by the all sides participating in the interviews. As local authorities are forced to take into consideration existing public demand and development requirements of the municipalities, such provisions of the law are ignored and decisions are made neglecting the formal demands of the Code and its subordinate acts.

THERE IS A SCARCITY OF THE DATA DEPICTING PRACTICAL REALITIES RELATED TO THE NEW CODE

As a result of the lack of available resources for the planning and high percentage of the decisions ignoring the regulations provided by the Code, there is very restricted experience related to the spatial and urban planning at the municipal level. 4 of 8 municipalities of the Kakheti region have some kind of an existing document related to the spatial and urban

planning. In case of 3 of those 4, these documents were prepared mostly without the direct municipal involvement – by the Ministry or other central agencies. Therefore, to create a definite picture regarding the issues related to the new legislation and its practical applications, more data is needed.

INTERPRETATION OF LEGISLATIVE NORMS AND THEIR RELATED IMPLEMENTATION IS HIGHLY DIFFERENTIATED

Most of the interviewed experts agree that, there is no one logic that would allow to fully understand existing legislation without its parts conflicting with each other. Hence, there are significant differences in the ways different sides interpret the law. It is hard to reason on the subject of the superiority of one of the understanding for the law is somewhat inconsistent in its logic.

For an example, for the case discussed above regarding the 65-68 Articles of the Code definition provided in parentheses “if such document exists”, some experts are understanding to be related spatial and urban plans alike, while others argue that this addition is to be understood only for urban plans.

Similarly, there are differentiated understandings regarding the texts provided by the Resolution 260. Many experts, are agreeing that resolution is a mandatory document (apart of the parts specifically provided as recommendations), but there are some that would argue that provided regulations are to be understood as unconditional demands and they are to be used as more of a general guideline for decision-making processes. Also, it was mentioned during the interviews, that the Resolution 260 shouldn’t be used while discussing separate architectural issues – it should be used only towards spatial and urban documents and related decisions.

There is a general confusion regarding the no mandatory – recommendatory parts of the Resolutions. As the law specialist explained it during the interviews, these parts of the legislation can only provide limited general explanations for the administrative cases between the otherwise equal sides at the court of law. In case of the building permit related issues and disputes, which are usually between the public and individual side, these definitions provided as recommendations will not be effective as a tool. Consequently, as experts explain it these

parts cannot be used as a bases to restrict individual right on development and cannot be used as possible definitions of the public interest on the development of the land.

Additionally, some of the explanations provided in the recommendatory parts of the subordinate acts are conflicting with the regulations provided in the main documents. For an example, there is a recommendatory proposal on the subject of the maximal allowed number of inhabitants for the unit of the land, which is conflicting with the regulations suggested by the coefficients provided by the law.

PRACTICES, APPROACHES AND RELATED ISSUES ARE NON-HOMOGENOUS FOR THE KAKHETI REGION

Planning approaches are strongly differentiated from one municipality to another. Systematical violations and problems that are seem to characteristic for one, are easily solved by another. It is to be assumed that such is the outcome of the general nature of the provided regulations and lack of awareness and professional knowledge at the local level.

LEGISLATIVE DEMANDS ARE NOT COMPATIBLE WITH THE FINANCIAL AND HUMAN RESOURCES AVAILABLE FOR THE MUNICIPALITIES

Often it was stated during the interviews that the new Code provided new demands, but additional human and financial resources to cover those demands were never assigned. As it was explained, in many cases it is the main issues that doesn't allow to efficiently and effectively administrate the norms provided by the renewed legislation.

STAFF POLICIES ARE OF ONLY FORMAL NATURE

As it is required by the law, most of the municipalities have spatial an urban planning departments and employees holding related position. However, everyday duties of such specialist in reality seem to be exactly the same of those of the employees of the architectural services and departments, and they have no experience or involvement in the process for the development and review of spatial and urban planning documents. Additionally, employees of the spatial and urban planning departments demonstrated low level of professional awareness and knowledge of the legislative demands during the interviews. Formally there

are experts at the municipal level, but in fact they are unable to make decisions or coordinate issues related to the spatial development.

