

The Execution of Government-Initiated Mergers

KAIE KÜNGAS

Ministry of Finance

According to the Administrative Reform Act, the councils of all municipalities with fewer than 5,000 residents were required to submit an application to the relevant county governors by 1 January 2017 for the alteration of administrative-territorial organisation (that is, for a merger). Thereafter, by 15 February, the Government of the Republic was to initiate mergers of those municipalities that still had fewer than 5,000 residents – the minimum size of a municipality provided for in the Act and referred to below as the minimum size criterion – in order to ensure compliance with the criterion.

The aim of government-initiated mergers was to ensure the completion of the reform if municipal councils failed to agree on mergers required by the Act. This also set a clear deadline for municipal council-initiated mergers, allowing enough time for their completion, so that by the local elections in October 2017, the new administrative-territorial organisation would be in place and mergers initiated by municipal councils would not be held up by potential court disputes.

After the first stage of mergers, initiated by municipal councils, the government was to make merger proposals to all municipalities with fewer than 5,000 residents. It could also make a merger proposal to municipalities with more than 5,000 residents if this was necessary for merging some of its neighbouring municipalities that fell short of the minimum size criterion. The Act only provided for a few possible exemptions for the government when it did not have to initiate a merger. For example, the government could decide not to initiate mergers of maritime island municipalities with fewer than 5,000 residents or low-density municipalities with very large areas.

However, the government did have the right, after receiving feedback from local authorities on its proposals, not to proceed with a particular merger, based on counterarguments presented by local authorities if the merger did not have a positive effect on the circumstances listed in the Territory of Estonia Administrative Division Act¹.

The need, considerations and justifications for government-initiated mergers are described in more detail in the article 'Principles and Legislative Choices Underlying the Administrative Reform' by Olivia Taluste.

¹ Both local authorities and the central government were required by Article 7(5) of the Territory of Estonia Administrative Division Act to consider the following when making proposals to initiate mergers: (1) historical reasons; (2) effect on residents' living conditions; (3) residents' sense of cohesion; (4) effect on the quality of public services; (5) effect on administrative capacity; (6) effect on demographic situation; (7) effect on the organisation of transport and communications; (8) effect on the business environment; (9) effect on the educational situation; and (10) effect on organisational functioning of the municipality as a common service area.

The situation after the stage of mergers initiated by municipal councils

At the stage of mergers initiated by municipal councils, 160 local authorities in 47 merger areas had submitted merger applications (including the formation of the rural municipalities of Saue and Tõrva, which were approved by the government in July 2016, right after the Administrative Reform Act had entered into force).

The government approved the mergers of 157 municipalities in 46 areas. The government could not approve a merger application submitted by the authorities of three rural municipalities – Rapla, Raikküla and Kaiu – at that stage, as Kaiu rural municipality lacked a shared border with the other two. Instead, the government initiated an additional merger to merge Juuru rural municipality (which was situated between the others and did not meet the minimum size criterion) with the above-mentioned municipalities.

There were several reasons why some municipal councils failed to initiate mergers.

- Although merger negotiations were held, no consensus was reached on the terms and conditions of the merger agreement. Thus, at the end of the year, a decision was taken not to merge (e.g. the rural municipalities of Lügánuse, Illuka and Koeru).
- Some local authorities were against the administrative reform in principle and hoped that it would be possible to continue without being merged by government despite not meeting the minimum size criterion (e.g. Loksa city and Nõo rural municipality).
- In 2016, some local authorities filed an application with the Supreme Court to declare the Administrative Reform Act unconstitutional, and refused to participate in negotiations while proceedings were ongoing (e.g. the rural municipalities of Juuru, Pala and Luunja). Several local authorities waited for the final result of the proceedings of the Supreme Court and had suspended merger negotiations until then, expecting a positive decision with regard to their application.

