

The Light and Dark of Administrative Reform at the County Level

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Introduction

Finding a suitable solution for county-level administration has been one of the most complex challenges for the reform ideologists of various times. In opting for single-tier local government in 1993, the idea of county-level local government was consciously abandoned. This decision was perhaps somewhat emotional: by focusing on the primary tier, there was an attempt to move away from the Soviet-era model whereby village councils were small and insignificant, while administrative capacity and power were concentrated at the district (raion) level. Of course, there was also certain degree of political expediency in this decision.¹

¹ G. Sootla, S. 'Lääne, Kesksvalitsuse ja kohaliku omavalitsuse suhted' – *Eesti poliitika ja valitsemine 1991–2011*. Tallinn University Press, 2012, p. 300: 'It was mainly the elite with Soviet-era leadership experience that stood for preserving the autonomy of the counties, prioritising capacity, while the elite that had entered politics with the Popular Front of Estonia (for example, with the meeting of 11 April 1991) and afterwards with the Congress of Estonia, tried to establish their power base at the primary tier of local government.'

Unfortunately, this decision failed to satisfy, and the design and the development of various territorial (national and local) levels of administration has been an ongoing issue in the years since the restoration of independence. Attempts have been made to find the most effective management model that would (a) be simple enough to be cost-effective; (b) at least partially qualify as communal autonomy; (c) meet the need for politicians to secure an electorate;² (d) allow national authorities to maintain their power; and (e) constitute a manageable sphere of power for local government politicians.

The dilemma between one- and two-tier systems of local government experienced at the time is well described in all its complexity by Georg Sootla and Sulev Lääne in their 2012 collection of articles *Eesti poliitika ja valitsemine 1991–2011* (Estonian Politics and Governance 1991–2011).

Indeed, the current processes are supported by similar aims, only with mostly rational supporting arguments. Since the various groups have set such diverse (and often even contradictory) conditions for the territorial-administrative management model, there has thus far been no common understanding of how (and even whether) the county level of administration should be organised. They also failed to reach an agreement during the drafting of the concept document for the administrative reform and establishing the legislative environment in 2015–2017, which led to the reduction in the number of municipalities in 2017.

Those involved in the process have known all along that the number of municipalities should decrease, and that these should be larger in size so as to be more capable than the former village councils. However, the main dilemmas have remained more or less the same over 28 years.

The administrative-territorial reform that led to a significant reduction in the number of municipalities in 2017 is clearly part of a longer process of more general (regarding statehood) and narrower (regarding

² *Ibid.*, p. 301.

national administrative organisation) restructuring that began in 1989. This is why it is not appropriate to describe only the concept for the administrative reform and the process of developing the Administrative Reform Act and related acts in 2015–2017; we should instead look at the changes in administrative arrangements over a longer period of time.

This article will aim to describe and analyse county-level administrative arrangements as well as changes made at the county level over the past few decades, which can be directly or indirectly viewed in the context of administrative or state reform.

Counties as administrative units

Without entering into a discussion over the deeper historical roots of territorial administration (how the counties emerged in Estonia and why there are so many of them), and assuming that Estonia is a state based on the rule of law and that administration is an unambiguously understood concept, analysis of the changes made at the county level should start with two legal documents: the Constitution of the Republic of Estonia and the Territory of Estonia Administrative Division Act. Attention should also be given to the Local Government Organisation Act.

Although the Constitution of the Republic of Estonia does not describe the administrative division of the country, it declares: 'In terms of the organisation of its government, Estonia is a unitary state whose administrative division is provided by law.'³ The Constitution establishes entities for local self-government as territorial administrative units that determine and administer all local matters and discharge their duties autonomously in accordance with the law.⁴

Thus, the Constitution refers in particular to the unity of national practices in Estonia and attributes special significance and status to local self-government. Although it does not specify the national administrative

³ Article 2[2] of the Constitution of the Republic.

⁴ Article 154 of the Constitution of the Republic.

structure, it does define the administrative space of local government as all-encompassing insofar as a matter can be considered a local one. The right of local authorities to resolve matters autonomously also refers to the capability to develop different solutions within the law.

