

The Transfer of Villages from One Municipality to Another

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One of the topics arising from the administrative reform that generated a great deal of heated debate, especially at the end of the voluntary merger stage, was the transfer of territory (villages) from one municipality to another.

Territorial transfers were discussed in at least 24 merger areas. After approval by the relevant municipal councils and the central government, the villages were transferred in seven counties, or eight municipalities, and the process involved 26 villages. According to the population register, the transferred villages had a combined population of 1,674 (as of 1 January 2017) and covered a total area of 368.1 square kilometres.

The transfer of villages and territory from one municipality to another in the course of the 2017 administrative reform

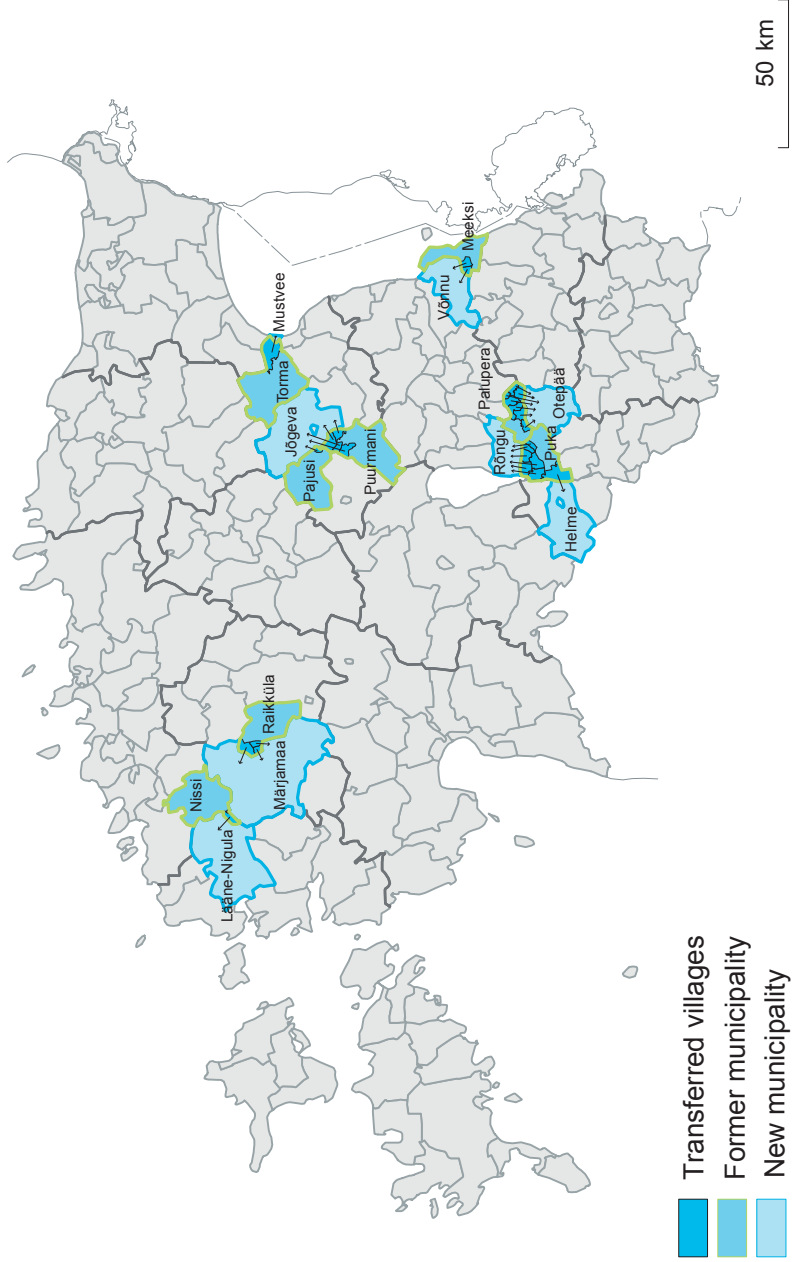


Figure 1.

The territorial transfers carried out during the merger procedure took effect at the same time as the merger, in that the boundaries of the relevant administrative divisions were changed. This happened after the announcement of the results of the municipal council elections. There was only one occasion – when the village of Rehemäe, in Nissi rural municipality, was transferred to Lääne-Nigula rural municipality – that the decision entered into force on 1 March 2017, as the local authorities concerned had applied for it as a procedure for changing boundaries, separately from the rural municipality merger. In that case, the change took effect together with entry into force of the corresponding government regulation.

Compared with the transfer of settlement units, there were considerably more cases where proposals for the transfer of municipalities' territory were not approved. During the administrative reform, there were at least 97 initiatives to transfer a village or a small town to another municipality, in 10 counties and 18 municipalities (8.4 per cent of municipalities) that, due to opposition from municipal councils, did not materialise. The proposals concerned at least 10,070 residents in villages covering a total area of 872.14 square kilometres (1.9 per cent of the area of Estonia).

The initiation of changes in municipal boundaries

There were two approaches to the initiation of changes to municipal boundaries.

- 1. Transfer of villages by popular initiative proposal's made by citizens with the right to vote.** Pursuant to the Local Government Organisation Act, residents have the right to raise issues with regard to local life, including changes to the boundaries of an administrative division, for the municipal council to discuss. In accordance with the Act, in order for a proposal to be included on the agenda of the municipal council, it must be supported by at least 1 per cent of the electorate, but by no less than five residents of the municipality. The municipal council must discuss

the proposal within three months, but there is no obligation to decide in favour of the proposal or to initiate a procedure for the transfer of territory. Before or after initiating the procedure, the council can carry out an opinion poll among the residents, which does not need to follow the procedure set out under the Government Regulation¹ in order to determine residents' opinion, in the event that the transfer of villages is carried out separately from the merger or if the local authorities are still in the process of deciding which other local authorities they should initiate merger negotiations with. In addition to the residents' views, local authorities can ascertain other circumstances that they can use in deciding whether to commence, terminate or continue the procedure for determining the administrative affiliation of a territory.