- Some municipalities were willing to merge with neighbouring municipalities, while the latter either refused to participate in the merger negotiations entirely or to finalise the merger (e.g. Tabivere rural municipality, Kallaste city).
- Other local authorities did start merger negotiations at the end of 2016, but could not complete them due to the requirements set for the procedure (e.g. Tähtvere rural municipality, which decided to end negotiations with the rural municipalities of Tartu and Laeva in November 2016, and to start negotiations with Tartu city).
- A few merging municipalities failed to meet the minimum size criterion, as some of their negotiation partners decided against the merger at the end of 2016 (e.g. the rural municipalities of Iisaku, Alajõe, Mäetaguse and Tudulinna due to the negative decision of Illuka rural municipality; the rural municipalities of Toila, Kohtla and Kohtla-Nõmme due to the negative decision of Jõhvi rural municipality.)
- Yet other municipalities could not find additional partners with which they would have had common ground for their merger negotiations (e.g. the rural municipalities of Kõlleste, Kanepi and Valgjärve, or the rural municipalities of Antsla and Urvaste).

Local authorities could apply for exemptions from the application of the criterion for the minimum number of residents only at the stage of mergers initiated by municipal councils. The councils of the municipalities that were eligible for exemptions had to submit an application to the relevant county governor by 1 January 2017, explaining how they would ensure quality public services and increased capacity without a merger. By the deadline, such applications were submitted by the maritime island municipalities of Kihnu, Ruhnu, Muhu and Vormsi, and the rural municipalities whose mergers would result in low-density municipalities with large territories, such as Saarde and Surju (whose merger resulted in Saarde rural municipality), and the rural municipalities of

lisaku, Alajõe, Mäetaguse and Tudulinna (whose merger resulted in Alutaguse rural municipality).

The government decided to satisfy the applications for an exemption of all island rural municipalities. Although the relevant regional committee made a proposal to merge Ruhnu rural municipality (a separate island) with the merging municipalities on the island of Saaremaa, the government decided to apply an exemption, taking into account the remoteness of Ruhnu from Saaremaa and the mainland. Consequently, although the four maritime island municipalities did not meet the minimum size criterion, the government did not make a merger proposal to them.

The government-initiated mergers for 26 municipalities that did not meet the criterion and that had not submitted merger applications to the relevant county governors by 1 January 2017 are as follows: the cities of Kallaste (844 residents), Loksa (2,738 residents) and Paldiski (3,806 residents), and the rural municipalities of Emmaste (1,241 residents), Illuka (1,072 residents), Juuru (1,462 residents), Kambja (2,586 residents), Keila (4,906 residents), Koeru (2,111 residents), Luunja (4,251 residents), Lügánuse (2,945 residents), Meremäe (1,075 residents), Mikitamäe (985 residents), Nõo (4,170 residents), Padise (1,740 residents), Pala (1,089 residents), Puka (1,556 residents), Pöide (876 residents), Pühalepa (1,590 residents), Rakke (1,626 residents), Tabivere (2,240 residents), Tõstamaa (1,310 residents), Tähtvere (2,609 residents), Vasalemma (2,498 residents), Väike-Maarja (4,486 residents), and Värska (1,371 residents).

Apart from these, there were ten municipalities that would not have met the criterion set by the Administrative Reform Act even after mergers initiated by their municipal councils:

- (1) Alutaguse rural municipality (formed as a result of the merger of the rural municipalities of lisaku, Alajõe, Mäetaguse and Tudulinna, 3,968 residents);
- (2) Narva-Jõesuu city (formed as a result of the merger of Vaivara rural municipality and Narva-Jõesuu city, 4,772 residents);