The county level is an administrative level where local and state administration intertwine. Now there is left only to determine what constitutes a local matter and what does not, and the extent to which the laws allow for different solutions in different entities of local government, especially considering the constitutional rights of the individual and the principle of equal treatment. How much of the social functional area has the legislator actually left for local authorities to administer? Which part of local life is actually and practically organised by national authorities? Should the administrative division, the state administrative structure and the functional area of local government be similar?

These questions need to be answered in particular to perceive another important dilemma⁵ for which resolution has been sought for some time, including during the drafting of the concept document and the legal acts for the administrative reform in 2015–2017. What is the size of an effective entity of local government? From which size of population does an entity of local government actually gain the capacity for strategic management and development?

The choice has always been between the effectiveness of local administration (resulting from economy of scale) and community-based arrangement of life, i.e. the 'local' aspect of 'local government'. It is commonly understood that an entity of local government with 500 inhabitants is indeed very 'local,' yet also does not have much capacity. What is more effective, then: 5,000, 11,000 or 20,000 inhabitants?

If we were to determine the appropriate size of a local government entity by a certain minimum number of inhabitants from which it is able

⁵ The first dilemma – the choice between one- and two-tier local government – has been described in the introduction to this article.

to provide services with a sufficient economy of scale,⁶ the focus of the administrative reform would shift one step upwards: from the local to the county level. Such an approach would require an amendment in the Constitution which lists rural municipalities and cities as entities of local self-government. It has also been argued that in such a case an amendment in the Constitution would not even be necessary, because there is provision for the formation of other entities for the realisation of local self-government in accordance with the law and pursuant to a procedure provided by law⁷.

The question of whether the administrative reform should simply shift the primary tier of local government to the county level has remained. This question has been repeatedly asked even after the implementation of the Administrative Reform Act. Such an idea was presented among the experts involved, at least rhetorically, but it was quickly abandoned, pointing to the well-known fact that this option would not find political support. As far as the author of this article knows, for the reasons mentioned above, the alternative choice of 'one county – one municipality' was not seriously considered by the specialists drafting the basic texts of the administrative reform in the ministry.

Within political circles, the idea of counties being the only tier of local government (Pro Patria and Res Publica Union) or the second tier of local government (Social Democrats) has bandied about, but once practical steps are required, the idea is abandoned again. The reason for this is the fact that counties as a national and local administrative level do not meet the five criteria listed in the introduction of this article.⁸ The merger of the two biggest islands, Saaremaa and Hiiumaa, to form

⁶ Draft concept document for the administrative reform developed by the Ministry of Finance, 2015, pp. 9, 10.

⁷ Article 155 of the Constitution of the Republic.

⁸ The criteria: (a) simple enough to be cost-effective; (b) at least partially defined as communal autonomy; (c) responding to the politicians' need to secure an electorate; (d) suitable for national authorities to maintain their power; and (e) manageable for local government politicians as the space of power.

a single municipality, is an exceptional phenomenon deriving from the fact that they are islands. We can only consider counties to be a strong administrative level when one of the parties retreats from prioritising the condition they have set.

One might also think about whether a county is primarily a functional space of local or national government. When considering the Local Government Organisation Act to see which matters are defined by law as local, it is debatable whether primary-level healthcare, special care, education, rescue management and maintaining public order are more related to the national level than waste management, elderly care, youth work, housing and communal services and water supply and sewage. We could also ask why the state uses approximately 75 per cent of the government sector funds, while local government uses 25 per cent.

Realising that the expansion of the functional space of local government, which was set as a goal for the administrative and state reform, is in fact appropriate and that the public sector itself still continues to resolve local matters to a very large extent (in contrast to the spirit of the Constitution), this raises the question of whether we should have dealt more carefully with shaping the counties as local government functional areas in the course of the administrative reform. If the state intends to continue to carry out state administration in the counties and also resolve local matters by means of public funds, the question arises as to whether the state administrative structure should be in line with the national administrative division.

According to the Territory of Estonia Administrative Division Act, the territory of Estonia is divided into rural municipalities, cities and counties, where rural municipalities and cities exercise local self-government and counties are subject to national administration. The Act was adopted in 1995, clearly defining counties as national administrative units. This did not change with the amendment to the Act that entered into force in 2017, stipulating the dissolution of county governments and

the position of county governor. While state administration in counties was performed by the county governor and the government agencies according to the Act in force until 2017, the amendment transferred them to the competency of the minister and government agencies responsible for the respective area. Counties are still described by law as national administrative units. However, the county-level administrative structure is about to be abandoned.