MOST OF THE CONSULTATIONS RELATED TO THE SPATIAL AND URBAN PLANNING ARE DONE NON-FORMALLY

Research showed, that on the question what they do when they are struggling to understand specific regulations provided by the law, most of the interviewed parties identified private connections (including with official government representatives) as possibility to receive additional clarifications on the subject. Reling on such non-formal connections is not a negative practice in itself, but it being the only way for it is not sustainable and doesn't allow to develop professional depth at the municipal level.

EMPIRIC AND PROFESSIONAL EXPECTATIONS TOWARDS THE REGULATIONS PROVIDED BY THE LAW ARE INCONSISTENT AND NONSPECIFIC – THERE IS A GENERAL TREND OF A NEGATIVE ATTITUDE TOWARDS THE LAW IN THE PLANNING FIELD

Based on the lack of awareness, it was complicated to discusses separate issues and legislative provisions, with field experts and municipal representatives alike. Respondents found it more comfortable to discuss issues in general terms. As some experts explained it, it is due to the inconsistent logic of the law and its unnecessarily difficult vocabulary, which makes it hard to work with the legislative documents. Regardless the level of the awareness, there was a notable negative attitude towards the Code at all levels. Interviewed parties are stating that they weren't properly informed and involved during the preparation of the new legislation and regarding the amendments made after its adoption.

LACK OF THE SUPERVISING AND STANDARD/BEST CASES DOCUMENTS (GUIDELINES/MANUALS) AS WELL AS SPECIFIC REGULATORY ACTS IS PROBLEMATIC

As it was already stated regulations provided by the law are of a general nature. I practice it proves to be problematic to find the common understanding between parties involved in the planning process on the subjects of what exactly should separate document titles provided by the legislation should contain. In such cases, usually practical analogies would be

employed, but as the legislation is still new, in many cases there is simple no related experience. Thus, wight of the decisions often falls on the individual decision of the separate experts. Usually, later quality and legitimacy of such decisions proves to be disputable. This level of stress together with the lack of awareness at the municipal level, makes local repressive of the planning related agencies reluctant to make any decision at all. Additionally, private parties participating in planning processes, are also unable to base their argumentation regarding the separate documents on any legislative provisions. Such indecisive environment often pushes sides towards non-formal, and sometimes illegal deals.

MUNICIPAL CITY COUNCILS ARE BARELY INFORMED REGARDING THE LAW AND HAVE RESTRICTED EFFECTIVENESS IN ACHIEVING DECISION ON THE SUBJECTS RELATED TO THE PLANNING

Trainings and awareness rising activities are usually targeting employees of the municipal services. However, decisions of the spatial and urban nature are made by elected personalities at local city councils. As it is common, these individuals are not required to have any professional training, additionally they are not properly informed regarding the specific regulations and changes to the legislation, as well as the administrative norms for preparation and adoption of the planning documents. While it informing representative institutions, with high personal rotation on the complicated subjects is a demanding task, it is an important one. As the local municipalities at all levels are struggling to solve planning issues as such, it is crucial for the central government to understand its role and possibility for the positive influence in this direction.

INVERTED PLANNING POSSIBILITIES (ALLOWING TO PLAN FROM BOTTOM-UP) PROVIDED BY THE LAW ARE NOT EFFECTIVE, ITS EFFECTS ARE MOSTLY OF A SPONTANEOUS NATURE

Legislation provides a possibility for an inverted planning. Meaning, that in cases where there are no hierarchically superior documents, municipalities are allowed to prepare and adopt documents of hierarchically lower levels. in practice it is a rare case. Lack of the supervising documents makes it even harder to locally achieve decisions and agreement on the levels below. Often, lack of the hierarchically superior documents is named as a main obstacle for the local decisions. Still, there are several cases where this provision of the law was effectively

used, however those are outcomes of the separate spontaneous activities then a result of the systematic advancement.

VERTICAL INTERVENTIONS OF IMPERATIVE NATURE ARE RESTRICTING MUNICIPAL ABILITIES TO DEVELOP EFFECTIVE LOCAL PRACTICES AND ACCUMULATE PROFESSIONAL RESOURCES

During the interviews some issues were named, that are directly related to the existence of formal and non-formal vertical interventions. This reduces local ability to accumulate experience and professional resources alike. Imperative direction regarding separated subject also makes it unclear for the municipal officials how to achieve decisions regarding the other issues that might be related or be similar to the subjects secured by the central government.

