

The Design of the Process of the Administrative Reform

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Previous plans influencing the reform

Leading up to the 2017 administrative reform, most of Estonia's previous ministers of regional affairs (or interior minister responsible for the area) had also developed and submitted their visions for administrative reform (for more details, see Madis Kaldmäe, 'The Plans for the Administrative-Territorial Restructuring of Estonia from 1989 to 2005'):

- Peep Aru (in office 1997–1999), 'Principles for the Development of Public Administration' (1999);¹

¹ https://haldusreform.fin.ee/static/sites/3/2012/09/1999_avaliku-halduse-arendamise-alused.pdf ja https://haldusreform.fin.ee/static/sites/3/2012/09/1999_avaliku-halduse-arendamise-aluste-seletuskiri.pdf

- Tarmo Loodus (1999–2002), 'Strategy: Administrative reform in local government' (2001);²
- Jaan Õunapuu (2003–2007), 'Regional administration reform project' (2003);³
- Vallo Reimaa (2007–2008), 'Rationalisation of Regional Administration' (2007);⁴
- Siim Kiisler (2008–2014), draft Administrative-Territorial Organisation Reform Act (2009),⁵ draft Local Government Organisation Reform Act, 2013;⁶
- Hanno Pevkur (Minister of the Interior 2014–2015), 'Concept document for local government reform specifying the appropriate levels for the execution of public functions'.⁷

The last wave of previous reform plans, drawn up from 2009 onward, was for a long time led by the Pro Patria and Res Publica Union, with Siim Kiisler as the Minister of Regional Affairs. Most of the

² https://haldusreform.fin.ee/static/sites/3/2012/09/2001_haldusreform-kov-valdkonnas-strateegia.pdf

³ https://haldusreform.fin.ee/static/sites/3/2012/09/2003_c3b5unapuu_regionaalhalduse_reformi_projekt.pdf ja https://haldusreform.fin.ee/static/sites/3/2012/09/2003_c3b5unapuu_a_mudel_20070302040323.pdf

⁴ https://haldusreform.fin.ee/static/sites/3/2012/09/2007_reimaa_regionaalhalduse-korras-tamine-seletuskiri-22-10-07.pdf

⁵ https://haldusreform.fin.ee/static/sites/3/2012/09/haldusterritoriaalse_korralduse_reformi_seletuskiri.pdf

⁶ https://haldusreform.fin.ee/static/sites/3/2012/09/2013_kiisler_omavalitsuskorralduse-reformi-seadus_en.pdf ja https://haldusreform.fin.ee/static/sites/3/2012/09/2013_kiisler_omavalitsuskorralduse-reformi-seadus_sk.pdf

⁷ After a new government took office in 2014, with the Pro Patria and Res Publica Union left out of the coalition, the government no longer included a minister of regional affairs, and these responsibilities were transferred to the Minister of the Interior, Hanno Pevkur. The chapter on state reform in the government's 2014–2015 action plan (https://www.riigiteataja.ee/aktiis/3290/4201/4007/VV_180k_lisa.pdf) contained a separate section on local government reform ('Omavalitsusreform') envisioning the development by 2015 of a plan to clearly specify which functions would be performed at what level and how they would be financed [the action 'Concept document for local government reform specifying the appropriate levels for the execution of public functions'].

other political parties remained ambivalent about their support for administrative reform in general as well as any particular plans for a reform, and the Reform Party continued in rather clear opposition to any reform until Andrus Ansip stepped down as party leader.⁸

Therefore, when the plan for the 2017 administrative reform was unveiled, both the general public and politicians were suspicious that the new Reform Party-led government and public administration minister would be re-inventing the wheel by failing to give enough consideration to the analyses carried out in previous years and the work put in by the interior ministry.

Despite these fears, preparations for the 2017 administrative reform may still be considered an evolutionary process, the initial impetus for which dates back to 2009 and the presentation of Siim Kiisler's first plan for a county-based reform.

This does not mean that earlier experience with reform preparations, for example, that of Tarmo Loodus, was ignored or considered irrelevant. However, with all the reform plans starting from those drawn up⁹ under Kiisler's leadership, the officials⁹ and experts involved in policy making, as well as the international experience¹⁰ relied upon have largely been the same, as a result of which the

⁸ Ansip's most colourful statement on the issue went as follows: 'The formation of Estonian municipalities has been ongoing for roughly 1,500 years and by dismantling this structure we would be behaving like typical conquerors.' (*Postimees*, 24.11.2011)

⁹ The officials involved in developing this area for the longest periods of time between 2009 and 2017 were, in the Ministry of the Interior, Deputy Secretary-General for Regional Affairs Kaia Sarnet, Head of the Local Government and Regional Administration Department Väino Tõemets, Ave Viks, an adviser in the same department, Olivia Taluste, an adviser in the Regional Development Department, Sulev Valner, initially a project manager and subsequently an adviser in the Regional Administration Department as well as advisers to the Minister of Regional Affairs Aivo Vaske and Taavi Linnamäe; and in the Ministry of Finance, most notably Head of the Local Governments Financial Management Department Sulev Liivik and Andrus Jõgi, an adviser in the same department.

¹⁰ The most important international experiences on which these reform plans were modelled were the Danish administrative reform implemented in 2007 and the Finnish voluntary municipal mergers that took effect by 2009.