The county level was omitted from the focus of the 2017 administrative reform, which primarily consisted of restructuring local government. Counties were considered an area of potential cooperation between local authorities that had been legally assigned some of the functions to be jointly exercised by local authorities. However, the common form of cooperation was not specified. While municipalities were merged, county governments were dissolved and county-level administration became even more blurred.

The question of whether county-level administration even has a place in Estonia – from both the local and national perspective – remains unanswered. Counties have been left aside as a national decision-making and co-ordination level, but they are still recognised as areas of historical cultural cooperation and, to some extent, statistical and administrative areas. They are also partly recognised and partly disputed as national service areas.

Establishment and dissolution of county governments

The current national administration system emerged in the counties together with the re-establishment of Estonia's independence, when administrative reform was launched following the Supreme Council's decision in 1989. In 1990, county governments were established based on the district executive committees of the Council of People's Commissars. In 1991, the Estonian term *maakonna valitsus* was replaced with *maavalitsus*. This was the second tier of the two-tier local government system which consisted of a county council and county government.

The County Administration Act implemented in 1993 defined counties as national administrative units and county governors as state officials subordinated to the Government of the Republic. The Local Government Organisation Act implemented at the same time dissolved the county self-government bodies and provided for the establishment of county assemblies, or advisory bodies to the county governor composed of the heads of local government, which, in turn, were dissolved with an amendment to the Act in 1994. In 1995, the Territory of Estonia Administrative Division Act entered into force. It created a system where county administration meant primarily national administration. However, in the context of local administration, counties were, and still are, voluntary areas of cooperation. From 1993 until 2017, county governments were institutions that independently executed national administration and coordinated the activity of other government agencies.

When the institution of county governors was formed, it was first given strong universal competency and responsibility. When distinguishing between universal territorial and sector-based extraterritorial administration, both systems exist side by side. However, county-based territorial administration initially held a relatively strong position. County governors were officials with a mandate from the Government of the Republic. Until 1999, they had the right to attend government sessions; they also had some capacity to direct public funds (the state investment programme allocated among counties) and the right to coordinate the appointment of local directors of other state agencies. The scope of responsibility for county governments was very broad.

Subsequently, this scope of responsibility gradually decreased and the power of county governors diminished. This has its specific reasons.

There are two main aspects to the county-based administrative division and national administrative arrangements implemented in the counties. One of these is the economic aspect, or the question of which organisational structure is most economical in solving the tasks. The other is the power aspect, or the political approach. The latter is not only

related to party politics, but also to the division of power among public authorities. Both aspects have had a significant impact on the structure of public administration, including the county-level administrative structure, and eventually led to the dissolution of county governments at the beginning of 2018.

Economic aspect

Looking at state administration with its different governance models first, the transition from territorial to sectoral management started as soon as the agencies subordinated to ministries gathered enough strength. The most significant changes started to take place at the beginning of 2000. In 2006, county governments were transferred from the jurisdiction of the Government of the Republic to the Ministry of the Interior. From 2000 to 2010, environmental management, rescue services, building registers and museums were transferred from county governments to sectoral executive agencies or ministries, and county-level crisis committees were dissolved. In 2010–2016, social facilities and several sports facilities were removed from the administrative scope of county governments; the position of county doctor was eliminated, etc.

The dissolution of county governments started in 2017 with the transfer of educational functions to the scope of the Ministry of Education and Research and SA Innove, and the transfer of the remaining social functions to the Social Insurance Board. The dissolution process was completed at the end of 2017 with the allocation of the remaining functions among the Ministry of Finance, the Ministry of the Environment, the Land Board, the Ministry of the Interior and other state institutions and local authorities.

In 2011, the OECD published the report 'Towards a Single Government Approach', pointing to the fragmented relationship and weak horizontal coordination among the ministries. According to the report, each sectoral ministry operates on its own, within the scope of its tasks and activities, planning and implementing sectoral policies that



To emphasise their importance, county governments were usually based in representative buildings of county centres. The former Võru County Government Building. Source: Arvo Meeks / Valgamaalane.

are independent from others, or weakly linked to them. Among other things, the report primarily recommended making horizontal coordination more effective, clarifying the responsibility for multi-sectoral initiatives, ensuring sustainable cooperation, strengthening accountability and making it more institutionalised.⁹

⁹ OECD, 'Estonia: Towards a Single Government Approach', OECD Public Governance Reviews, OECD Publishing, 2011.