2. **Initiation of the procedure for the transfer of villages by a municipal council.** No initiative is required from the residents for the initiation of the procedure for the transfer of villages, as the municipal council itself has the right to initiate the process (this applies to both the transferring and receiving municipal councils). For this, the party receiving the proposal must accept it and both councils need to adopt the corresponding decisions. Before initiating the procedure, the council may determine the residents' views, such as by discussing the issue with them at a village meeting or by means of an online survey published on the municipality's website. At the same time, such an approach does not free the municipal council from the statutory obligation to determine in the course of the merger procedure the residents' opinion on the planned specific changes to the boundaries.²

¹ Government Regulation No 87 of 28 July 2016 establishing the extent and procedure for determining the residents' opinion on the alteration of administrative-territorial organisation and boundaries of an administrative division.
See <https://www.riigiteataja.ee/akt/129072016012>

² See Article 6 of the Administrative Reform Act, and Articles 7(7) and 7(8) of the Territory of Estonia Administrative Division Act.

In both of these approaches to the initiation of changes to municipal boundaries, it is important to hold discussions with the local community first and at the same time to make sure that the alteration of the administrative-territorial organisation will achieve the desired goal of the administrative reform. Above all, a change in the municipality that an area belongs to should not break the historical and socioeconomic cohesion of the people and should take into account their daily movement patterns; the new boundaries should also follow the residents' historical links of identity.

A great deal depends on the extent to which the residents are territorially 'anchored', i.e. connected to one another, starting from their perceived identity and family relations to national or religious relations. The specific degree of cohesion depends on the communication that takes place at the corresponding level and on the participation in the institutions at that level. If the community and the residents' participation in local life is active, then the village level identity is considerably stronger and more value is attached to place-based development. This means that importance is placed on communities that are active, tight-knit and innovative, and that are able to develop using their internal resources, especially human resources.

Hence, it is not just the existing and desired development levels of the living environment that are important in the belonging of territories, but also the local identity related to the place, which are two aspects of the same issue.³ As public authority is exercised primarily in the interests of the individual, local authorities must derive their legitimacy from the individual as well.

The process of the transfer of villages is a truly local topic, as without the participation of residents in shaping those decisions that affect them directly, local government would lose its real meaning. A strong

³ A. Paasi, 'Region and Place. Regional Identity in Question' – *Progress in Human Geography*, 28(4), 2003, pp. 475-485.

appeal to the local authorities in Estonia to respect villages' right of territorial choice was made by the rural municipal councils of Haljala and Vihula. The point of their message was to allow, in the spirit of goodwill, the villages to choose their municipality, without hindering their choices with council decisions. They also confirmed that the villages in Haljala and Vihula rural municipalities were free to choose the municipality to which they wanted to belong.⁴

Under the laws in force, a municipality can be divided into several parts. Legally, this means that part of a municipality can be merged with one municipality, while another part of its territory (one or more villages) is transferred to a different municipality (one that does not participate in the merger), thereby changing municipal boundaries.

In such a case, the merger procedure is applied to one territorial part (e.g. the area where the centre is located or which is larger by area or number of residents), while in the other part (even if its area is up to half the size of the merged municipality) the procedure is treated as the transfer of the territory to the other municipality, i.e. a change in the boundaries. Therefore, the merging municipality that transfers its villages is subject to two procedures: a merger on the one hand and a change of boundaries on the other. The merging municipality receiving villages can choose whether to implement the merger and the change of boundaries as one procedure or to have two separate procedures. For example, Lääne-Nigula and Nissi rural municipalities agreed that the transfer of Rehemäe village would be a separate procedure (see the example below). In this example, the village was transferred from Harjumaa County to Läänemaa County, meaning that county boundaries were changed.

In the case of separate procedures, the other municipalities participating in the merger procedure are not participants in the procedure

⁴ *Vihula Valla Leht* No 10, October 2016; http://www.vihula.ee/documents/1124940/10545788/2016_10_VihulaVallaLeht.pdf/59143c79-170c-4cb4-9e5f-080007aff7ff.

for the transfer of villages – that is, changes in the boundaries – but it would be common courtesy to notify them of the procedure. Likewise, when a territory changes during a merger, the other municipalities are not officially parties to the procedure for the transfer of villages.

The procedure for changing boundaries

Practice has shown that in the majority of cases, municipal councils have not supported residents' initiatives for the transfer of territories. There are several reasons behind municipal councils' lack of support for these initiatives:

- 1) there was too little time for the changes and implementation of the transfer of the territory in accordance with the law. They explained that this could be done later on, if necessary;
- 2) they were not interested in decreasing the number of residents in the municipality so as to prevent any problems with meeting the minimum criterion of the number of residents or staying a separate municipality just under the minimum criterion;
- 3) they wished to preserve the existing territory of the municipality, referring to the tradition and established cooperation between the communities;
- 4) they saw a negative impact on the revenue base of the municipality, as giving up residents and territory would lead to a reduction in personal income tax revenues and, due to a decline in economic activity, would have a negative impact (e.g. decreasing land tax revenues) on the revenue base of the municipality that ceded part of its territory.