While solving issues of a problematic or possibly political nature, central parties usually aren't concerned to properly explain the logic and legislative basis behind the decision to the municipalities. Often such attitude is a result of the lack of trust towards the municipal governments and representatives. It further negatively affects municipal abilities to plan and to have trust in their long-term planning documents (as the decisions achieved through them might also become a subject for the vertical violation).

LEVEL OF AWARENESS REGARDING THE EXISTING DATA, STUDIES AND OLD PLANNING DOCUMENTS IS LOW OR NONEXISTENT

After the collapse of USSR, most of the researches, plans and related documents were either lost, damaged, misplaced or simply archived. Part of these documents still exist and are relatable for the planning purposes. However, most of the surviving one are in personal and governmental archives and compiling documentation for the separate municipalities requires formidable amount of work. Also, it is problematic and demands professional knowledge to assess if the documents or their parts are relevant for the existing situation. However, works for the preparation of Telavi LUMP and DDP, which used partial data and information provided by such document to assess environment and dynamics characteristic for the city, proved reliability and usefulness of these documents.

Such old documents can make it much easier to achieve informed decisions on everyday basis and increase their quality. They provide an ability to better understand the logic behind the processes that formed current urban structures.

Additionally, as the result of the pure management and accessibility of the data bases, municipalities are usually poorly informed regarding the researches performed by other municipalities, governmental structures, foundations and private parties. In cases when they do have an access to the data itself, they have no way to understand the reliability and the quality of the provided information.

It affects and increases prices related to the planning activities. As by the standing practice spatial and urban planning documents are prepared bases on the governmental procurement, via competitions, participating parties are required to judge possible expenditures at the start of the project, before they will have a possibility to research and assess data themselves. While procuring parties are not fully aware of the data available and its quality, usually they prefer to generalize provision on this subject in the terms for the procurement of planning document. Therefore, participants are forced to insure their self via considering that they will have to perform all needed researches from the ground-up, which effectively multiplies projected design expenditures.

LACK OF UNI-FORMAL PRACTICE OF ESTABLISHING CONDITIONS FOR USING LAND PLOTS (GAP) FOR CONSTRUCTION

In most municipalities, diverse/heterogeneous approaches to determining the conditions of land use for construction (hereinafter referred to as GAP) have been identified. According to the legislation, architectural-construction documentation is developed precisely on the basis of GAP. Attribution of the GAP identification number is mandatory for the subsequent stages of the [construction] case as well as for obtaining a construction permit.

The list of required documents that should be included in the terms/conditions of using land plot for construction is defined in Article 103, Paragraph 3 of the Code. However, as our interviews revealed, in the municipalities the conditions for using the land plot for construction are often misunderstood and the decisions are sometimes made even in cases of submission of incomplete documentations.

THE LAW ALLOWS THE MUNICIPALITY TO TRANSLATE THE NORM/REGULATION OF ANY COUNTRY ON ITS OWN INITIATIVE AND BE GUIDED BY IT, ALTHOUGH IT REMAINS UNCLEAR WHETHER THE CITY COUNCILS HAVE THE RIGHT TO ADOPT IT.

THERE IS NO UNIFORM STANDARD TEMPLATE FOR FORMS ON EXPLOITATION SUPERVISORY OPERATIONS, AND LEGISLATIVE RECORDS DO NOT PROVIDE AN EXPLANATION AS TO WHETHER THE RELEVANT CITY COUNCIL OR MAYOR'S OFFICE'S RESPECTIVE DEPARTMENTS HAVE THE AUTHORITY TO DEVELOP THE FORM.

THE LAW DOES NOT SPECIFY THE MAXIMUM LIMIT FOR THE EXTENSION OF A CONSTRUCTION PERMIT FOR UNFINISHED BUILDINGS OR HOW MANY TIME CAN IT BE EXTENDED.

There are frequent cases when a construction permit is extended for an unfinished building, although there is no temporal or quantitative limits set for the extension of the permit. According to the representatives of the municipality, most of the unfinished buildings are located on the central highway or in the central parts of the cities / settlements, which brings certain dissonance to the existing environment and increases risks in terms of public safety.