Mis on tõmbekeskus?

- Oluline pendelrände sihtkoht – suur osa keskuse ja tagamaa inimestest käib seal tööl või koolis ning kasutab sealseid avalikke ja erateenuseid
- **Maakonnakeskus** on kindlasti tõmbekeskus, kuid enamasti on maakonnas veel mõni selline keskus.
- Juhul, kui ca 30 minutilise autosõidu kaugusel sellist keskust ei ole, võib piirkonnas tõmbekeskuseks valida ka asula, millel on suurim **potentsiaal** reformi tulemusel selliseks keskuseks kujuneda



Minister of Regional Affairs Siim Kiisler presenting an administrative reform plan based on local commuting centres at a press conference in August 2013. The plan never gained the support of the coalition partners, as had been the case with several previous administrative reform initiatives.

Source: Toomas Huik / Postimees.

content and design process of these plans may be said to have developed continuously.

Minister of Regional Affairs Siim Kiisler submitted his first reform plan as a draft act in March 2009. According to this, the reform would be implemented through government-initiated mergers during the 2009 local elections, resulting in the formation of municipalities with populations of at least 25,000. The five larger cities with at least 40,000 inhabitants – Tallinn, Tartu, Narva, Kohtla-Järve and Pärnu – would continue as separate municipalities.

With a requirement of 25,000 residents, most local authorities would have been formed based on all the local authorities in each county, which is why this plan was described as county-based, or the 15 + 5 reform plan.

While the 2009 draft act was submitted as a result of a short-term concentrated effort by a few officials, being mostly aimed at initiating political discussion on the need for reform, or the absence of such a need, the next draft act with its explanatory memorandum in 2013 was based on a more sustained and thorough effort, including the involvement of a local government development think tank set up by the Minister of Regional Affairs and the formation of its working groups for the preparation of the reform.¹¹

At the end of 2012, the Minister of Regional Affairs submitted six models for reforming the local government system to local authorities and their representative organisations.¹² Based on the feedback

¹¹ After the legislative intent for the Local Government Organisation Reform Act had been submitted for approval, the local government development think tank, working under the minister of regional affairs, decided to form working groups consisting of representatives from ministries and associations of local authorities as well as experts in the field: a working group on democracy, one on the functions and financing of local government, and another one on local business development and employment.

¹² **The models and their support rates based on feedback were as follows:** (1) **small municipalities** (8 %) – no substantial changes would be made and the existing organisation of local government would remain unchanged; (2) **associations of local authorities** (8 %) – the existing local authorities would delegate some of their functions to associations of local authorities; (3) **two-tier local government** (3 %) – another tier of local government will be added to the existing local authorities based on current counties; (4) **medium-sized municipalities (parishes)**(11 %) – the central government would set a deadline for the formation of municipalities with at least 3,000 residents each. The mergers would be voluntary, with the government only stepping in to merge those that failed to merge on a voluntary basis. A total of 70 to 100 municipalities would remain; (5) **local commuting centres** (67 %) – the central government would provide a list of local commuting centres for the local authorities to choose which of these to merge with. Those failing to find a partner would be merged by the government. The municipalities would generally have at least 10,000 residents and would number 30 to 50. County governments would become supervisory bodies, guaranteeing balanced development; (6) **counties** (3 %) – municipalities with at least 25,000 residents would have to be formed by a set deadline, with the possible exception of Hiiumaa. Those failing to find a partner would be merged by the government. The municipalities would number 20 to 25, with the municipal borders mostly coinciding with the existing county borders.

received, work continued on the most popular model of local commuting centres, according to which the state, in cooperation with the local authorities, would name the local commuting centres with which each municipality was to be merged for the local elections in 2017.

In autumn 2013, a draft act was sent out to the local authorities for pre-approval and, at the beginning of 2014, circulated for official approval in the ministries, the Government Office and the associations of local authorities. Unfortunately, the legislative proceedings of the draft act soon came to an end with a change in government in March 2014. In the first government of Taavi Rõivas, the Social Democratic Party replaced the Pro Patria and Res Publica Union as the coalition partner and the position of Minister of Regional Affairs was also abolished, transferring the respective functions to the Minister of the Interior, Hanno Pevkur.

However, neither regional issues nor the need for a local government reform were ignored or suppressed with Rõivas' government taking office. A chapter on state reform in the 2014–2015 action plan¹³ of the new government formed by the Reform Party and Social Democrats contained a separate section on local government reform ('Omavalitsusreform') envisioning the development by 2015 of a plan to clearly specify the functions to be performed at each level and how they would be financed.¹⁴

Although at the time the Reform Party lacked both a clear vision and a mandate from the people for making any decisions on a reform, the Ministry of the Interior set out to develop a concept. For this purpose, an agreement was signed with the Estonian Cooperation

¹³ 'Government of the Republic action plan 2014–2015', Annex to Government of the Republic Order No 180 of 24 April 2014; https://www.riigiteataja.ee/akti/isa/3290/4201/4007/VV_180k_lisa.pdf.

¹⁴ By the end of 2014, two documents, 'Concept document for local government reform specifying the appropriate levels for the execution of public functions' and 'Concept document for local government reform specifying the financing of public functions', were to be drawn up.