Obligation to seek residents' opinion

In the case of the transfer of villages, the residents' opinion must be obtained by settlement units. Opinion poll are considered to be an aspect of representative democracy because the final decision is made by the municipal council members as authorised by the people. If villages are

transferred during a merger, then, in addition to the question regarding the merger, the residents of those villages must also be asked a question about the transfer of the villages.

Example: Under the decision taken on 2 February 2017 on the proposal to change municipal boundaries, the Rõngu rural municipal council made a proposal to Puka rural municipal council to initiate the procedure to change boundaries in order to transfer some villages in Puka rural municipality (Aakre, Palamuste, Pedaste, Purtsi, Pühaste and Rebaste) to Rõngu rural municipality. Under the decision taken on 17 February 2017, the Puka rural municipal council accepted Rõngu rural municipal council's proposal.

In order to seek residents' views, the following question was added to the opinion poll: 'Do you support the transfer of the villages of Aakre, Palamuste, Pedaste, Purtsi, Pühaste and Rebaste to Rõngu (future Elva) rural municipality?' with the choice of either 'Yes' or 'No'.

As per the order of 20 February 2017, Puka rural municipality decided that the opinion poll was to be held in the Aakre community centre in Aakre village on 10 and 12 March from 9:00 to 17:00.

The list of participants in the opinion poll included 414 people who were at least 16 years old and lived in the villages of Aakre, Palamuste, Pedaste, Purtsi, Pühaste and Rebaste. There were 228 respondents, of whom 206 replied 'Yes' and 22 'No'. The table below shows the residents' opinion by villages, as obtained through the poll.

In the transfer of the villages, only residents of the villages to be transferred were asked their opinions. The procedure established by the national government to determine residents' opinions does not allow for the possibility to ask the opinion of the rest of the rural municipality's residents. This could have been done through a separate survey that did not form part of the official procedure.

If the residents' opinion polls were conducted at the same time, the opinion of the residents of the village to be transferred was asked in both polls, meaning that their opinion on the merger was sought in the

Village	Yes	No
Aakre	122	16
Palamuste	6	2
Pedaste	9	1
Rebaste	31	2
Pühaste	19	0
Purtsi	19	1

receiving municipality's merger poll, and in the transferring municipality's poll, their opinion was sought on the transfer. If the polls were not conducted at the same time, then during the merger procedure, the question about the merger was asked of all residents, and the question about the changes to the municipal boundaries was addressed only to residents of the villages to be transferred.

In the case of a common procedure for the merger and the transfer, the opinion polls for the municipalities that transfer villages and receive villages should be conducted at the same time so that residents of the villages to be transferred would not have to respond to the survey at two different times. If it is not possible to conduct the opinion polls in both merger areas at the same time, the local authorities will have to agree that the residents' opinion will be sought on both solutions (i.e. the transfer or continuation of the current situation) in the transferring municipality's opinion poll on the merger. It may be most appropriate to have separate procedures for the merger and the changing of boundaries.

Compensation and obligations related to changes to boundaries

Merger grants were set aside for the transfer of villages. The calculation of the size of the grant was based on the extent of the merger and on the extent of the transfer of territory. In the case of the transfer of territory, the recipient was paid a merger grant only when participating in the merger or if it had more than 5,000 residents. If a municipality with more than 5,000 residents was formed, the size of the merger grant was 100 euros per resident. The municipality that transferred villages and merged with another municipality would receive a merger grant based on population (as of 1 January 2017) before the transfer of the territory.

In the course of the changing of boundaries, agreement would be sought on preparation of legislative amendments resulting from the changes as well as solutions to organisational and other issues.

Functioning of regional committees

Owing to the transfer of villages, Sauga and Puka rural municipalities received most attention from the regional committees. While several villages in Sauga rural municipality wished to be transferred to Pärnu city, the residents of Puka rural municipality showed initiative in changing the administrative placement of the region in three directions: Otepää, Elva and Tõrva. The regional committee of southern Estonia discussed the wishes of the residents of the villages in Puka rural municipality to be transferred from one municipality to another in two meetings.⁵ Historically, the western part of Puka rural municipality in the area of Aakre and Soontaga belonged to Rõngu parish; the eastern villages of Puka rural municipality belonged to Otepää; the area surrounding Puka belonged to the northernmost part of Sangaste parish.

⁵ Minutes No 9 of regional committee of southern Estonia meeting on 9 January 2017; http://haldusreform.fin.ee/static/sites/3/2017/01/2017_jaan_louna-eesti_piirkondliku_komisjoni_protokoll_9.pdf

The regional committee decided to issue Puka municipal council with a recommendation to consider the transfer of the villages to neighbouring rural municipalities and to complete the procedures before 15 April 2017. The residents of Soontaga village, for example, submitted an application to Puka rural municipal council to transfer the territory to Helme rural municipality. In turn, Helme rural municipality submitted an official proposal to Puka rural municipality to transfer Soontaga village. The committee recommended that Puka rural municipality discuss the proposal submitted by the residents of Soontaga village at the council meeting and inform the residents and the relevant rural municipal councils of the position of Puka rural municipal council regarding the proposal to change the boundaries, so that there would be sufficient time to implement the procedure for changing the boundaries.

The transfer of the villages of Lutike, Makita, Miti, Neeruti, Nõuni, Päidla and Räbi to the merging rural municipalities of Sangaste and Otepää, which was initiated by the rural municipality of Palupera, was also supported by the regional committee of southern Estonia.⁶ The committee found that the merger would result in the formation of a homogenous municipality that would fulfil the criteria, goals and principles of territorial integrity as set out in the Administrative Reform Act, which would have a positive impact on the achievement of the goals of the administrative reform. Similarly, the regional committee of northern Estonia recommended (Minutes No 5 of 27 September 2016)⁷ that Väätsa rural municipality discuss the proposal to transfer Reopalu village and to inform the residents and the relevant rural municipal councils of the position of Väätsa rural municipal council regarding the proposal to change the boundaries.