THE NEW CODE ADDS ADDITIONAL SERVICES TO THE RELEVANT DEPARTMENTS OF THE MUNICIPALITIES, HOWEVER, PROVISION OF BOTH FINANCIAL AND HUMAN RESOURCES REQUIRED TO ENSURE THESE SERVICES IS NOT REFLECTED IN THE CODE.

For example, after the entry into force of the Code (2018), the issue of land division/separation is discussed and considered by the relevant departments of the municipality City Halls, and then the decision is made by the Public Registry. Before the entering into the force of the Code, this was solely the competence of the Public Registry.

According to the representatives of Kakheti municipalities, this change itself is positively assessed because there is some prior awareness about the possible future development of the land plots. This also, in turn, makes it possible to warn the landowners of certain restrictions and/or requirements that may result from the construction on certain land plots/construction activities. However, this change requires additional human and respective financial resources. It is difficult for most of the relevant municipal departments to ensure fulfillment of this requirement in the light of the available human resources.

ABOLISHMENT OF SANITARY NORMS

Respondents think that such technical regulations are necessary, because otherwise it is difficult to decide whether to issue a permit or not (especially if the facility is to be located in a well-developed area of the settlement) for some specific building facilities such as car washes, petrol and gas stations, animal stalls, etc.

EXCESSIVE REQUIREMENTS FOR 2ND GRADE BUILDINGS

The main concern of respondents in this regard was the requirement on 2nd grade buildings, as determined by the Code (on geology, structural sustainability, transport scheme). The representatives of almost all municipalities that we interviewed claimed that this is an excessive requirement for 2nd grade buildings.

As the representatives of the relevant department of the Ministry noted, this issue is included in the new package of amendments to the Code and if it is approved, the above-mentioned expertise requirements for 2nd grade buildings will be abolished.

BOUNDARY ZONE REGULATION ISSUES

In the majority of studied municipalities, respondents point out that protecting 3-meter boundary zone boundaries is often difficult, and in some cases impossible, especially when it comes to the land in the city area. Article 74 of the Code clarifies that: "The purpose of regulating the boundary zones on a land plot/parcel is to ensure compliance with the requirements for insolation, natural lighting, ventilation, fire safety, evacuation and green development/landscaping." However, Article 41, paragraph 7 of the “Basic Regulations on the

Use of Territories and Development Regulations" states that "protection of the boundary zone is not mandatory if the type of development is enclosed/attached, grouped, and if the buildings or parts thereof have no open areas on the neighboring boundary sides." Despite the definitions in the legislative acts, representatives of the municipalities believe, that existing local practice does not often allow to comply with it.

PROBLEMATIC ASPECTS OF LINEAR STRUCTURES/BUILDINGS

The problem for most studied municipalities is the electricity distribution network and linear structures/buildings in general. When a network of power grid is set up, it is mostly inserted in the existing, already built-up environment, which leads to a conflict of interest with the landowners, whose land the network crosses over. The municipalities cannot issue construction permits on lands sold near the high-voltage power lines/grids, when a citizen buys land for commercial purposes.

3-4TH GRADE BUILDINGS REQUIRE A OBLIGATION OF TECHNICAL SUPERVISION, THEREFORE IT IS DIFFICULT TO FIND RELEVANT SPECIALISTS ON THE LOCALLY, WHICH MAKES THE COST OF THE PROJECT MORE EXPENSIVE FOR THE CITIZENS.

CHANGE OF PURPOSE OF THE BUILDING AFTER ITS APPROVAL

The majority of the municipality representatives believes that changing the purpose of the building/facility once it has been approved should be a violation under the law. For example, it is a common practice, when construction permits are obtained for agricultural buildings (for example: an animal farm building) and the owner changes its purpose after the construction of the building has ended and it has been approved by the respective agencies. This later leads to the neighborhood disputes and conflicts.

RECOMMENDATIONS

As highlighted above, identified challenges could be considered as the specific consequences of existing problems, that may be resulting from a broader political, governance-related, socio-economic or cultural contexts.