Assembly, whose task was to analyse the current situation and propose different scenarios for solutions.¹⁵

While the document that was prepared based on the proposals never made it to cabinet discussions, as parliamentary elections brought a new government to power, it clearly had an effect on the subsequent development of the reform, in particular by establishing the Cooperation Assembly as one of the voices, which, by presenting its *Good Governance Programme*¹⁶ to the public, also helped make the inescapable need for local government reform heard.

Thanks to this, among other things, public debate on state reform and other necessary changes in public administration reached a new, more mature level, providing input for debates on these issues in the 2015 parliamentary election campaigns.¹⁷ As a result, the topic of state reform, including local government reform, made it into the action plan of Rõivas' second government, formed in April 2015. This way, the Cooperation Assembly became a partner whose expertise and constructive criticism helped to prepare the 2017 administrative reform.

The Cooperation Assembly was not alone in its vigorous efforts to highlight the need for local government reform before the elections. During the campaigning for parliamentary elections, attorney-at-law

¹⁵ Estonian Cooperation Assembly, 'Omavalitsuskorralduse ja regionaalhalduse trendid ja stsenaariumid. Ettepanekud haldusreformi kontseptsiooni sisustamiseks', 2014; https://www.kogu.ee/wp-content/uploads/2014/11/Omavalitsuskorraldus-ja-regionaalhalduse-analüüs_loplik_27.11.14.pdf.

¹⁶ The Estonian-language version of the Cooperation Assembly's *Good Governance Programme* is available at https://www.kogu.ee/wp-content/uploads/2015/12/Riigipidamise-kava-terviktekst_final_kokkuvõttega2016-1.pdf.

¹⁷ The Estonian Cooperation Assembly's annual report 2014, p. 6, https://www.kogu.ee/wp-content/uploads/2015/03/EKK_aruanne2014.pdf.

Jüri Raidla,¹⁸ the Praxis Centre for Policy Studies¹⁹ and the Estonian Employers' Confederation among others sought to draw the attention of politicians and the public to it. This was certainly part of the reason why an influential share of entrepreneurs came to support the idea of state reform and why every major political party included related issues in their election programmes.

Therefore, the debates leading up to the 2015 elections gave the 13th *Riigikogu*, unlike its predecessor, a clear mandate for the preparation and implementation of a state reform, including local government reform, and the relevant key tasks were defined in the government's action program.

Dilemmas faced in designing the reform

After the 2015 elections, coalition talks yielded certain political agreements, which were recorded in the coalition agreement²⁰ and reaffirmed in the government's action plan, thereby becoming a reference point for the reform preparations. However, there was no previous political agreement on many of the principles of the reform, and these were only subsequently elaborated by officials and during political negotiations (carried out by the Minister of Public Administration within his own party and with the representatives of other factions in the *Riigikogu*).

For example, while a number of experts and documents raised the important state reform-related question of whether the future would see a strongly centralised state model whereby the central government would take over some local public services or whether, by contrast, the intention was to give more power to local authorities, the government's

¹⁸ J. Raidla, 'Riigireformi kava ehk kümme käsku' – *Maaleht*, 21.1.2015, <http://maaleht.delfi.ee/news/maaleht/uudised/juri-raidla-riigireformi-kava-ehk-kumme-kasku?id=70510571>.

¹⁹ Praxis, 'Valimised 2015. Teemapaber riigivalitsemise reformist', <http://www.praxis.ee/wp-content/uploads/2015/02/riigivalitsemise-reformi-teemapaber.pdf>.

²⁰ Agreement between the Estonian Reform Party, the Social Democratic Party and the Pro Patria and Res Publica Union on the formation of a government and the fundamentals of the coalition action plan of 8 April 2015, <https://www.reform.ee/koalitsioonilepe-2015-2016-re-sde-irl>.

action plan failed to give a straight answer to that question. What had been agreed was that a local government reform would be carried out and that the necessary legislative amendments, including the timetable for the reform, would be adopted by law by 1 July 2016 at the latest.

It had already been laid down in the coalition agreement that the reform would be implemented in two stages, starting with voluntary mergers, supported with doubled merger grants and completed for the 2017 local elections, which were to be followed by government-initiated mergers. There was political agreement that 'objective and unambiguous criteria' for assessing the need for mergers would be set out and would serve as the basis for the implementation of the administrative reform.

The government's action plan was the main signpost for policy makers from both the Minister of Public Administration and the Ministry of Finance in preparing and implementing the reform. The first major dilemmas on which there was previously no clear political agreement concerned the more specific timetable and criteria for the reform.

As concerns time schedule, one of the options considered was government-initiated mergers leading up to extraordinary elections a year after the regular elections following voluntary mergers, but this solution was ruled out by both the legislation regulating elections, which did not allow for extending the councils' mandate,²¹ and the possible negative impact on the management and organisation of the local authorities in question during this interim period.