Looking at the general administrative structure of the state, county governments were the only national structures with the function of direct horizontal coordination besides the Government of the Republic. The horizontal (cross-sectoral) function is still carried out by the Prime Minister, the Minister of Finance, the Minister of Justice, and due to the nature of their area of work, the Minister of Foreign Affairs and the Minister of Public Administration as well. Nevertheless, sector-specific protectionism is clearly evident at the government level, which was best expressed in the comment of Siim Kiisler, the former Minister of Regional Affairs: 'I do not interfere with the work of others.'¹⁰

At the county level, the impact of such sectoral fragmentation was less significant. This was first due to the practical need for cooperation at the primary tier of administration, and second, due to the direct mandate given to county governors by the Government of the Republic, which was generally not contested.

While the state has followed OECD recommendations in certain aspects (for instance, by increasing the coordinating role of the Ministry of the Interior in the framework of the new Emergency Act), most of the changes that have taken place in the state structure can be characterised as centralisation and sectoral fragmentation. The final example of the fragmentation of public administration is the dissolution of the county governments and the distribution of their functions among the various authorities.

This has been mainly justified through process economics, or the need to consolidate competencies into a few centres functioning state-wide, and to create direct chains of command from the top to the lowest functional levels.

The document 'Analysis of state tasks'¹¹ prepared by the Ministry of Finance on state reform describes the situation where ministries have difficulty communicating with 15 institutions in the counties, the

¹⁰ J. Jõgis-Laats, 'Võtke need omavalitsused ükskord käsile, et elu maal toimiks!' – *Eesti Päevaleht*, 1.3.2012.

¹¹ 'Riigiülesannete analüüs', Ministry of Finance, 2016, p. 75.

intermediate level fragments management, local resources have an uneven workload and lack professionalism due to their universality, and so on. The meaning of the horizontal coordination referred to in the OECD report still seems to be a mystery.

It is still unclear where the organisers of place-sensitive services (such as public transport, primary healthcare, social welfare and education) could discuss these matters.

As a result of the processes taking place in the state, administrative fragmentation will increase even further, alongside consolidation of the organisation of technical and support services. There have been attempts to mitigate this effect with the creation of state offices in county centres. In particular, this mitigation concerns the provision of services, but not coordinated decision-making.

In Estonia, the principle of subsidiarity is dealt with at the national level. In most cases, it is believed that Estonia is such a small country that decision-making and process management conducted from a single centre by a relatively small circle of people is the level closest to the general population. The extent to which this approach will affect the initiative and responsibility of local officials and how much it will support or inhibit the development of the state can probably be assessed later.

Political aspect

The second aspect to be discussed when speaking about the role of county governments and its change is the political one. In principle, the institution of county governor was established as being apolitical, as part of the administrative apparatus of the state. Having relatively robust power, independence and direct access to the government initially, local governors became important local persons who were often able to be part of the locally visible positive changes, while avoiding being part of negative changes that stemmed from national policies.

We can also create logical connections between the political success of county governors and the change of their position and role. From

1999, county governors were no longer expected to attend the sessions of the Government of the Republic (at first, one of their representatives, the co-ordinator, was still invited), the locally allocated resources were gradually reduced and the position of a county governor was politicised. Officially, county governors still maintained an image of neutral state officials and intermediaries between the national government and local authorities.

Arto Aas, the Minister of Public Administration, admitted that the politicisation of county governors was a mistake.¹² Indeed, the minister said this in a more specific context of the administrative reform, but this sentence describes the entire process. With the politicisation of county governors, the government lost a local representative that could be relied on when implementing state policies.

One of the main arguments and positions of the state reform has been that such representation is not even necessary because policies are created and enforced on a sectoral basis; they are centrally managed and implemented through the local representatives from ministries. However, territorial administration becoming purely local – at least according to the plan.