However, at least some of the challenges discussed above can be categorized into a group that can be solved / mitigated through respective amendments to the Code. However, it is important to note that the challenges identified in the municipalities of Kakheti region, which may clearly indicate at the need of legislative changes, are not alone sufficient to initiate amendments to the Code. But, at the same time, these challenges do articulate well enough the key areas where implementation of the law causes the most difficulties. The needs assessment pointed out that these challenges need to be discussed more broadly, involving other regions, to understand what approaches of interpretation practices in relation to the Code exist locally, in all other municipalities. This will gather the necessary and sufficient material based on the experiences of all the municipalities to prepare a solid package of legislative changes.

The second part of the issues belongs to the group of problems that are more "multi-component" and complex in nature, therefore the recommendations of this category are more general and call for a more in-depth study.

LEGISLATIVE PROVISIONS MUST BE IN COMPLIANCE WITH THE EXISTING FINANCIAL AND HUMAN RESOURCES AND POLICIES

It is important for the legislative provisions to be reviewed based on the available financial and human resources and related policies. Research showed that the amount of the resources need for the effective implementation of the legislative demands at the municipal level needs to be reassessed and based on their availability amendments to the law must be made.

Demands, that are unrealistic to be implemented based on the existing availability issues of the resources are providing arguments towards the neglection of the legislation causing separate parts of it to be ignored or followed only formally. Such provisions decrease trust towards the law and diminish its ability to govern, even in cases where it would be less

problematic to achieve legal decisions. It also contributes towards the formation of a trend of a negative attitude towards the renewed legislation in general public and professional societies alike, thus decreasing interest and awareness level regarding the provisions of the law.

Even the ideas that seem to be logical based on the professional discussion, but require resources currently inaccessible at the practice level, are to be considered with care and postponed. In their place it might be necessary to implement temporary measures and provisions to protect territories and spaces from irreparable damages.

Also, for the postponed norms transitional periods are to be estimated and supported. Preparation of separate strategies might be needed to secure that transition will be accomplished. Such strategies should be revaluated at their milestones as a bases for the assessment if postponed norms can be enacted.

FORMATION OF THE OFFICIAL CONSULTATION SOURCES AND CONNECTIONS

Changes to the legislation and conditioned norms added to the law require consultation structures available for the municipal sides for the effective administration, periodic as well as permanent. Such structures can be created for transitional periods only or as a standing practice.

Such consultation structures also have an ability to gather a statistical data and feedback regarding the problematic areas of the legislation, to evaluate often asked question and reasons behind those questions. This would prove helpful for future amendments to the law and allow to prepare case-based guidelines/manuals and standards.

Such approach would also reduce direct vertical interferences into to municipal planning decisions and practices and positively affect the issue of the accumulation of the professional knowledge at the municipal level.

Currently existing consultation structures are mostly informal and based on the personal communications between specific individuals. Such approach is unsustainable, as these individuals are not obliged to make themselves available for such duties, and there is no guaranty that in case if they will simply refuse to provide such services or be unable to do so, decisions will be achieved in accordance to the low and in time. On the other hand, it restricts

professional competition at the municipalities, as new employees are rarely able to secure such connections, which in itself increases nepotism risks.

RE-TRAINING AND RE-QUALIFICATION OF THE EMPLOYEES OF THE RELATED AGENCIES AND SERVICES

Nature of the differences between the situations and problems related with the introduction of the legislation, amidst other issues indicates that there are significant disparities between the human resources available for the different municipalities. In the cases where financial and socio-economical backgrounds are similar, contrast between the situation at separate municipalities are often caused by the awareness level and performances of separate officials.

Training and re-qualification programs are even more important for the reason of the lack of involvement in the preparation of the Code and subordinate acts reputedly mentioned by the municipal sides during the research. Local officials at the municipalities are not accordingly informed regarding the logic of the law and often they lack professional knowledge to achieve decisions for the wide conditioned interpretation areas provided by the Code.

For the purposes of the development of the planning field and to increase proficiency level of the municipal employees, development of the self-administrated online courses is possible. Such courses should include related curricula, tasks and exercise, presentations, tests and etc. placing such resources in open access will make it available for the municipal officials and other interested parties alike.