Merger proposals made by the Government of the Republic

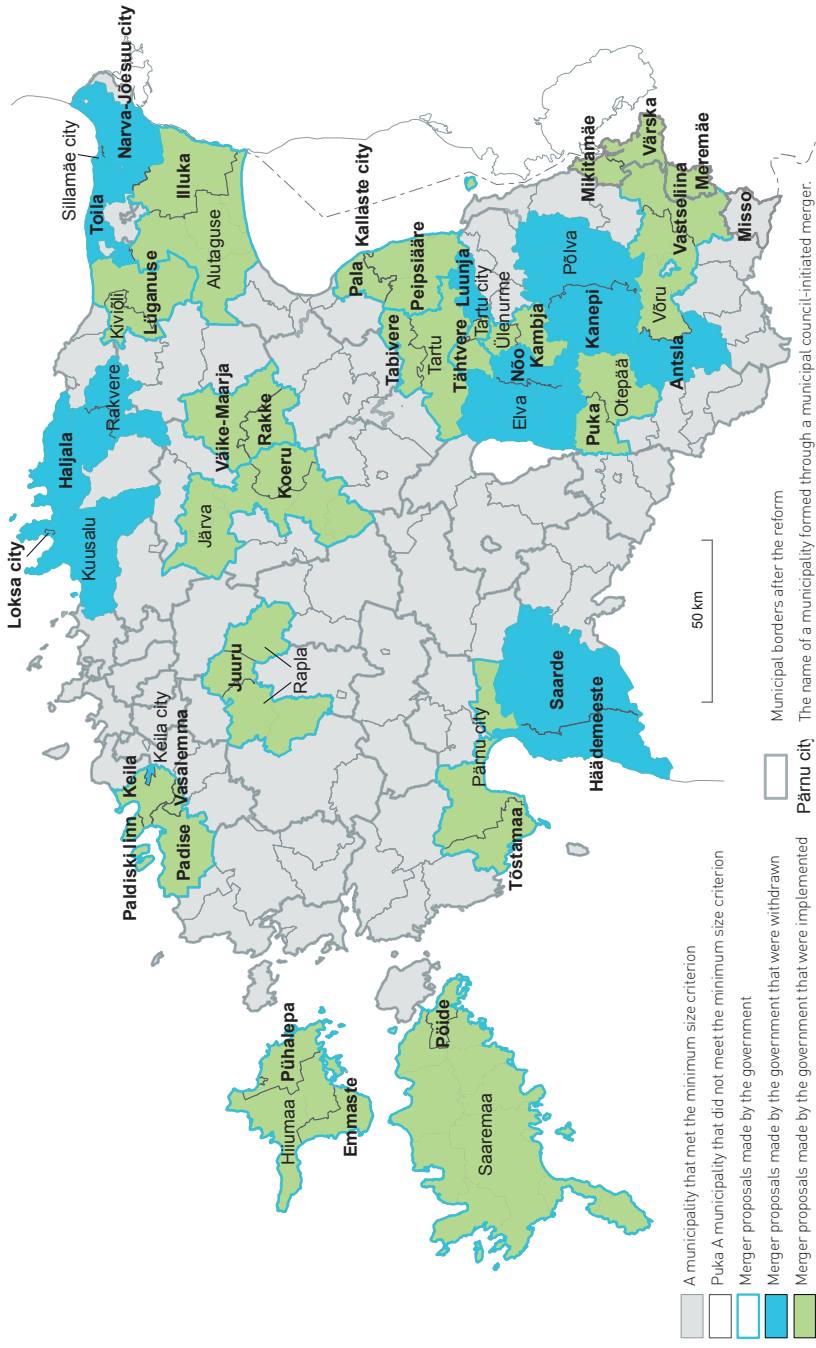


Figure 1. A majority of the mergers proposed by the government were implemented, while some were withdrawn after hearing the views of the local authorities concerned.

- (3) Toila rural municipality (formed as a result of the merger of the rural municipalities of Toila, Kohtla and Kohtla-Nõmme, 4,849 residents);
- (4) Haljala rural municipality (formed as a result of the merger of the rural municipalities of Haljala and Vihula, 4,389 residents);
- (5) Kanepi rural municipality (formed as a result of the merger of the rural municipalities of Kõlleste, Kanepi and Valgjärve, 4,962 residents);
- (6) Häädemeeste rural municipality (formed as a result of the merger of the rural municipalities of Häädemeeste and Tahkuranna, 4,982 residents);
- (7) Saarde rural municipality (formed as a result of the merger of the rural municipalities of Saarde and Surju, 4,873 residents);
- (8) Peipsiääre rural municipality (formed as a result of the merger of the rural municipalities of Alatskivi, Vara and Peipsiääre, 3,843 residents);
- (9) Antsla rural municipality (formed as a result of the merger of the rural municipalities of Antsla and Urvaste, 4,649 residents);
- (10) Vastseliina rural municipality (formed as a result of the rural municipalities of Vastseliina and Orava, 2,690 residents).

For all these municipalities, the government initiated, as required, additional mergers so that they would meet the minimum size criterion. Although in two cases – in the formation of the rural municipalities of Saarde and Alutaguse – the local authorities had submitted an application for an exemption and they formally met the required conditions, the government could not apply the exemption, as it had initiated additional mergers with their neighbouring municipalities that fell short of the minimum size criterion.

The government approved the submission of merger proposals to the authorities of all the municipalities listed above in its session of 9 February. On 15 February, the Ministry of Finance submitted the proposals in the form of a draft government regulation to the relevant municipal councils for comments.