In the early stages of preparations for the reform, more comprehensive disputes focused on the 'objective and unambiguous criteria' agreed upon in the government's action program. The decisions were made step by step and the first political agreement reached in

²¹ The Estonia constitution does not allow municipal council mandates to be extended, unlike in Denmark, for example, where two types of councils operated during the preparations for mergers: the councils of the merging municipalities handled daily politics and the new municipal councils were in charge of preparing the strategic development of the new municipalities.

the cabinet in light of proposals from the expert committee was that the reform would be based on population size as the criterion, rather than some other, more abstract indicator. This was also recorded in the government's supplemented action plan. In reaching this decision, a significant role was played by the expert committee on administrative reform, which produced its reasoning and proposals for implementing a population-size criterion, and subsequently proposed specific criteria.

In addition to those provided in the action plan, the political reality itself offered certain guidelines that could be relied on. One of these was to maintain a one-tier local government system, as there was no political will to restore a two-tier system with the reform.

The area causing the greatest amount of uncertainty, on the other hand, was the reorganisation of county governments, on which there was no previous political agreement or clear common ground between the political parties,^{22, 23} and there was also a lack of clarity as to the scope and content of the specific functions to be transferred from the state to the local authorities, on which the guidance provided in the government's action plan was vague. On these issues, solutions emerged in the course of the process.

Perhaps the greatest change that occurred during the process was related to the function of developing the local business environment – the plan was to make it a shared responsibility for local authorities. The

²² While the elements of the reform that concerned county governments (the updating of county governments' supervisory functions, the transfer of functions from county governments to local authorities, and the harmonisation of national sectoral and regional administration) were already included in the coalition agreement and the concept document for the administrative reform, there was at that time no political agreement or readiness to abolish county governments.

²³ For example, there were strong advocates of increasing the role of county governments within the Social Democratic Party, while the Reform Party started out leaning towards reducing the number of county governments and centralising their functions. There were also differing views on whether the county governments' functions should be taken over by the local authorities, accumulating more power as a result, or by county-level associations of local authorities.



In autumn 2015, a number of discussions on administrative reform were held in various counties, with participants communicating their expectations of Estonia's future municipalities.

Two photographs showing a discussion in Valgamaa.

Source: Arvo Meeks / Valgamaalane.

main reason for the change was that there was no political agreement on the input for this process; the solution developed by the officials ultimately proved politically untenable and was adapted to the expectations of decision makers and various stakeholders.

The reform ended up not providing a solution for the harmonisation of territorial and sectoral administration at the county level or the harmonisation of development and spatial planning, including improved synchronising of county-level development planning with the national strategic planning process.

Another solution found in the course of the work was the additional compensation paid to outgoing municipal mayors, which, following the Finnish example, had already been included in the draft Local Government Organisation Reform Act drawn up by the Ministry of the Interior in 2013.

Concept for the 2017 administrative reform

According to the action plan of Taavi Rõivas' second government,²⁴ the principles of the administrative reform, including the timetable, were initially supposed to be set out in a concept document for the administrative reform, which was to be completed by October 2015, or six months after the new government was formed.

Based on the concept document approved by the government, a draft act was to be prepared by the Minister of Public Administration within five months, by February 2016. The concept document was intended to describe fundamental solutions and principles that would serve as a basis for drafting further legal acts, which, in turn, would undergo legislative proceedings once the government had approved the Administrative Reform Act.

²⁴ Taavi Rõivas' second government was formed by the Reform Party, the Social Democratic Party, and the Pro Patria and Res Publica Union; it was in office from 9 April 2015 to 23 November 2016.

The concept document set out in more detail the goals and timetable of the reform, as well as the process for the merging of municipalities (the relevant criteria and exceptions to their implementation, increases in merger grants, execution of government-initiated mergers and organisation of elections); in somewhat less detail and more in terms of general principles, the document also described changes in cooperation between local authorities (regulation of joint agencies of local authorities and strategic cooperation at the county level) and possible additional functions (development planning and public transport management to be taken over from county governments and the new responsibility for developing the business environment along with possible functions transferred from the state). In terms of goals and the general approach, the transfer of functions was described through specific examples – no concrete, exhaustive list was provided.

The concept document also contained alternatives for amending the system for local government financing. These were divided into proposed changes in taxation (tying personal income tax to the place of employment, increasing autonomy with respect to land tax, and possibly imposing a new tourist tax) and proposals for amending equalisation and support fund policies (changing the policy for allocating support from the equalisation fund and linking allocations to the place of employment, allocating support fund grants through income tax and the equalisation fund, and support for teachers' salaries).

The concept document also addressed changes in territorial and community management within municipalities (amendments to the rules governing municipal districts and village elders).

The final part of the concept document was devoted to possible changes in regional administration: the transfer of functions from county governments to local authorities, the modernisation of supervisory functions (division between ministries or consolidation at the regional level), and the harmonisation of sectoral and territorial management.

After the concept document had been drawn up, the drafting of two plans – one for local government reform, or administrative reform, and another for the reorganisation of county governments – continued separately, as the experts involved in policy-making and the partners were different. The reorganisation of county governments was considered part of a larger state reform project, while local government reform was a separate topic with a separate team.

Nevertheless, the two were planned in parallel and major changes in regional administration were also discussed with the officials and experts involved in the planning of the local government reform, as well as partners and local authorities.

The proposed process envisaged that, after the concept had been approved, the Administrative Reform Act as framework legislation sufficient in itself for implementing the reform would go through legislative proceedings first, followed by the necessary legislative amendments in specific areas.