Preparatory curses mentioned above, should be available and adjusted to the needs (or separately prepared) for the city councils as well. Apart from the providing information, platform should be also used to gather statistical data in order to improve provided information and if needed make amendments to the law.

REVIEW AND REEVALUATION OF THE TERMINOLOGY OF THE LEGISLATIVE PROVISION

New legislation also significantly affected terminology. However, it was done without the needed evaluation.

Often changes were made to the description of the separate terms, while term it self sounds similar or alike. Frequently it proves to be the reason for the readers to assume that there

were no changes at all and skip, or run through the changes in the descriptions as well creating misunderstandings and baseless interpretations of the law.

ENSURING CONSISTENCY OF THE LEGISLATIVE STRUCTURE

It is important to keep separation between the fields of regulations by the law and its subordinate acts clear and logical. It shouldn't be a question for the discussion which of them regulates specific issue. Additionally, law should equally regulate legal environment for all involved parties, including the ministry.

In this regard, article 94 of the Code is questionable. It allows municipal councils to decrease demands towards the buildings of second class. It goes against the legislative logic. Demands of the law towards the private sides should be instigated by the need and based on the argumentative feasibility. If the strictness of the demand provided by the law cannot be reasoned for it should be changed in the law itself.
It is also inadvisable to determine the expiation to the rule in law which is expected from the start to become a norm. it negatively affects rule of the law and peoples trust towards it.

TRUST TOWARDS THE LOCAL PRACTICES AND SUPPORTING ACCUMULATION OF THE LOCAL EXPERIENCES

Goal of the engagement activities should not be to only inform the local sides; it should also gather information and experience from the municipal parties. Today there is a bias which seems to dictate that, municipal positions are secondary to those provided by the central agencies. In reality, municipal suggestions based on actual practical experiences are predominant for the consideration.

Engagement should also deepen the trust towards the municipal sides. Any kind of the communication and consultation for the municipalities should be understood as consultation with the municipalities and should be directed to help them develop professional depth and should not provide prepared solutions for their individual cases.

MINIMIZING DIRECT VERTICAL INTERFERENCES IN THE DECISION-MAKING PROCESSES

Apart of the political and non-formal issues, in order to reduce costs and avoid overspending of the financial resources, central government often prefers to manage and perform planning

by itself avoiding actual involvement of the municipalities. To support such actions in the transitional terms of the Code, article 141 next line were written:

"Till 1st Jan. of 2025 Ministry it is allowed to develop spatial and/or urban plans based on the initiative by the municipality and the assignment provided by the government of Georgia…"
This and such provisions of the law are not effective towards the transition. They are not allowing to accumulate experience at the municipal level effectively striping them of possibilities to do so, and even further widening the reason that led to this transitional term to start with. While in the Code there are other provisions of the similar nature that are to be further re-evaluated, this exact provision needs to be removed in order to allow the municipalities to develop.

PREPARATION AND DISTRIBUTION OF THE ADDITIONAL REGULATORY ACTS AND MANUALS (FOR THE CITY COUNCILS AS WELL)

Big part of the problems related to professional levels of the available human resources can be mitigated via easily manageable manuals and Etalon projects. It will allow for the preparation of the specific documents to be faster, cheaper and without risks for critical human errors or misunderstandings.

Such documents should be also available for the municipal city councils to ensure fluent adumbrative processes related to the planning processes.

STRENGTHENING RELATIONS WITH EDUCATIONAL AND RESEARCH INSTITUTIONS

Issues related with the lack of information and available human resources, in long-term, should also be addressed via collaboration with educational and research institutions.

This way it will be possible to better educate new generation regarding the needs of the local municipalities and demands of the law. It also can include financing of the education for the students as a part of the agreement to secure their services in the future.
As legislation is being periodically renewed, it is important to educate future specialist not only regarding the existing law and related practices, but regarding long-term goals and policies and expected changes as well. To that end, it is important for the central governmental structures, as well as municipal governments to participate in such

collaborations. It will also reduce the need for the future re-coalification and training activities and related costs.

Such collaborations between the municipalities and universities also can be helpful to evaluate availability and condition of the archived materials and existing data bases, which would decrease the expenses related to the preparation of planning document and increase their quality.