For the formation of Setomaa rural municipality, the government exceptionally initiated a merger that did not meet the minimum size criterion. The number of residents in what would become Setomaa was just above 3,500 at the time the proposal was made, but at the same time it satisfied the requirements for the granting of an exemption as provided in the Administrative Reform Act².

Including the municipalities that met the minimum size criterion but were also proposed as merger partners (e.g. the merger proposal for Põide rural municipality included all 11 other municipalities on the island of Saaremaa), proposals were made to 104 municipalities in 22 areas. In addition, proposals were made to Kohtla-Järve city and Misso rural municipality for the transfer of a part of their territories to the rural municipalities of Narva-Jõesuu and Setomaa, respectively.

In accordance with the Administrative Reform Act, local authorities had to submit their opinions within three months from the receipt of a merger proposal. In their opinions, local authorities could accept the proposal made, or provide their reasoned objections and arguments if, in their view, the effect of the merger was not positive as expected.

In accordance with the Act, the government had the right, after reviewing the opinions submitted by local authorities, to terminate a merger procedure in exceptional cases. However, disagreement by a local authority and its justified negative opinion did not directly mean that the national government could not proceed with the relevant merger, provided it had reasoned arguments.

The rural municipalities of Koeru and Rakke decided only in December 2016 to start merger negotiations, and submitted their merger application to the government in April 2017. As the Administrative Reform

² A municipality bordering a temporary control line of the Republic of Estonia for the purposes of Article 22(1) of the State Border Act on land that has a total of at least 3,500 residents according to the data of the population register as at 1 January 2017 and is formed of the administrative territories or parts thereof of at least four municipalities that are connected historically, culturally and geographically.

Act did not provide for the possibility of holding negotiations initiated by municipal councils in parallel with those initiated by the government, the application submitted by these two rural municipalities was lawful and it was too late for the government to take it into account. Furthermore, by that time, the government had already suggested different merger proposals. Moreover, the merger of the rural municipalities of Koeru and Rakke would not have satisfied the minimum size criterion and therefore would not have achieved the goal of the administrative reform.

Background to the merger proposals made by the government

When making merger proposals and analysing objections raised by local authorities, the government considered, apart from the minimum size criterion prescribed by the Administrative Reform Act, the circumstances described in Article 7(5) of the Territory of Estonia Administrative Division Act³.

At the same time, the government had to explore alternative merger directions and options in order to find solutions that would achieve the goals of the administrative reform in the best possible way and would ensure the formation of capable and cohesive municipalities.

For the preparation of merger proposals, the Ministry of Finance involved regional committees that were established for the implementation of the administrative reform and whose task was to submit to the Ministry their opinions regarding the justification of the merger proposals made and exemptions applied by the government, as well as their positions and expert assessments regarding the most appropriate directions for mergers. The explanations below are based on the views

³ Justification from the historical point of view; effects on residents' living conditions; residents' sense of cohesion; effects on the quality of public services, administrative capacity, demographic situation, the organisation of transport and communications, business environment and educational situation; and organisational functioning of a municipality as a common service area.



A meeting of the Western Estonia Regional Committee in Haapsalu. This region included Hiiu, Saare, Lääne, Rapla and Pärnu counties. Photograph: Rivo Noorkõiv.

expressed by the regional committees and in the expert assessments drafted for committee meetings.

In its proposals made to local authorities, the government took into account the suggestions of the regional committees and the particular characteristics of each municipality. On the island of Hiiumaa, for example, there was no alternative to making a proposal for merging the rural municipalities of Pühalepa and Emmaste with those of Hiiu and Käina, as it was not possible to form more than one integrated municipality that would meet the minimum size criterion prescribed by the Administrative Reform Act and be in line with the goals of the administrative reform. There would have been no logical centre-hinterland system, or functional area, without the inclusion of all the municipalities.

On the island of Saaremaa, the authorities of every municipality apart from Põide rural municipality had applied for a merger with one another. Therefore, there was no alternative to merging Põide rural

municipality with the rest of them in order to form an integrated municipality. Furthermore, being an island, Saaremaa is one functional space.

Kallaste city, for example, had a common border only with Alatskivi rural municipality, and was connected to the other municipalities making up Peipsiääre rural municipality through a road network. These local authorities had also already held negotiations.