The Administrative Reform Act itself was to focus on the process, with minimum regulation of specific issues, such as the division of functions or financing. While the latter changes were to be prepared and processed in accordance with the directions and principles set out in the concept document, this was to be done separately by the relevant ministries and experts; that is, not during or as part of the legislative procedure for the Administrative Reform Act, but as a next stage.

In reality, this did not go quite according to plan, largely because the government was not ready to make choices on specific issues at such an early stage or to adopt the fundamental principles for the reform presented in the concept document at the very beginning of the process. First, there was a slight delay in the discussion of the principles and the approval of the concept document. The

administrative reform concept²⁵ was finally discussed at a cabinet meeting in November 2015 and the only principle that was approved was the minimum criterion of 5,000 residents, along with the exceptions to it; there was no political debate on the other principles and no decisions were made. The concept document was formally acknowledged, rather than approved.

For the most part, then, the concept remained a 'working document' of the Ministry of Finance; in contrast to what had been planned, the debate about the principles and solutions presented in the document did not take off.

Largely because of this, it was only the more specific part of the concept – the part discussing the goals and time schedule for the reform, its criteria and the municipal merger process – that would ultimately be implemented. Its proposals on joint municipal agencies as well as changes in territorial and community management within municipalities also resulted in legislative amendments (amendment of the provisions governing municipal districts as well as some additions to the provisions applying to village elders).

Unfortunately, though, the proposed solutions for strategic cooperation, which also concerned broader, regional-level changes in the system for development planning, did not materialise. The further integration of the national strategic planning system and the regional development processes led by the local authorities was in fact the only theme in the concept that was completely abandoned. The rest of the themes that were described in more general terms and without clear solutions in the concept document were specified in more detail and found a definitive solution in the course of subsequent work and political negotiations.

²⁵ Draft concept for the administrative reform (17 December 2015); https://www.rahandusminis-terium.ee/sites/default/files/document_files/kov/151218_haldusreformi_kontseptsioon.pdf.

Although the designers of the reform did rely on the principles and choices presented in the concept document when preparing the amendments,²⁶ the solutions deriving from them were never formulated in any detail, as the principles and choices had not been politically endorsed. Therefore, the criticism from politicians at state and municipal levels as well as from experts – that the content of the reform was ambiguous and the consequent substantive changes unknown – was more or less justified. This was certainly an obstacle to holding substantive dialogues during the preparation of the reform.

However, given the change in government and the responsible ministers, the fact that no political agreement on all specific issues was reached right at the outset may be considered positive in retrospect, as such agreements could have been breached later on, which could have damaged the process more than agreeing on specific issues step by step, which is what happened in the course of the reform.

Although useful for structuring the process, the decision to first adopt the act regulating the entire process and only then the legislation providing for the solutions for specific issues made it difficult to explain the reform to the target group; this was one of the most attacked aspects of the plan from the very beginning – by heads of local government, other ministries and members of the *Riigikogu* – as several target groups did not support the Administrative Reform Act, because it did not contain all the specific substantive changes that the reform would involve.

The Administrative Reform Act

The Administrative Reform Act was intended to lay down a framework for the implementation of the reform. Incidentally, there was also heated debate over the title of the act, both in the Ministry of Justice and, subsequently, in the Constitutional Committee of the *Riigikogu*.

²⁶ The government approved only the timetable and criteria set out in the concept document.

The act, which in the end would still be titled the Administrative Reform Act, established the purpose of the administrative reform,²⁷ the criteria for the minimum population size (at least 5,000 residents) and the recommended population size for a municipality (the Government of the Republic seeks to support the formation of larger municipalities, with at least 11,000 residents or incorporating entire counties), as well as exceptions (for municipalities with a large territory or cultural specificities and for those on the islands).

The Act also set out the different stages of implementing the administrative reform (the stage of mergers initiated by municipal councils, followed by the stage of government-initiated mergers of municipalities that failed to meet the criteria) and a precise timetable.

The deadline for the completion of the voluntary stage of the administrative reform was set at 1 January 2017. By that date, the municipalities that sought to initiate a merger were to submit a merger application to the relevant county governor; the central government had until 1 February 2017 to approve the mergers. The deadline for government-initiated mergers was 15 July 2017, by which time the mergers had to be approved by government regulation.

In order to encourage mergers, the rate of merger grants²⁸ for municipalities that met the relevant criterion was doubled and social benefits put in place for outgoing heads of local government.²⁹

²⁷ The Ministry of Justice proposed the title 'Administrative-Territorial Reform Act'.

²⁸ Merger grants would be paid to those municipalities that opted for a voluntary merger in 2016. The rate of merger grants for municipalities meeting the minimum population size criterion was 100 euros per resident of the merging municipalities (instead of the standard 50 euros). The minimum merger grant sum was 300,000 euros and the maximum 800,000 euros for each merging municipality (as opposed to the standard amounts of 150,000 and 400,000 euros). As a one-time bonus, a municipality that either had at least 11,000 residents or incorporated an entire county as a result of a merger would receive an additional 500,000 euros.

²⁹ The social benefits for municipal leaders stepping down as the result of a merger were enhanced by increasing their severance pay from 6 to 12 months' salary for those that had held office for more than a year, and to 6 months' salary for those that had served for less than a year.