⁶ Minutes No 9 of regional committee of southern Estonia meeting on 9 January 2017; http://haldusreform.fin.ee/static/sites/3/2017/01/2017_jaan_louna-eesti_piirkondliku_komisjoni_protokoll_9.pdf

⁷ Minutes No 5 of regional committee of northern Estonia meeting on 27 September 2016; https://haldusreform.fin.ee/static/sites/3/2016/11/2016-09-27_pohja-eesti_piirkondliku_komisjoni_protokoll_5.pdf

Conclusion

The transfer of settlement units as part of the implementation of the administrative reform is not a new topic. The strategy document 'Administrative reform in local government', which was prepared by the Ministry of the Interior in 2001, states that 'if different parts of a municipality of any size have closer relations with their neighbouring municipalities than with one another, these parts must be merged with the appropriate neighbouring municipalities'. As a consequence, when preparations were made for the reform in 2001, it was decided that the issue of unreasonable boundaries would have to be solved and this would have to be done in problematic areas by means of opinion polls, in order to determine which municipalities the rural municipalities as well as their outlying areas should belong to.

A comparison of the list of problematic areas that was drawn up at the time with the proposals for changing boundaries that have been made during the current administrative reform shows that a large number coincide. As a result, the transfer of territory that arose as a topical issue was not random but referred to problems that had required a solution for a very long time.

In the Administrative Reform Act, responsibility for decisions on the transfer of territory was left entirely in the hands of local authorities. Although some villages were indeed transferred in the course of the reform, municipal councils in most cases did not take into account the residents' opinions and refused to transfer territory. The reasons for the refusal were wide-ranging, ranging from emotional considerations to causal links with the revenue base of the rural municipality. Municipal councils often did not take a decision for fear of making the merger process more complicated. Based on local authorities' right to autonomy, the national government did not interfere in the transfer of villages, limiting itself to merely giving recommendations in regional committees when residents or experts approached these committees with questions regarding the transfer of villages.

Several debates on the topic of the transfer of villages took place in the *Riigikogu*, mostly at the initiative of the Free Party. These have focused on how best to accommodate the wishes of the residents and potential alternatives to the solutions provided for in the laws currently in force. These questions are likely to remain in policy plans for a long time, although the territorial aspect of the administrative reform has now been completed.

In principle, there are two possible practical solutions in the future. The first is the current arrangement whereby residents have the right to initiate the transfer of villages and municipal councils have the right to decide whether to implement it or not.

Second, more decision-making powers could be granted to the national government for local issues. The weakness of the latter solution is that it would deviate from the long-term practice where territorial changes are part of the decision-making powers of municipal councils, and would constitute a very serious infringement of the autonomy of local authorities. Furthermore, one must not underestimate the risk of excessive politicisation of local boundary changes, a development that would be inevitable if decisions were made at the national level.

A third, theoretical possibility would be a referendum-like solution, where the administrative-territorial organisation would be changed if a majority of the residents of the village support it. However, such an alternative is not very realistic, as there are a number of technical questions relating to issues such as property, legal acts and loans that need to be solved when villages are transferred. Moreover, referenda are often laden with political power struggles and prior to each such decision, it is necessary to provide a detailed explanation of the advantages and disadvantages of a territorial change to the people.

In conclusion, it can be said that there is still considerable room for improvement in the development of democracy in the administrative culture of local authorities. In several cases, the transfer of territory initiated by residents will probably take place at a later development

phase of the new municipalities, as logical administrative boundaries will need to be established, something that was not done in the course of the administrative reform.

Example 1. The transfer of the villages of Lutike, Makita, Miti, Neeruti, Nõuni, Päidla and Räbi to the Otepää rural municipality

As of 1 November 2016, these seven villages had a total of 487 permanent residents and covered a territory of 81 square kilometres.

Palupera rural municipality held merger negotiations with the local authorities of two municipalities: with Otepää, based on a proposal from Sangaste rural municipality, and with Elva based on a proposal from Elva city. Pursuant to law, Palupera rural municipality could merge with only one of them, either with Otepää or Elva. A rural municipality can be divided between two other municipalities only if some villages are transferred to a neighbouring rural municipality. A municipal merger and the transfer of villages are two different procedures.

During merger negotiations, it emerged that the residents of the Nõuni area in the Palupera rural municipality wished to merge with Otepää, and the areas of Hellenurme and Palupera with Elva. These three areas are made up of the following villages (the number of residents is given in brackets): the Nõuni area (505) – Lutike village (27), Makita village (21), Miti village (21), Neeruti village (59), Nõuni village (224), Päidla village (94) and Räbi village (59); the Hellenurme area (303) – Hellenurme village (161), Astuveri village (20), Mäelooga village (40), Atra village (40) and Pastaku village (42); the Palupera area (253) – Palupera village (205) and Urmi village (48) (see map below).

Before taking decisions that would have consequences for the rural municipality's residents, the Palupera municipal council decided to take into account the people's opinion as much as possible and to seek the actual opinion of the residents on the administrative-territorial organisation.