Understandably, the state, although about to assign the task of drafting the county development strategy to local authorities, is reluctant to abandon the owner's role in the process of developing county spatial plans. It is rational that the planning of regional development and the territorial planning of the same region should not be the task of different organisers, especially when these organisers are in constant conflict over the principles of distributing resources that are scarce in any event.

By giving up the county spatial planning process, the state would lose an important means of influencing the local level and would thus almost completely exit the realm of territorial administration. As such,

¹² L. Kann, 'Arto Aas: maavanemate politiseerimine oli viga' – *Lääne Elu*, 29.8.2016.

the mainstream of centralisation and fragmentation, one part of which is also the administrative and state reform in its present form, may instead create a situation where the central government loses a great deal of its power. This, however, is probably not the goal.

Nevertheless, the strengthening of local administration and the distancing of the state from the local level may be in line with the constitutional principle according to which local authorities will decide independently on all local matters.

Administrative division and public administration

The convergence of the economic and political aspects led to the adoption of the draft act 432 SE by *Riigikogu* (Estonian Parliament) on 14 June 2017, Act Amending the Government of the Republic Act and Other Acts Regarding the Abolishment of County Governments.

The explanatory memorandum of the draft legislation states:

*The reduction in the role of county governments has not been slowed down, and the need for restructuring and ending the activities of county governments has become inevitable. At the cabinet meeting on 12 January 2017, the Government of the Republic decided to terminate the activities of county governments from 1 January 2018 and transfer the functions of county governments to the existing agencies of the ministries and local authorities. This will be the end of one phase in the organisation of state governance.*¹³

From everything described above, we will once again return to the Territory of Estonia Administrative Division Act which establishes counties as the units of state administration. This is not confirmed by the actual situation, as most of the agencies have already withdrawn, or are about to withdraw, from regional division of work. Regions formed

¹³ Explanatory memorandum to the draft Act Amending the Government of the Republic Act and Other Acts Regarding the Abolishment of County Governments (432 SE), 2017.



A notice on the door of the former Järvamaa County Government in January 2018.
Photograph: Järva Teataja.

within agencies have no legal meaning, and they are a matter of division of work within each agency separately.

The decision-making level has been consolidated since 2000. Taking the provision of services out from counties is more a trend of recent years. Knowing that counties are national statistical units, in some respect areas for the allocation of resources and recognised as national

service areas¹⁴ (which is, however, not supported by law and is still partially not accepted by the authorities), is it justified to call them national administrative units? Providing services to citizens is only a small part of administration.

Therefore, it could be said that state territorial administration is disappearing; it is being replaced with territorial service-providing (with disputes over its necessity and purposefulness), and the Territory of Estonia Administrative Division Act has proved to be inadequate in this regard. The arrangement of life in counties is becoming mostly a matter of local government.

There are four paths from here: (a) counties will continue as voluntary cooperation areas for local authorities; (b) county-level co-operation between local authorities will be made legally binding; (c) the next stage of the administrative reform will be carried out and the counties will be established as the primary tier of local government; or (d) cooperation between local authorities will fail and counties will remain areas of culture and identity, with no direct role in the organisation of people's lives.

In any case, it would be necessary to amend the Territory of Estonia Administrative Division Act and other acts defining the county level. However, choosing the latter alternative would mean the biggest administrative change since the times of Lembitu. Having a state service centre in a local town does not necessarily make the surroundings of that town a county.

In the context of public administration, the key issue is whether or not the concept of county spatial planning is maintained in the Planning Act. If it is, are we dealing with local or national planning? Will the state establish regional planning areas or abandon planning activities at a local level, limiting itself to the preparation and implementation of special plans, should the need arise?

¹⁴ *Ibid.*, p. 259, 260.

Counties as the level of inter-municipal cooperation

The third important dilemma faced by the designers of the administrative reform, which directly concerned the county level, was the voluntary *versus* compulsory nature of inter-municipal cooperation. As described above, the state decided to retreat in part from the county level. It was decided that some of the functions of the dissolved county governments should be transferred to the local authorities to be carried out jointly.^{15 16}

Associations of local authorities have been the primary form of inter-municipal cooperation at the county level. These are non-profit associations formed under special legislation and are recognised as partners by the state, which, for example, allocates earmarked funds for the organisation of educational cooperation at the county level through these associations.