It is important for the municipalities to have constant communication secured with agreements and memorandums with local and central educational facilities alike. This will also allow them to have more influence towards the legislative issues.

DEVELOPMENT OF AN INTERACTIVE ONLINE PLATFORM, CONDUCTING SURVEYS AT THE MUNICIPAL AND CENTRAL LEVELS.

In the framework of the research, interviews conducted in Kakheti municipalities further highlighted the fact that the present study of municipal enforcement practices of the Code, is one of the first "databases" that should serve as a basis for the new legislative changes in order to improve the Code. It is therefore even more important that the further studies cover all the regions/municipalities, and, at the same time, take on a systematic character. In the light of the existing challenges (COVID-19, economic, financial) it would be advisable to develop an online platform that will facilitate the implementation of these and similar activities and create a powerful tool for the development of the legal framework.

CERTIFICATION OF ARCHITECTS, PLANNERS AND RELATED PROFESSIONS

Paragraph 1 of Article 4 of the Law of Georgia on Architectural Activities clarifies that: "Only an architect who holds a relevant certificate issued in accordance with the legislation of Georgia has the authority to certify an architectural project." Paragraph 2 of the same Article clarifies that: "Certification of architectural activities is regulated on the basis of special legislation."

As it was highlighted during the interviews with the experts of the field, the need for certification has long been discussed in the professional community, however, a unified vision has not yet been formed as to who should issue the certificates, what criteria candidates must meet, and so on.

As international practice demonstrates, certification (architects, engineers, city/urban planners, and so on) is mandatory in the vast majority of the European countries, although the forms of certification issuance and/or registration are different.

The United Kingdom's example illustrates a clear need for regulation, with the ARB (The Architects Registration Board) arguably stating that "If someone is not on the Register, they are not an architect - it's as simple as that".

German approach is noteworthy, where the Federal Chamber of Architects states that "Architects, like lawyers, doctors and pharmacists, are among the liberal professions. Their titles are protected by law. Only those who are registered with the Chamber of Architects in their federal state are allowed to operate as an architect, garden and landscape architect, interior designer, urban planner. The access rules vary from state to state; however, the chamber system guarantees that all approved planners have a high level of training and qualification. Not least because of this, the qualities of architectural and planning services "Made in Germany" are also highly valued abroad".

It is possible to bring many more examples to illustrate the need for certification. However, what is important here is that the certification should utilize a well-defined and thorough approach, and it should be based on the analysis of both spatial-territorial policies and characteristics of the socio-economic development of the country.

INTRODUCTION OF THE PRINCIPLES OF PARTICIPATORY PLANNING, AND PROMOTION OF ITS DEVELOPMENT

One of the main responsibilities of the local self-government is to promote the participation of citizens in the decision-making process of local issues, which, in turn, should ensure public control and oversight of the activities of municipal bodies.

It is crucial that municipalities facilitate and enable the introduction and development of the principles of "participatory planning". The term has different interpretations although the acknowledgment of the society as a main actor of the process is maintained everywhere. As

one of the definitions of participatory planning process states: “Participatory planning is a process by which a community undertakes to reach a given socio-economic goal by consciously diagnosing its problems and charting a course of action to resolve those problems. Experts are needed, but only as facilitators”. This does not preclude the municipalities from collaborating closely with professional organizations and industry experts in the planning process.

In the part of planning or implementation/execution, where the involvement of the central governmental agencies, the relevant departments of the Ministries is necessary, the municipalities should initiate the establishment of joint (temporary or permanent) delegated commission(s). The commissions should be staffed by the representatives of relevant ministries as well as local experts, and municipal bodies. (For example, if a city has historic protection zones, or its identification and definition is identified in an urban planning document, due to inexperience at the local self-government levels regarding to its enforcement, such a delegated commission may be set up with the National Agency for Cultural Heritage Preservation of Georgia). Existence of such commissions will ensure the involvement of more qualified experts in the process, as well as the development of professional skills of local decision-makers in municipalities, accumulation of knowledge and practices on the ground, and raising awareness of urban development processes on the ground. The work of the commission locally will create conditions for better understanding of the local needs and specifics in case of the non-local experts of the commission; this all in turn will help to produce timely decision-making procedures and increase the quality of services.