The residents were surveyed on 8 and 11 September 2016, with the survey carried out by village. Residents were asked if they wanted to

The transfer of villages in Palupera rural municipality

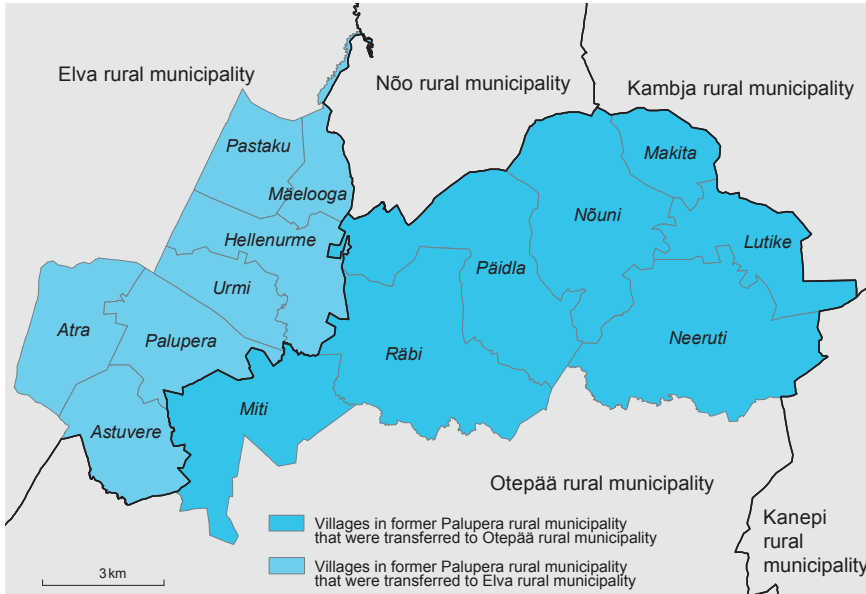


Figure 2.

belong to Otepää rural municipality or Elva rural municipality. In total, 41 per cent of the rural municipality’s residents aged at least 16 years participated in the survey.

The results of the opinion poll showed that a majority of the residents of the Lutike, Makita, Miti, Neeruti, Nõuni, Pädla and Räbi villages (87 per cent of the survey participants) rather wished to belong to the Otepää large rural municipality. This preference was also supported by the fact that the region belongs to the historically established common functional area of Otepää with the centre in the Otepää city. Thanks to the jointly published newspaper *Otepää Teataja*, the people in this region have been in a common information space for a long time and they think and see things in a similar way.

Results of the opinion poll in Palupera rural municipality

NO	VILLAGE	Residents over the age of 16 years	Number of participants in opinion poll (% of village residents over age of 16 years)	YES to merger with Otepää (% of participants)	YES to merger with Elva (% of participants)
1	Astuvere	18	12 (67%)	2 (17%)	10 (83%)
2	Atra	34	17 (50%)	0	17 (100%)
3	Hellenurme	137	59 (43%)	1 (2%)	58 (98%)
4	Lutike	27	7 (26%)	7 (100%)	0
5	Makita	19	8 (42%)	8 (100%)	0
6	Miti	16	11 (67%)	8 (73%)	3 (27%)
7	Mäelooga	33	15 (45%)	2 (13%)	13 (87%)
8	Neeruti	50	15 (30%)	15 (100%)	0
9	Nõuni	185	69 (37%)	67 (99%)	1 (1%)
10	Palupera	154	74 (48%)	16 (22%)	58 (78%)
11	Pastaku	34	19 (56%)	2 (11%)	17 (89%)
12	Päidla	73	19 (26%)	13 (68%)	6 (32%)
13	Räbi	62	22 (35%)	13 (59%)	9 (41%)
14	Urmi	39	15 (38%)	1 (7%)	14 (93%)
	Palupera rural municipality in total	881	362 (41%)	155 (43%)	206 (57%)

Table 1.

* One survey sheet was declared invalid.



The amicable division of Palupera rural municipality in accordance with the wishes of the residents of the villages was an ideal example of the transfer of villages in the course of the administrative reform. Pictured: rural municipality mayor Terje Korss. Photo: Delfi.

Under the decision of 20 September 2016, Palupera rural municipal council made a proposal to Otepää rural municipal council to change the boundaries of the administrative divisions, and to transfer the villages of Lutike, Makita, Miti, Neeruti, Nõuni, Päidla and Räbi to Otepää rural municipality. Under the decision of 17 October 2016, the Otepää rural municipal council accepted the proposal from Palupera rural municipal council.

On 16 November 2016, Palupera and Otepää rural municipalities adopted a decision and signed an agreement on changes to the boundaries of their administrative divisions. The agreement also regulates the settlement of organisational, budgetary and other property-related issues. For example, until the adoption of a new development plan for

also agreed that the formation of Otepää rural municipal council's committees would be based on the principles of regional representation.

This can be considered a model example, as during the merger negotiations a solution was found for the logical placement of the villages by taking into account residents' wishes and supporting the protection of their interests in the new municipality by both the local authorities of the municipality transferring the territories as well as the local authorities of the municipality receiving them.

Example 2. The villages of Sauga rural municipality wished to merge with Pärnu

Sauga rural municipality actively participated in merger negotiations with Pärnu city, and Audru, Are, Tõstamaa and Paikuse rural municipalities.⁸ This was the only direction of the merger negotiations of the Sauga rural municipality from the beginning of 2016, when it accepted Pärnu city's proposal to start merger negotiations, until 22 September 2016, when the rural municipal council opened another set of merger negotiations (with Tori, Are, Sindi and Paikuse rural municipalities). At the following council session on 20 October 2016, Sauga rural municipal council ended merger negotiations with Pärnu city.

In Pärnu city's merger area, Sauga was one of the rural municipalities most closely connected with the city. For example, more than 60 per cent of the rural municipality's residents work or study in Pärnu city. The relevant decisions of the rural municipal council were triggered by activists in villages of Sauga rural municipality that are adjacent to Pärnu city. Until then, they had followed merger negotiations with the city at a distance, assuming that the residents' daily activity space that was naturally integrated with Pärnu and the actual administrative space would be merged in the course of the administrative reform.