According to the Local Government Associations Act, the objectives of a county association are, through the joint activity of the local authorities in the county, to foster balanced and sustainable development of the county, to preserve and promote the cultural traditions of the county, to represent the county and the members of the association, to protect the common interests of its members, to promote cooperation between the local authorities in the county and to create possibilities for improved performance of the statutory functions of its members.

In addition to the associations of local authorities, inter-municipal cooperation at the county level has also been expressed in the formation of joint foundations or non-profit associations (e.g. as part of county development centres or tourism development organisations), the establishment of joint companies (e.g. waste management centres) or participation in specific joint projects.

¹⁵ *Ibid.*, pp. 259, 260.

¹⁶ Explanatory memorandum to the draft Act Amending the Government of the Republic Act and Other Acts Regarding the Abolishment of County Governments, 2017, p. 12.

Looking at the associations of local authorities as universal bodies of inter-municipal cooperation and representatives of common interests at the county level, it should be noted that voluntary cooperation via associations has been widespread (there has been an association of local authorities in each county), but it has not been particularly deep or permanent.

Local authorities have often opted out of membership in associations, whether on rational or emotional grounds. For instance, the city of Võru has withdrawn from the local government association three times: in 1997, 2008 and 2012. During the period before the reform, it was common that not all local authorities in a county belonged to an association of local authorities.

To assess the depth of cooperation, we can analyse the joint budgets of associations of local authorities and compare these with the budgets of the respective local authorities separately. Local authorities have not allocated more than 1 to 2 per cent of their budget revenue for joint use. The National Audit finds in its audit report:

[T]he cooperation of local authorities within the scope of the county association's activities has been largely project-based, and cultural, sports and education events stand out in this cooperation. Associations have not been trusted with the organisation of the more important functions. The National Audit Office also found that many associations have not considered it necessary to prepare a long-term action plan that would express their common positions of what should be done in the coming years and what the goals of these activities are.¹⁷

The organisation of inter-municipal cooperation has been a widely discussed and debated issue. One of the positions prior to the reform (which has remained to this day) was that local authorities possess all statutory opportunities for cooperation. The other side of this argument

¹⁷ Activities of county associations of local authorities and functionality of internal control system. National Audit Office, 2012, pp. 3–9.

has always concerned the autonomy of local government and the voluntary nature of cooperation. Advocates of this position often have a liberal world-view, or have been defending this situation since before the reform.

According to an alternative position (which still prevails), cooperation between local authorities is obligatory and should be mandatory. This position stems from the citizens' right or need to receive services with the best possible quality and the recognition that a limited legislative environment does not allow for the strengthening of inter-municipal cooperation. Citizens' right to equal treatment has been a direct motive for the administrative reform as well as the reduction of the overall number of municipalities,¹⁸ and has also served to justify the need for strengthening inter-municipal cooperation.

In any case, designers of the administrative reform acknowledged the importance of inter-municipal cooperation, especially in a situation where we can witness the disappearance of county governments that used to be the main coordinators of cooperation at the county level. The strengthening of inter-municipal cooperation was meant to replace the coordinating function of county governments. Here, three efforts can be described to clarify inter-municipal cooperation.

The first concerned the discussion of the public-law status of the bodies of inter-municipal cooperation (county associations of local authorities). Experts and specialists rejected this idea, based on legal analyses carried out by the Ministry of Finance.¹⁹ However, since being

¹⁸ Indrek Teder, Chancellor of Justice: 'The fulfilment of several tasks assigned to local authorities by law is clearly inefficient in small municipalities. There are many errors and irregularities in the activities and legislation of local authorities with a small number of staff of insufficient legal competence. The number and quality of the provided public services is affected by the lack of competence of local authorities, which in turn means poorer protection of fundamental rights.' – *Õiguskantsler: suur osa omavalitsusi ei suuda piisavalt tagada isikute põhiõigusi*, 2009; <http://www.oiguskantsler.ee/et/%C3%B5iguskantsler-suur-osa-omavalitsusi-ei-suuda-piisavalt-tagada-isikute-p%C3%B5hi%C3%B5igusi>.

¹⁹ Draft concept document for the administrative reform, Ministry of Finance, 2015, p. 17.

a person in public law is vital for the performance of local government functions, the ministry has developed a new form of cooperation as a substitute measure – joint agencies of local authorities.²⁰ The extent to which local authorities will use this new form of cooperation will be seen in the future.