In several cases, local authorities had been aware of the formation of a common functional area with other municipalities, and they had already held negotiations at the stage initiated by municipal councils. However, for a number of reasons, they had decided not to complete their negotiations and not to submit a merger application.

There are several examples here. In Hiiumaa, the rural municipalities of Emmaste, Käina and Pühalepa had held trilateral negotiations without involving Hiiu rural municipality.⁴ Paldiski city and the rural municipalities of Keila, Vasalemma and Padise had prepared a draft merger agreement. The rural municipalities of Alajõe, Iisaku, Illuka, Mäetaguse and Tudulinna had held negotiations but at the end of 2016, Illuka rural municipality had decided against approving the merger agreement and thus the application had been submitted by the authorities of the remaining four municipalities. Lügane rural municipality had held negotiations with Sonda rural municipality and Kiviõli city, and they had also prepared a draft merger agreement. However, they could not agree on its terms and conditions, including the name of the new municipality. The rural municipalities of Koeru, Järva-Jaani, Albu, Ambla, Imavere, Kareda and Koigi wanted to merge into Järva rural municipality. At the end of the negotiations, however, Koeru rural municipality rejected the agreement as there was no consensus reached regarding the centre of the new rural municipality. Without Koeru rural municipality, however,

⁴ The rural municipalities of Emmaste and Pühalepa did not agree to inviting Hiiu rural municipality to the negotiations, as proposed by Käina rural municipality. Thereafter, the negotiations were continued between the rural municipalities of Hiiu and Käina, which merged on the initiative of the municipal councils.

the new Järva rural municipality would not have been complete. Negotiations had also been held between the rural municipalities of Rakke and Väike-Maarja; the rural municipalities of Tahkuranna, Häädemeeste, Saarde and Surju; and Tõstamaa rural municipality, Pärnu city and the rural municipalities of Audru and Paikuse.

The central government also made merger proposals to those local authorities that had completely refused to participate in negotiations at the stage of mergers initiated by municipal councils, despite receiving a proposal to start merger negotiations. Another example here is the proposal to merge Loksa city and Kuusalu rural municipality, where the parties had previously proposed starting negotiations but had actually not met. Tabivere rural municipality had made a proposal to join the negotiations between the rural municipalities of Tartu, Piirissaare and Laeva several times, but this had been declined. Pala rural municipality had received several negotiation proposals from Alatskivi rural municipality but had rejected them. The previous proposals in these areas were of course not the only reason the government made its own proposals, but they show that the local authorities concerned were aware of their interconnections before.

Several proposals were based on potential links between the centre and the hinterland, as well as the existing close cooperation between the regions and the movement patterns of their residents. For example, the government made a proposal to merge Lüganuse rural municipality with Kiviõli city and Sonda rural municipality, as there were geographical and functional links between these municipalities. The residents of Koeru rural municipality travelled primarily towards the municipalities in Järvamaa. The residents of Rakke rural municipality were more connected with the service area of Väike-Maarja rural municipality, and the local authorities had cooperation experience with each other. The fact that a majority of the population of Juuru rural municipality were in the functional space of Rapla rural municipality was an additional reason for merging Juuru rural municipality with the rural municipalities of Rapla,

Raikküla and Kaiu. The rationale behind the proposal to merge the rural municipalities of Luunja and Tähtvere with Tartu city was the latter's suburbanisation and the widening of the city area to the surrounding municipalities, as well as the extremely strong cohesion of their residents with Tartu city. The eastern villages of Puka rural municipality and the surroundings of Puka had connections with Sangaste and Otepää through commuting, regional cooperation arrangements and a common newspaper (i.e. they shared a common field of information).

Merger proposals were made to municipalities with similar characteristics. For example, large parts of the territories of the rural municipalities of Häädemeeste, Tahkuranna, Saarde and Surju are low-density areas that have similar problems and service needs. The rural municipalities of Tabivere, Tartu, Laeva and Piirissaare are all closely connected with Tartu city, as their residents commute daily for working and learning mobility (due to the road network, the residents of Tabivere rural municipality move through the territory of the former Tartu rural municipality). Kallaste city and Pala rural municipality, together with the rural municipalities of Peipsiääre, Alatskivi and Vara, are located in the common functional area of Tartu city. All of these municipalities are closely interconnected through a road network. Similarly, the rural municipalities of Mikitamäe, Meremäe and Värska were merged as they form a common Seto cultural space.