The reform process and the two-step approach formulated in the Act were modelled on the recent experiences of neighbouring countries³⁰ and relied on the general logic of reform, which by definition involves comprehensive change or innovation and therefore cannot be implemented without using some carrot as well as some stick. Voluntary mergers have taken place in many countries, but there was no precedent for systematic reform on a voluntary basis that reform designers could use as a model. At the same time, well-designed reform processes that are explained to the target groups and based on acceptable rules may be perceived as voluntary despite the presence of explicit legislative sanctions. This was how then municipal leaders perceived the 2007 local government reform in Denmark, for example.

Therefore, the legislation first provided municipalities with the opportunity to prepare for mergers according to explicit rules and a clearly defined timetable, and failing that, the government was given a clear mandate to decide on mergers on its own initiative. This had already been a theoretical and legal possibility under the Territory of Estonia Administrative Division Act adopted in 1995, but so far, there had been a lack of political will to apply this provision. According to the Chancellor of Justice, the provision was so general and incomplete as to be inapplicable in practice without additional regulation.³¹

The concept document for the administrative reform was intended to describe fundamental solutions and principles that would serve as a basis for drafting amendments to area-specific legislation after the government

³⁰ The most important international experiences on which these reform plans were modelled were the Danish administrative reform implemented in 2007, the voluntary municipal mergers in Finland that took effect by 2009 and, to a lesser extent, the 2009 local government reform in Latvia.

³¹ 'The Territory of Estonia Administrative Division Act does not allow for ... coercive merging independently of the Administrative Reform Act, as it does not contain the necessary norms to substitute for the actions and declarations of intent by a municipal council that refuses a coercive merger, which the Administrative Reform Act does contain.' Quoted from Chancellor of Justice letter No 9-2/161053/1603836 'Supplementary opinion in Constitutional Review Case No 3-4-1-3-16' of 22 September 2016.

had approved the Administrative Reform Act. This would have allowed the Administrative Reform Act to focus on principles and process.

In reality, however, some more detailed amendments were introduced into the Act, including amendments to regulations on the formation of municipal districts and electoral districts, as well as some organisational matters relating to local government management, which had previously been addressed in merger agreements in the case of voluntary mergers. This was due to both a practical need (including the elimination of contradictions with the Administrative Reform Act) and political agreements (e.g. that amendments to the regulation on municipal districts would already be included in the Administrative Reform Act, rather than waiting for amendments to specific legislation).

Amendments to specific legislation to support the objective of the administrative reform

Due to time pressure as well as political and administrative pragmatism, the process was planned so that first the Administrative Reform Act would be adopted to regulate the general process, after which specific amendments to the performance of local government functions and financial arrangements would be prepared. Therefore, this area-specific legislation³² was anxiously awaited by stakeholders and decision makers, as well as partners, experts and policy observers.

As the functions, financing and cooperation opportunities for local authorities had been analysed in the course of preparing several previous reform programmes, the Ministry of Finance submitted its proposals

³² 'Area-specific legislation' (valdkonnaseadused) is a term that was used for a set of legislative amendments prepared after the Administrative Reform Act. These derived from the administrative reform concept document and were necessary to support the objective of the administrative reform. As the amendments to the financial arrangements primarily concern the state budget and state budget strategy and are long-term, the relevant act mainly regulates cooperation between local authorities (joint agencies), the organisation of county-level development planning, changes in the organisation of county public transport and amendments to the organisation of county-level associations of local authorities.

for possible changes to the concept of administrative reform, and did not plan for additional analysis. Instead, it waited for the positions of the other ministries on the submitted proposals. Amendments were planned in the three main areas of cooperation between local authorities, additional local government functions and local government finances.

In order to enhance cooperation, there were plans to include regulation of joint agencies in the legislation, which the Ministry of the Interior began to prepare as early as 2013.

The three major changes that were prepared during the entire process and ultimately realised were related to county development planning, the development of the business environment and the organisation of regional public transport, which up to then had been the responsibility of county governments.

County-level development planning as described in the concept document was almost fully incorporated into the draft Act, although the accompanying changes in the national strategic planning process were not as significant as envisaged in the concept document (which tied county-level development planning directly to the national strategic planning process).

The development of the business environment, on the other hand, was envisaged as a separate function in the concept document, and was also treated as such during most of the planning process, but since the central government had not performed this function in that form, it was not clearly regulated or funded. As a result, no agreement was reached on the definition or financing of this function, and entrepreneurship-related tasks were not assigned as a shared function to local authorities in the course of the reform.

Regarding the transfer of the function of regional public transport organisation, the concept document already outlined a solution (transferring this function to regional public transport centres), which was adopted as a goal, so that the disputes and agreements already focused on more detailed organisational issues regarding the establishment



The first meeting of the administrative reform expert committee on 29 May 2015.
Source: Ministry of the Interior

of public transport centres, including their number, management and transfer of functions. The discussions were complicated by the fact that the coalition agreement required the government to plan these changes in parallel with the development of a free public transport scheme.