The second option concerned the local authorities' mandatory membership in a cooperation organisation. This possibility was outlined in the concept document for the administrative reform, and the obligation of membership was indeed included in the preliminary draft. However, it was left out of the final version of the document. The reason was that such a solution would certainly not be approved by the coalition. This, in turn, was due to the desire to maintain the autonomy of local authorities.

The third option required the strengthening of inter-municipal cooperation through joint implementation in certain areas – for instance, ensuring the balanced development of the county through the preparation of a county development strategy or working on security and health promotion. Although cooperation is mandatory in certain areas, local authorities are free to choose between different forms and solutions of cooperation. Such a procedure was also set out in the Act.²¹

In order to compensate for the voluntary nature of membership, the Act stipulated that the jointly adopted development strategy also applies to the municipalities that did not participate in its preparation and approval, if the document was approved by two thirds of the municipalities including the country centre, with their combined number of inhabitants accounting for two thirds of the county population.

²⁰ Draft Act Amending the Local Government Organisation Act and Other Acts Related to the Implementation of the Administrative Reform, 433 SE, 2017.

²¹ *Ibid.*

Defining county-level administration through mandatory inter-municipal cooperation

In the Estonian judicial area, inter-municipal cooperation has always been voluntary. It has been based on the awareness of local authorities and the hope that they will recognise the need for cooperation. It must be admitted that the situation did not change much with the administrative reform.

At present, it can only be hoped that in a situation where most areas of cooperation are not defined as mandatory by law (e.g. social or educational fields), the new local authorities will be wise enough to maintain the current networks of cooperation.

In theory, local authorities should, in their joint activities, also stand for maintaining statehood in the county, preserving a common identity, develop external cooperation, etc. Time will tell how they actually succeed at it, especially in counties where only three or four municipalities remain. It would be sad if county song festivals were lost, or if we stopped celebrating the anniversary of the Republic. However, the collapse of public safety, social work and education networks would directly affect the quality of public services and people's lives.

The autonomy of municipalities is an argument, as long as ignoring the need for cooperation does not result in a directly disadvantageous situation for their residents.

Local authorities also tend to encapsulate and focus on their own inner vision instead of cooperating, especially when external conditions become less favourable, financial means diminish, or political leadership 'hides in the trenches'. In public administration, formal structures have always compensated for the inevitable uncertainty caused by the volatility of individuals.

As a result of the administrative reform, formal structures have essentially been removed from the county level. The biggest force that keeps it together is the sense of identity and location resulting from the historical spatial pattern, but that too is easy to break when the dispute

over the last remaining funds from the European Union becomes sufficiently fierce.

Following the reform, the most influential document treating counties as unitary entities is the county spatial plan. Its holder is still the state sector. The concept of county development strategy was introduced into the legislation. Linking the county development strategy to state budget planning and national sectoral development plans will be one of the most complex tasks in public administration in the near future.

What will happen to counties next?

The next few years in local administration are unlikely to bring any abrupt changes. Participants will be busy with occupying the newly created functional space as well as creating and launching new structures. For the next four years, some of the usual procedures will still function, out of inertia. Thereafter, however, many fundamental choices need to be made.

The first of these concerns counties as statistical units as well as units for resource allocation. National administration has distanced, or is distancing, itself from the county-based functioning logic. The possibility of establishing cross-border associations was carefully phrased when determining the cooperation regions of local authorities. When drafting the administrative reform concept, it was repeatedly stated that county borders must not prevent merger or cooperation. Against this background, the requirement for drawing up a county development strategy, which has now received legal power for the first time, seems to come too late.

Should we switch from collecting county statistics to collecting statistics based on new municipalities?

The same question concerns the allocation of resources. Various resources – from national funds for the development of cultural cooperation to European Union funds to increase regional competitiveness – have been allocated on a county basis. Should resources be allocated

directly to municipalities, so that they could choose their partners as well as areas and directions of cooperation?

The other fundamental decision concerns territorial planning as a strong power instrument. Will county spatial planning remain? Will it be national or county-based? Or will the state still wish to express its interests by the so-called planning regions, which number fewer than 15?