⁸ For more details about the merger negotiations in the region, see the article 'Merger Negotiations Initiated by Municipal Councils' by K. Kattai, M. Laan, G. Sootla and R. Noorkõiv.

the Otepää rural municipality, the development plan for Palupera rural municipality for the years 2012–2025 as approved on 8 October 2015, the public water supply and sewerage system development plan for Palupera rural municipality for the years 2014–2030 and the comprehensive plan for Palupera rural municipality will remain valid in the transferred villages. A service centre will be established in Nõuni village and will organise its work in a manner that ensures the provision of services, but also a possibility for the local residents to be involved in the decision-making processes locally and across the entire rural municipality in the interests of integrated and balanced development of the rural municipality. The Nõuni rural community cultural centre and village library will continue operating and the employment contracts of the employees will be transferred to Otepää rural municipality, which will be their new employer. In 2018, the merger grant allocated to the Otepää rural municipality in the amount of 40,000 euros will be used for the investment object 'Nõuni scientific tourism and training centre', which is reflected in the budget strategy of Palupera rural municipality for 2017–2021. A loan in the amount of 150,983 euros issued by Palupera rural municipal government for the financing of the construction work of the Nõuni rural community cultural centre, and a loan in the amount of 25,675 euros for the financing of the reconstruction work of the Nõuni sewer drain pipes (in the Kullipesa neighbourhood) were handed over to the Otepää rural municipality on 1 January 2018.

Assets of the agencies administered by the Palupera rural municipal government as of 1 January 2018 were handed over free of charge to Otepää rural municipality, as were the immovables and limited real rights belonging to Palupera rural municipality in the transferred villages.

As the regular 2017 elections for the Otepää rural municipal council were held in one electoral district, a separate electoral committee was formed within the boundaries of the villages in Palupera rural municipality that were transferred to Otepää rural municipality, and the polling station was located in the Nõuni rural community cultural centre. It was

Municipalities in Pärnumaa County before and after mergers

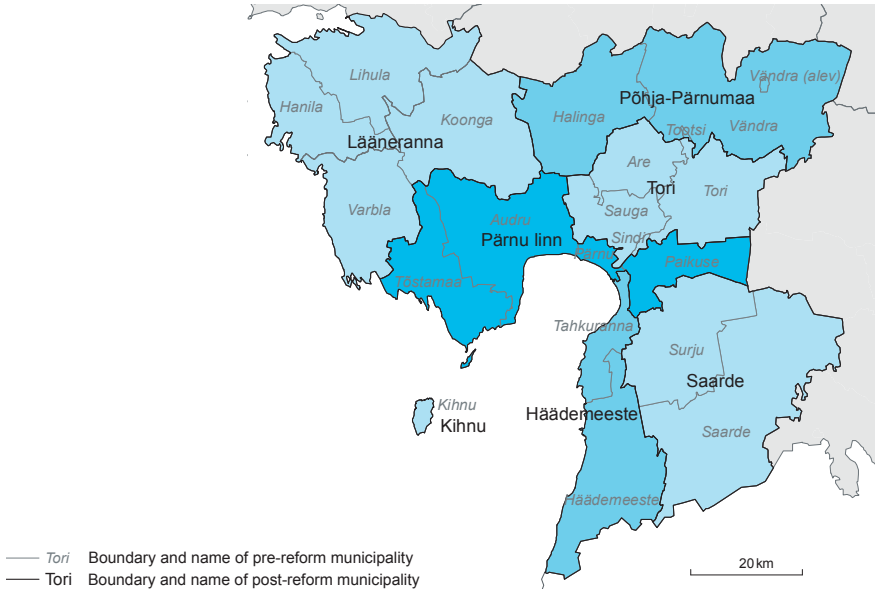


Figure 3. Pärnu city gained a number of more distant areas, but not the villages in Sauga rural municipality located in its immediate vicinity.

On 18 November 2016, a spokesperson for Tammiste village made a proposal to initiate the transfer of the villages to Pärnu city. On 20 December 2016, the initiative was also joined by leaders from the town of Sauga and the villages of Eametsa, Kilksama and Nurme. The wish to separate the villages had been signed in total by 470 residents (241 residents from Tammiste village, 180 residents from Eametsa and Nurme villages and Sauga town, and 49 residents from Kilksama village). The proposal included the town of Sauga and the villages of Tammiste, Eametsa, Kilksama and Nurme, which made up 86 per cent of the rural municipality's population.

The transfer of the villages to Pärnu city would have had a drastic impact on the rural municipality's revenue base, which is mainly dependent on the population. The villages that would have remained in the rural municipality had large territories and small populations. The regions adjacent to the city also have a younger population with higher employment rates and incomes. The separation of these villages would have probably affected the merger area as a whole as well as all the merger choices. Finally, the merger area would have failed to reach the population threshold of 11,000 residents and therefore would have not received the additional 500,000-euro merger grant.

The municipal council discussed the application by village residents for the first time on 5 December 2016, and decided not to include the issue in the council's agenda, as there had been too little time to deal with it.⁹ An additional reason given during the debate was that the opinion poll had already been announced and there would have been no time to prepare an additional question.¹⁰

The motivation behind the desire of the village residents to take urgent action was indeed the fact that they wanted to be asked, in the course of the opinion poll of the merger area of Sauga, Are, Tori and Sindi, for their alternate preference for a merger with Pärnu. The same is set out in the Administrative Reform Act: if the residents have duly submitted an application, their alternative preferences would have to be determined by villages by means of an opinion poll. The poll was held from 7 to 11 December 2016, meaning that the representatives of the rural municipality would have been able to prepare the question regarding the alternative merger option, if they had so wished.