In several cases, the future potential of the authorities of the municipalities to be merged for the development of services and the region in general was assessed. For example, these concerned the mergers of Tõstamaa rural municipality with Pärnu city and the rural municipalities of Audru and Paikuse, as well as the mergers of the rural municipalities of Orava and Vastseliina with the rural municipalities of Lasva, Sõmerpalu and Võru.

In the process of preparing merger proposals, analysis was also done for alternative solutions and their feasibility. For example, instead of merging the rural municipalities of Haljala and Vihula with the rural

municipalities of Sõmeru and Rakvere, the former could have also been merged with Kadrina rural municipality. However, the three rural municipalities lacked a common functioning public transport system and connectivity. Possible merger partners for Koeru rural municipality were either the rural municipalities of Järva county, or the rural municipalities of Rakke and Väike-Maarja. In the end, it was found that Koeru rural municipality was more closely connected with the municipalities of Järva county. It would not have been practical to merge Tõstamaa rural municipality with those of Lihula, Hanila, Koonga and Varbla, as the territory of this merging rural municipality was already very large, the area was sparsely populated and there were no commonalities. Considering historical and socioeconomic aspects, the rural municipalities of Antsla and Urvaste had more connections with Sõmerpalu rural municipality (which merged with the rural municipalities of Lasva and Võru). Furthermore, there was hardly any movement of population between the rural municipalities of Mõniste, Varstu, Rõuge, Haanja and Misso. The rural municipalities of Orava and Vastseliina had more connections and cohesion with the rural municipalities of Sõmerpalu, Lasva and Võru than with the five municipalities in southern Võrumaa (the rural municipalities of Haanja, Misso, Mõniste, Rõuge and Varstu).

In the case of Juuru rural municipality, the government relied on the merger application submitted by its neighbouring municipalities, as the rural municipalities of Kaiu, Rapla and Raikküla had applied for a merger on the initiative of their municipal councils, although Kaiu rural municipality had no common border with the rural municipalities of Rapla and Raikküla. In order to apply the exemption foreseen by the Administrative Reform Act and complete the merger initiated by the municipal councils, the government had to make a proposal to merge Juuru rural municipality (or a part of its territory) with the rural municipalities of Rapla, Kaiu and Raikküla.

Merger proposals made by the Government of the Republic

County	Municipalities to be merged	Proposed name of municipality after merger (as at 1 January 2017)	Population (as at 1 January 2017)
Harjumaa	Kuusalu rural municipality + Loksa city	Kuusalu rural municipality	9,328
Harjumaa	Keila city + Keila rural municipality + Paldiski city + Vasalemma rural municipality + Padise rural municipality	Lääne-Harju rural municipality	22,811
Hiiumaa	Käina and Hiiu rural municipality (Hiiumaa rural municipality) + Emmaste rural municipality + Pühalepa rural municipality	Hiiumaa rural municipality	9,550
Ida-Viru	Kiviõli city and Sonda rural municipality (Kiviõli rural municipality) + Lüganuse rural municipality	Lüganuse rural municipality	9,155
Ida-Viru	Iisaku, Alajõe, Mäetaguse and Tudulinna rural municipality (Alutaguse rural municipality) + Illuka rural municipality + Toila, Kohtla and Kohtla-Nõmme rural municipality (Toila rural municipality)	Alutaguse rural municipality	9,889
Ida-Viru	Sillamäe city + Vaivara rural municipality and Narva-Jõesuu city (Narva-Jõesuu city)	Vaivara rural municipality	18,438
Järva	Järva-Jaani, Albu, Ambla, Imavere, Kareda and Koigi rural municipality (Järva rural municipality) + Koeru rural municipality	Järva rural municipality	9,225
Lääne-Virumaa	Rakke rural municipality + Väike-Maarja rural municipality	Väike-Maarja rural municipality	6,112
Lääne-Virumaa	Sõmeru and Rakvere rural municipality (Rakvere rural municipality) + Haljala and Vihula rural municipality (Haljala rural municipality)	Rakvere rural municipality	9,972