Territorial planning without the components of strategic and budget planning is just empty bureaucracy. However, strategic planning requires cross-sectoral access to both information and resources. Does this mean that there will be new regions of universal responsibility after all?

It is also possible that the state will assign intra-municipal, or second-level, spatial planning to local authorities as a function to be carried out jointly. This would also lead to a situation where the state and local authorities could genuinely start a proper dialogue, because for the first time, the state should request a planning solution from the lower tier (i.e. the local authorities) to protect the interests of the higher tier. In that case, disputes about spatial planning would differ from annual budget negotiations – the parties would have to reach a common agreement.

Relying on special plans may not always be justified. Rather, agreement should be sought. This would be a new opportunity to build up public administration with a balanced governance logic.

In any case, during the next election periods we will need to determine finally whether Estonia needs counties as administrative units at all, and what kind of administration will be organised there: local or national. Then, we must begin to elaborate the Territory of Estonia Administrative Division Act and describe the territorial-administrative division of the state in the way that really works.

Alteration of county borders, change in population and the number of municipalities in the counties after mergers during the administrative reform

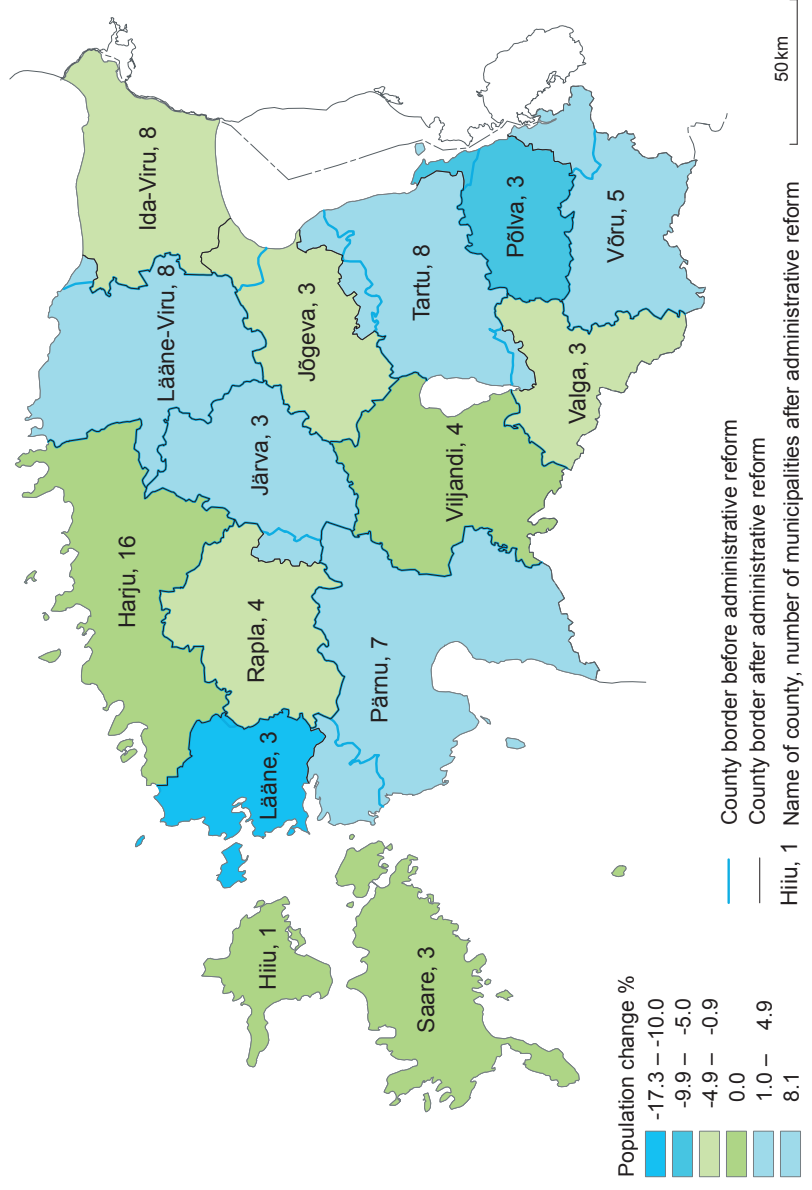


Figure 1.