In Sauga rural municipality, 20.3 per cent of the residents with a voting right participated in the opinion poll for the merger of four municipalities; 24.6 per cent (169) of them were in favour of the merger of

⁹ Minutes of Sauga rural municipal council meeting on 5 December 2016, p. 1.

¹⁰ Minutes of Sauga rural municipal council meeting on 5 December 2016, p. 1.

Sauga, Are and Tori rural municipalities and Sindi city, and 75.4 per cent (519) of respondents were opposed. At the beginning of 2017, the municipal council relieved both the rural municipality mayor and the chair of the council from office, as someone had to take political responsibility in the tensions that had arisen.

Due to the fact that the desire of the majority of the rural municipality's residents to merge with Pärnu city and the guarantees granted to the residents by the Administrative Reform Act (obtaining the residents' opinion, taking a position by the council) had been disregarded, these tensions were inherited by Tori rural municipality, which was formed as a result of the merger. Prior to that, the issue of the villages in Sauga had been very intensively addressed at the highest political levels in Estonia. 2017. In spring 2017, Sauga rural municipal council was visited by Prime Minister Jüri Ratas and Minister of Public Administration Mihhail Korb in order to receive more information. At the same time, activists for the separation of the villages organised a picket in front of the rural municipality government building. The issue was also raised in the *Riigikogu*, where an interpellation was submitted to Prime Minister Jüri Ratas, and the problem of transfer of villages and possible solutions were discussed more generally with Chancellor of Justice Ülle Madise.

These questions were discussed thoroughly and at length in the *Riigikogu*,¹¹ but in the end it was concluded that within the framework of the Administrative Reform Act and its implementation, decisions on the transfer of villages remained the responsibility of municipal councils and that the government would not interfere with the decision-making powers granted to local authorities at that stage. Now that the mergers have already been decided, the issue will have to be solved by the new Tori municipal council.

¹¹ Verbatim record of the sitting of the Riigikogu, 20 March 2017; <http://stenogrammid.riigikogu.ee/et/201703201500#PKP-20556>.

A resident turned to the Chancellor of Justice with a request to verify the legality of the activities of the municipal council in the situation where it declined to determine the opinion of the residents following the initiative for the transfer of villages, and did not take a decision on how to respond to the application of the residents within three months, as prescribed by law. The Chancellor of Justice stated in her letter of 27 March 2017 to the rural municipality that Sauga rural municipal council and government had not processed the residents' initiative in accordance with the principle of good administration. The initiators' right to procedure and determination of the will of the settlement unit's residents had been violated. The will of the residents of Tammiste village regarding the transfer of the territory could and should have been determined prior to the adoption of the decision of 22 December 2016 by the municipal council on the approval of the merger agreement and its annexes. The initiative should have been discussed and a decision made without delay.¹²

The Chancellor of Justice found that there was sufficient time between the initiative and the opinion poll to prepare a question on the alternate merger option, and that the survey could also have been held at a later date but before a decision was taken on the merger. The Chancellor of Justice also stated that in a situation where the merger decision had been made, i.e. the legal and factual circumstances had changed, one could no longer expect that an opinion poll would be organised based on the preconditions provided for in the Administrative Reform Act. The Chancellor of Justice suggested that the rural municipal government and council apologise to the residents that had joined the initiative for their failure to determine the will of the residents and for delaying the decision.

After the elections for the Tori rural municipal council, two electoral coalitions led by the former leaders of the Sauga, Are and Tori rural

¹² Letter of 27 March 2017 of the Chancellor of Justice to Sauga rural municipal council and government, p. 1.

municipalities entered into a coalition agreement.¹³ One of the objectives set in the agreement is to ease the tensions that arose in the villages adjacent to Pärnu city with regard to the placement of the villages and to organise a residents' opinion poll in the course of 2018. On 1 March 2018, the Tori rural municipal council decided to 'initiate the alteration of boundaries in connection with the transfer of the settlement units of Tori rural municipality – Sauga town, Tammiste, Eametsa, Kilksama, Nurme, Kiisa and Vainu villages – to Pärnu city'.¹⁴ It was also decided to request an analysis of the impact of the potential transfer of the villages by an independent expert.

Although in the course of the administrative reform there were a number of smooth and positive transfers of villages from one rural municipality to another, there were also several cases where the rural municipal councils did not or could not take into account the residents' wishes. The example of the Sauga case was one of the most dramatic, as in this instance even the statutory obligation to seek the opinion of the residents was disregarded. In a majority of the other cases, the municipal councils and governments carried out the required actions and thereafter – using the council's decision-making powers and weighing the pros and cons – decided whether or not to transfer villages. In Sauga, the problem was left unresolved and hence was inevitably passed on to the new rural municipality.

¹³ Coalition agreement of the Tori rural municipality electoral coalitions Uus Koduvald and Koduvalla Volikogu, 16 November 2017.

¹⁴ Minutes of the session of the Tori rural municipal council, 1 March 2018.

Example 3. Transfer of Rehemäe village to Lääne-Nigula rural municipality

Applications for changing the placement of villages usually have historical reasons, as was the case here. Rehemäe village was located in Nissi rural municipality and, as can be seen on the map, it formed a 'tail' for Harjumaa County between the counties of Läänemaa and Raplamaa. Rehemäe village covers an area of 11.65 square kilometres and, based on data in the population register as at 1 September 2016, had a total of 43 residents. In the academic year 2015/2016, there were two students and one child from Nissi rural municipality attending Lääne-Nigula rural municipality's general education school and kindergarten, respectively. The practice list for the family physician working in Risti town shows approximately 27 people living in Rehemäe village in Nissi rural municipality. According to residents, they go to the pharmacy and dentist and do their shopping in Risti. The nearest larger bus station is also located in Risti.