The process of transferring the other essentially local government functions away from the central government as stipulated in the coalition agreement and the government's action plan was more ambiguous. The Ministry of Finance proposed a variety of options to the other ministries, which, however, rejected most of these on account of their hindering the effective implementation of sectoral policies.³³

³³ Examples include the proposal, in social welfare, to transfer responsibility for the organisation and financing of certain services (childcare, periodic benefits for people with disabilities and childbirth allowances) from the national government to the local authorities or, in transport, to transfer some national roads with the relevant funds.

During the process, the transfer of various national responsibilities was considered in varying degrees of seriousness and detail,³⁴ but the reform brought no major changes in the responsibilities of local authorities.

On the one hand, the difficulty was that the abstract 'transfer of state functions' was not aimed at solving a specific or clearly defined problem, which is why many officials and even politicians themselves failed to grasp the need for achieving this goal.

On the other hand, this was exacerbated by the fact that the cause of the problems is the performance of functions that suffer from a lack of funding (or the complete absence of state funding). As a result, the ministries were particularly interested in transferring functions that were performed inadequately due to the absence of regulation (performance obligation) or funding, rather than well-functioning state-funded services.

In order to accelerate the process of transferring state functions, which had stalled due to the indifference of the relevant ministers and ministry officials, the Prime Minister took the initiative in early 2016 and planned a special government session to discuss the transfer of functions. After that, negotiations with the ministries intensified and serious discussions were held with the Minister of Education for the transfer of teachers' salary funds as well as some vocational schools and state-run upper secondary schools to local authorities. However, no specific agreements were reached on any significant transfer of functions; in social welfare, it was agreed that the funding of periodic benefits for people with disabilities and substitute care would be transferred to local authorities. In education, further analysis of possible changes was to be continued after the implementation of the administrative reform.

The decision-making and implementation of changes in funding have been gradual and are still ongoing.

³⁴ Examples include the transfer of responsibility for primary healthcare institutions, organising special welfare services, managing state forests, previously state-run upper secondary schools and vocational schools, as well as running county museums and theatres.

The administrative reform expert committee and its role in the reform process

As mentioned, the Expert Committee on Administrative Reform has contributed to the preparation of the reform. The expert commission responsible for advising on the implementation of administrative reform was formed by the Minister of Public Administration, Arto Aas, about a month after the new government took office in April 2015. Confirming the evolutionary nature of the preparations for the reform, the committee members were largely the same as those of the local government think tank and its working groups formed by the then Minister of Regional Affairs, Siim Kiisler, in 2012 and 2013.

Starting shortly after the formation of the new government, committee meetings took place from May 2015 through to 2017, numbering more than ten in total. The committee played a particularly important role in formulating the reform goals at the early stages of the reform and in proposing criteria. At that time, the committee met every month.

The government relied on the reasoning and proposals of the experts on the committee in deciding to base the reform (solely) on criteria for minimum population size as well as to stipulate 5,000 residents as the mandatory and 11,000 inhabitants as the recommended limit.³⁵

The government's role in the design process

The government's role in preparing the reform can be assessed in different ways. The fact that the government committee preparing the administrative reform under the leadership of the Prime Minister, which was formed at the start of the process, only met twice and failed to become an important arena for the preparation of the reform, does not mean that the government played a weak or non-existent role. Although some

³⁵ The experts also did not reach unanimous agreement on specific figures, but during the committee's discussions, their views converged sufficiently, so that the committee decided to propose to the government three different figures – 3,500, 5,000 and 11,000 – all of which were subsequently put to use.

critics have claimed this to be so, the author of this article cannot help but disagree; for the Prime Minister(s) to assume a greater role in leading the reform, the Government Office would have needed an official or even an entire unit dedicated to this, thus essentially duplicating the work of the Public Administration Minister's team and blurring the lines of responsibility.

Looking back, both Prime Ministers (first Taavi Rõivas and then Jüri Ratas during the completion of the reform) can be said to have been very good at fulfilling their roles, keeping themselves apprised and capably leading the way toward reaching substantive agreements. Initially, it took some time to put the issues on the government's agenda (and this also happened later on during the process), but it should be taken in consideration that the ongoing state reform and preparations for the Estonian Presidency of the Council of the European Union understandably increased the government's workload alongside everyday work.

The administrative reform was repeatedly discussed by the government, step by step, mostly in cabinet meetings, but also in several government sessions. The cabinet first discussed the objectives, timetable and principles of the reform in July 2015, approving the timetable and the approach based on a minimum population size criterion as well as the doubling of merger grants. The rest of the fundamental principles for the reform were only formally acknowledged at that time.

The cabinet discussed the concept document again in November 2015, approving the 5,000-resident criterion and the exceptions to it. No decisions were made on the other principles established in the concept document; formally, the concept was duly noted, rather than approved. Still, the government did approve those aspects that were necessary for the preparation of the Administrative Reform Act, and the draft Act was completed in a month, by December 2015.

In 2016, the government repeatedly discussed the planned changes that the administrative reform would involve. In February, the government discussed the financing of local authorities; in March, the draft

Administrative Reform Act was approved. In July, a memorandum for the amendment of area-specific legislation to support the implementation of the administrative reform objectives was debated in a cabinet meeting. This debate was repeatedly postponed during the summer and the government approved the principles for amending the specific legislation only at the end of August, ordering the Ministry of Finance to submit the relevant draft act by December 2016.

