

“VILLAGE TRUSTEES” WILL NO LONGER BE PUBLIC SERVANTS

The Parliament of Georgia is considering amendments to the Law on Public Service, which, among other changes, envisages the abolition of the status of public servants for village trustees and their transfer to administrative contracts. This increases the risk of them being fully politicized and used for narrow pre-election purposes.

DRAFT LAW, INITIATOR

Legislative Initiative: Draft Law on Public Service and accompanying amendments to the draft law.

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ESSENCE OF THE DRAFT LAW

The draft law proposes several changes to the public service, the most important of which is the introduction of a new contract for employment of a mayor (village trustee) in an administrative unit of the municipality and the introduction of a new procedure for career development of a professional civil servant - internal competition.

1. THE STATUS OF THE MAYOR (SO-CALLED VILLAGE TRUSTEE / GOVERNOR)

CURRENT REGULATION

According to the law, the mayor's representatives are professional public servants in the administrative unit of the municipality.

PROPOSED AMENDMENT

In the administrative unit of the municipality the representative of the mayor will be employed only by an administrative contract.

2. NEW MECHANISM FOR CAREER ADVANCEMENT OF EMPLOYEES - INTERNAL COMPETITION

CURRENT REGULATION

Career development of an employee is carried out on the basis of a closed competition.

PROPOSED AMENDMENT

An employee's career development is based on an internal or closed competition.¹

3. RULES FOR HOLDING AN INTERNAL COMPETITION

CURRENT REGULATION

Internal competition is not envisaged by law.

PROPOSED AMENDMENT

The procedure for conducting internal competition is determined by the decree of the Government of Georgia on the Procedure for Competition in Public Service.

ASSESSMENT / RECOMMENDATIONS

Status of a representative of a mayor (so-called village trustee)

Parliament passed the first reading of the law, which, among other changes, plans to terminate the status of public servants (so-called village governor / governor) in the administrative unit and transfer them to an administrative contract.

The mayor is often the only public servant in the village, **with the change threatening to completely politicize them and use them for narrow party purposes in the pre-election period.**

Attempts to change the status of mayor in 2017 were also [reported](#) by Transparency International Georgia, and in addition to the illegality of the process, it also highlighted the increased risks of politicizing the position. The process was suspended two years ago and the mayor / governor was again reassigned to public office.

This time, the amendments are planned directly in the law, and if adopted, municipalities will have no choice but to replace the mayor with the status of professional public servant employed under an administrative contract. This means the following:

Professional public servant	Employed under an administrative contract
The hire will be made through a competition	Single-handedly appointed by mayor
Will be hired for a lifetime	Will be hired for the term of office of mayor
Exemption can be granted only if there is an appropriate basis	The mayor may terminate him at any time

It is clear from the appointment procedures that this position is entirely dependent on the mayor being a political official. The rights and responsibilities of a mayor include such functions as are necessary in the village permanently and do not depend on the change of local government in the municipality.

Accordingly, it is incomprehensible to turn a professional public servant who has permanent and independent functions into an assistant of the mayor, which can be particularly problematic given the number of such officials in the country (there are only 53 such officials in Zugdidi municipality, plus 35 of their assistants) and the bad practice of engaging them in pre-election campaigning.

It is noteworthy that the representatives of the mayor, depending on the specifics of their position, have the most information about the social situation and political attitudes of the rural population, and for the rural population they are often the only representatives of the state with whom they can communicate about local problems. Due to these circumstances, the growing politicization of office creates a high likelihood that it will be used more actively for political purposes in the pre-election period and significantly damage the electoral environment. In addition, the amendments is not in line with the policy of decentralization and the establishment of professional civil service in municipalities.

Internal Competition

The draft law proposes a new career path for professional public servants - an internal competition. Until now the promotion of the official was done only through a closed competition, and if the law is adopted, there will be a second way, which involves only competition within the institution.

The main problem with the new regulation is that the internal competition rule is not defined by law and will be written into a by-law - a government decree. The general principles of internal competition are not set out in the law, which gives the government complete freedom to determine its content and make substantive changes to it at any time independent of Parliament. In addition, the absence of major internal competition draft legislation at this stage leaves unanswered questions, such as: What criteria should an institution make between internal and closed competition? In case of an unsuccessful internal competition, which of the following is a closed competition or should the competition be opened immediately, etc?

Recommendations

- In order to avoid the politicization of mayors, their status of professional public servants should be maintained, which is also important for maintaining institutional memory and providing public services in a politically neutral environment.
- For the transparency of the process and for the stability of the civil service system, we consider it essential that the basic principles of internal competition be determined by law and that only the details of the procedure be specified by a government decree.

¹ Internal competition implies competition in the public service system, while the new mechanism proposed by the bill, internal competition, implies competition within only one institution.