INTRODUCTION OF E-SERVICES DEVELOPMENT; PRODUCTION OF STATISTICS, CREATION OF UNIFIED DATABASES; PROMOTION OF THE DEVELOPMENT OF INTER-MUNICIPAL / REGIONAL ELECTRONIC SYSTEM.

Since 2011, LEPL "Public Service Development Agency” with the financial support of the European Union has been implementing a project entitled "Introduction of e-government in local governments”.

Within the framework of the project, a new software "Municipal Management System" (MMS) will be introduced to support the introduction of e-government in municipalities. One of the main components of the project is increasing the access of the local population to

municipal services without leaving the village through using capacities of community centers. One of the services is specifically a municipal service “related to the approval of the construction documentation, issuance of construction permits, fulfillment of permit conditions and approval of the exploitation of the construction building". The MMS system has been introduced in five municipalities of Kakheti and is in the process of being introduced in four remaining ones (Akhmeta, Telavi, Kvareli, Sighnaghi, and Sagarejo).

This is, of course, a big step forward in terms of improving services or running businesses efficiently in the municipalities, although the socio-economic and demographic characteristics of the municipalities must also be taken into account. For example, in Lagodekhi and Sagarejo municipalities, a large part of the population is ethnically Azerbaijani, most of whom do not speak Georgian, while the system so far works only on Georgian language.

It should also be noted that in some municipalities the population is aging on higher rates compared to the country’s average, and surveys show that locals still prefer physical communication to e-services. One of the reasons for that could be the lack of appropriate technical support or skills among the rural population in particular.

It is important for municipalities to collect relevant statistical data, ensure the development of electronic databases / systems, and create interactive electronic platforms for effective communication with the public. They need to increase the usage of the social media in order to more actively and pro-actively disseminate information about their planned activities.

ESTABLISHMENT OF AN ANNUAL NATIONAL FORUM / CONFERENCE TO SHARE LOCAL AND INTERNATIONAL BEST PRACTICES, KNOWLEDGE AND ESTABLISH EFFECTIVE CONTACTS AND NETWORKS.

We consider crucial establishment of an annual national forum / conference with the participation of experts in the field and major stakeholders (municipalities, relevant ministries, architects, urban planners, research institutions, public organizations, and so on) for the purpose of exchanging experience, sharing experiences, presenting positive practices for better planning.

The forum / conference will create a discussion space that is extremely lacking in the field today, moreover, it will create linkages between the stakeholders in relation to the challenges or topical issues that the country faces at the municipal, regional or national levels.

The forum / conference will help the participants to get acquainted with international practices, new trends, alternative solutions and will help them to introduce them at the local levels. It will increase opportunities for collaboration, sharing knowledge and experience between Georgian and international experts, establishment of new networks or cooperation. It will also make a significant contribution to the refinement and development of the existing legal framework.

Article 142 of the Code defines the important by-laws to be adopted by 2023, which, in turn should improve architectural, planning and/or construction practices. Due to the complex nature of the above-mentioned bylaws, at an early stage of their development, the forum/conference could provide a platform for a wide range of discourse, help to consolidate assessments of the stakeholders and the general public, gather experiences around topics that might be influenced by new legislative initiatives.

ANNEX #1

List of major strategic and/or urban planning documents of Kakheti municipalities.

AKHMETA	TELAVI	GURJAANI	KVARELI
Spatial planning documentation for Akhmeta Municipality and Tusheti Local Economic Development Plan 2020-2021	Village Ikalto DDP Telavi LUMP, DDP (in the process of approval) DDT of Telavi Central Square (in the process of approval) Local Economic Development Plan 2020-2021	Village Velistsikhe DDP Local Economic Development Plan 2020-2	Local Economic Development Plan 2020-2021 DDP for a hotel complex near Kvareli (in the process of approval)
LAGODEKHI	**SIGHNAGHI**	**DEDOPLISTSKARO**	**SAGAREJO**
Lagodekhi Municipality Local Development Strategy 2016-2020 Local Economic Development Plan 2020-2021	Local Economic Development Plan 2020-2021	Local Economic Development Plan 2020-2021	Local Economic Development Plan 2020-2021