The draft act was ready by the end of October 2016 and was circulated for approval. However, with the appointment of a new government, led by Jüri Ratas, the procedure was put on hold for a time, and resumed under the leadership of the new Minister of Public Administration. Some substantive additions were also made (in particular, amendments to the organisation of public transport³⁶ and the exclusion of the development of the business environment³⁷). The government approved the draft Act Amending the Local Government Organisation Act and Other Acts Related to the Implementation of the Administrative Reform and submitted it to the *Riigikogu* in April 2017, just under five months after taking office. The legislative proceedings in the *Riigikogu* took less than two months; the Act was adopted on 14 June 2017 and entered into force on 1 January 2018.³⁸

Conclusion

Preparations for the administrative reform began in April 2015, as the new government led by the Reform Party and a public administration minister from the same party took office. The preparation process was led by three different ministers until its completion in July 2017 when the government approved the last ongoing mergers that it had initiated. As governments

³⁶ The obligation to establish, or join existing, regional public transport centres was imposed on the local authorities of all municipalities, except Saaremaa and Hiiumaa.

³⁷ The joint obligation for local authorities to develop the business environment was taken out of the draft Act.

³⁸ <https://www.riigiteataja.ee/akt/104072017002>

changed, the Reform Party's Arto Aas was succeeded by Mihhail Korb (Centre Party) in November 2016, and after his resignation in June 2017, Jaak Aab (Centre Party) led the reform preparations to their completion.

In retrospect, the preparatory period of just over two years may be considered optimal. There is always room for criticism – that not enough time was spent on preparation, not enough stakeholders were involved and the analysis was insufficient. However, the longer the preparation period, the more likely it is that changing political circumstances and coalitions bring the process to a halt. This has happened more than once before.

With this reform too, when governments changed, local authorities expected that the Centre Party-led government would not continue with the reform or, if it did continue, would only implement the voluntary stage. All the more so, given that during her presidential campaign, the Centre Party's candidate quite openly and explicitly conveyed to the heads of local government her opposition to the administrative reform in its present form. Ambiguous statements by the new Centre Party ministers also helped some heads of local government develop the belief that their municipalities would not be merged after all.

The main obstacles to the reform process were the change of government and the fact that the Supreme Court did not reach a decision on the Administrative Reform Act, which was contested by 26 municipalities in the summer and early autumn of 2016, until just before Christmas 2016, or shortly before the end of the voluntary stage of the reform. According to several experts, without these circumstances, the share of locally initiated mergers would have been significantly higher, given that some municipalities had unfortunately suspended preparations, expecting the Supreme Court to declare the Administrative Reform Act unconstitutional, and did not have time to complete the process after the judgment to the contrary was handed down.

What could have been done differently or better in terms of those parts of the reform process that, unlike the change of government or

the Supreme Court's deliberations, were under the control of officials and politicians?

Contrary to one of the most common criticisms, the reform process and its outcome were certainly not impacted by insufficient analysis of the existing situation. Another typical criticism of all policymaking is that there is a lack of stakeholder engagement. While the preparations for the 2017 reform placed a great deal of emphasis on engagement, it often emerged that the information disseminated at meetings with heads of local government as well as through information letters or leaflets had not quite reached all the heads of local government, let alone other officials. A typical engagement dilemma may be to blame here: if engaged too early, the stakeholders are dissatisfied because the message is vague, with no firm decisions or promises; however, if engaged too late, after the decisions are already made, they can only be apprised of these, but their feedback cannot be used to shape the decisions.

Although the administrative reform concept document was ready and had been presented to the government as early as the end of 2015, it still lacked sufficient weight, as the government had not approved it, nor did it offer ready-made solutions for all the components of the reform. Meetings would reach a stalemate because of a lack of information or criticisms about the transfer of responsibilities or changes in financial arrangements, which were not yet politically decided; the general principles and plans alone did not provide enough certainty to support the reform. Another major reason was the considerable distrust that exists between the central government and local authorities, whereby plans that have been prepared but not yet approved by the government are treated with particular scepticism and are not accepted.

It cannot, then, be said in retrospect that there should have been more engagement. However, the engagement process could have been more effective had the government initiated a political debate earlier and formally approved the guidelines for the remaining issues addressed in the administrative reform concept document at the end of 2015 and had

the Ministry of Finance, together with its partners, started work accordingly. This would have allowed the avoidance of entanglement in disputes over responsibilities and financing in the course of the legislative proceedings for both the Administrative Reform Act and, subsequently, the area-specific legislation (as this also did not address the relevant changes to financial arrangements).

Furthermore, debates over financing and the transfer of responsibilities to local authorities could have been more in-depth and more thoroughly prepared if the government had included this in its agenda by the end of 2015, rather than in August 2016. On the other hand, this would have allowed for less flexibility in deciding on the specifics of the reform as governments and ministers changed.

In conclusion, the preparations for the reform can be evaluated as adequate or good; the same assessment has repeatedly been given to preparations for the administrative reform by the State Reform Radar initiative, led by the Praxis Centre for Policy Studies.³⁹

The way in which the changes that were prepared and implemented in the course of the reform affect the organisation of local government and people's everyday lives is a separate issue and deserves a separate collection of articles.

³⁹ <https://www.reformiradar.ee/hinnangud/>