Until 1940, the area of Rehemäe village, together with the villages of Ellamaa and Lepaste (Turvaste) belonged to Piirsalu rural municipality, in what was then Läänemaa county. Within the current area of Rehemäe village, however, there were also the villages of Kuke and Rõuma. In the historical turmoil following the Second World War, the area merged with the Harjumaa county, primarily because of the boundaries of the large agricultural holdings at that time and their alterations. Rehemäe village was merged with Nissi village council in Harjumaa county in the 1960s. Rehemäe village, within its current boundaries, is also a product of the 1960s; before that, there was no village with that name in the area.

The transfer of Rehemäe village, however, was initiated by citizens in the course of the disclosure of the merger agreement of the future formation of Saue rural municipality.¹⁵ On 6 March 2016, the residents of Rehemäe, Lepaste and Ellamaa prepared a joint statement to the Har-

¹⁵ Merger negotiations were held between Saue rural municipality, Saue city, Kernu rural municipality and Nissi rural municipality.



The transfer of Rehemäe village to Läänemaa county was celebrated with a thematic cake. Photograph: Mikk Lõhmus.

jumaa county governor, where they proposed restoring the historical boundaries of the county of Läänemaa. The statement was signed by 80 residents of Ellamaa, Lepaste and Rehemäe.

The Lääne-Nigula rural municipal government held unofficial negotiations on the initiative with the Nissi rural municipal government. The latter agreed to hold negotiations with Rehemäe, but not with Ellamaa and Lepaste.

Under the decision of 26 May 2016, the Lääne-Nigula rural municipal council made a proposal to the Nissi rural municipal council to initiate the procedure to change the boundaries in order to transfer Rehemäe village from Nissi rural municipality to Lääne-Nigula rural municipality in the course of the alteration of the administrative-territorial

organisation following the announcement of the results of the 2017 municipal council elections. Under the decision of 9 June 2016, the Nissi rural municipal council agreed to hold negotiations on changing the boundaries of the administrative division.

The Nissi rural municipal council organised an opinion poll among the residents of Rehemäe village and approved its results on 25 August 2016. The list included 39 persons; 22 villagers were for the merger and 4 were against.

An application to national government to change the boundaries was made by the decisions of 17 November 2016 of the Lääne-Nigula rural municipal council and the Nissi rural municipal council, and the transfer of the village took effect on 1 March 2017.

On the one hand, the transfer of Rehemäe village was an example of a successful transfer, as the local authorities cooperated fully with each other and problems were solved quickly and promptly. The transfer was of course made easier by the fact that no municipal authorities were located in Rehemäe village and no investments had been made in the village for decades.

On the other hand, the refusal on the part of Nissi rural municipality to discuss the placement of the villages of Lepaste and Ellamaa unfortunately remains a point of contention. Predictably, this topic will emerge again in a couple of years.

Although the process generally went smoothly, a few problems will need to be highlighted.

1. State authorities were not prepared for the merger. Initially, there was a great deal of confusion in the registers and for a few days, Lääne-Nigula rural municipality and Nissi rural municipality were unable to access either the population register or the building register. Confusion in the registers culminated in an error in the Tax and Customs Board system, which resulted in the transfer of four times the annual land tax to Lääne-Nigula rural municipality.

2. Service levels provided by rural municipalities differ across regions, which is why several regulations had to be changed. For example, Nissi rural municipality paid an allowance to parents for transporting their children to school, as there was no public transportation or school bus. This option was not available in Lääne-Nigula rural municipality and the relevant regulation had to be changed, because it was not reasonable to add another school bus round in Rehemäe village for logistical reasons. Nissi rural municipality did not mow the roadsides in Rehemäe village, but Lääne-Nigula rural municipality did. There were many differences of this kind.
3. A great number of investments had to be made in the village (Rehemäe was literally a periphery), as the technical infrastructure was outdated or even missing (lighting in the bus stops, paving the main access road, etc.).

Transfers of villages initiated by municipal councils and approved by the national government in the course of the administrative reform

Source: Ministry of Finance

Changes to boundaries	Number of residents on 1 January 2017	Area in square kilometres
Harjumaa and Läänemaa		
Lääne-Nigula rural municipality, Rehemäe village in Nissi rural municipality	47	12
Jõgevamaa		
Jõgeva rural municipality, Jõune, Pööra, Saduküla and Härjanurme villages in Puurmani rural municipality	396	52
Jõgeva rural municipality, Kaave village in Pajusi rural municipality	25	4
Mustvee city, Võtikvere village in Torma rural municipality	93	47
Raplamaa		
Märjamaa rural municipality, Riidaku, Pühatu and Kõrvetaguse villages in Raikküla rural municipality	66	32
Põlvamaa and Tartumaa		
Võnnu rural municipality, Järvselja and Rõka villages in Meeksi rural	48	19
Tartumaa and Valgamaa		
Rõngu rural municipality, Aakre, Palamuste, Pedaste, Purtsi, Pühaste and Rebaste villages in Puka rural municipality	486	79
Valgamaa		
Otepää rural municipality, Lutike, Makita, Miti, Neeruti, Nõuni, Päidla and Räbi villages in Palupera rural municipality	483	81
Helme rural municipality, Soontaga village in Puka rural municipality	30	42

Table 2.