Põlva	Põlva, Ahja, Laheda, Mooste and Vastse-Kuuste rural municipality (Põlva rural municipality) + Kõlleste, Kanepi and Valgjärve rural municipality (Kanepi rural municipality)	Põlva rural municipality	19,367
Pärnumaa	Saarde and Surju rural municipality (Saarde rural municipality) + Häädemeeste and Tahkuranna rural municipality (Häädemeeste rural municipality)	Lõuna-Pärnumaa rural municipality	9,855
Pärnumaa	Pärnu city, Audru and Paikuse rural municipality (Pärnu city) + Tõstamaa rural municipality	Pärnu city	51,730
Rapla	Rapla, Kaiu and Raikküla rural municipality (Rapla) + Juuru rural municipality	Rapla rural municipality	13,480
Saaremaa	Kuressaare city, Lääne-Saare, Orissaare, Pihtla, Valjala, Salme, Kihelkonna, Laimjala, Mustjala, Torgu and Leisi rural municipality (Saaremaa) + Põide rural municipality	Saaremaa rural municipality	32,007
Tartu	Alatskivi, Vara and Peipsiääre rural municipality (Peipsiääre rural municipality) + Kallaste city + Pala rural municipality	Kodavere rural municipality	5,776
Tartu	Ülenurme rural municipality + Kambja rural municipality	Kambja rural municipality	10,035
Tartu	Piirissaare, Tartu and Laeva rural municipality (Tartu rural municipality) + Tabivere rural municipality	Tartu rural municipality	10,397
Tartu	Elva, Konguta, Rannu, Rõngu, Palupera and Puhja rural municipality (Elva rural municipality) + Nõo rural municipality	Elva rural municipality	18,372
Tartu	Tartu city + Tähtvere rural municipality + Luunja rural municipality	Tartu city	103,754
Valga	Otepää and Sangaste rural municipalities and villages in Palupera rural municipality (Otepää rural municipality) + Puka rural municipality	Otepää rural municipality	7,264
Võru	Väraska rural municipality + Mikitamäe rural municipality + Meremäe rural municipality + villages in Misso rural municipality	Setomaa rural municipality	3,584

Võru	Lasva, Sõmerpalu and Võru rural municipalities (Võru rural municipality) + Vastseliina and Orava rural municipalities (Vastseliina rural municipality) + Antsla and Urvaste rural municipalities (Antsla rural municipality)	Võru rural municipality	15,639
------	---	-------------------------	--------

Table 1. Merger proposals made by the Government of the Republic (municipalities that did not meet the minimum size criterion are in bold; names of the municipalities merged on the initiative of the councils are in brackets)

Contrary to the initial proposals made by the regional committees, the government made a proposal to merge Keila city with Paldiski city and the rural municipalities of Keila, Padise and Vasalemma, as well as to merge the rural municipalities of Toila, Kohtla, Kohtla-Nõmme, Alajõe, Iisaku, Illuka, Mäetaguse and Tudulinna.

As the government's proposals were made in the form of a draft regulation for the alteration of administrative-territorial organisation, the government also made a proposal for the name of each municipality to be formed, based on the opinion of the Place Names Board.

Opinions of local authorities on the central government's proposals

Following the receipt of the proposals from the government, local authorities had to ask the residents for their opinion (unless this had already been done for exactly the same municipalities at the stage initiated by municipal councils); reach an agreement on the name, type and insignia of the new municipalities and on other issues related to the merger (approve the merger agreement); prepare decisions related to the upcoming elections and carry out necessary election activities; and submit a reasoned opinion concerning the proposal to the county governor by 15 May 2017 at the latest.

The authorities of 65 municipalities, or nearly two-thirds of those that received a proposal from the government, did not agree with the

proposal and did not make any preparations for the merger. The authorities of 25 municipalities agreed with the proposal made by the government, and those of 14 municipalities did not respond to the proposal (in this case the proposal was deemed to have been accepted, in accordance with the Administrative Reform Act).

There were two government proposals based on which local authorities carried out the activities prescribed by the Administrative Reform Act in preparation for the mergers, and approved the merger agreement. Põide rural municipality agreed with the other municipalities in Saaremaa on the terms and conditions of its merger. Likewise, agreement was also reached by the rural municipalities of Puka, Sangaste and Otepää. Tähtvere rural municipality and Tartu city also agreed with the merger. They had hoped to start the process by the end of 2016 but could not prepare a merger agreement by the given deadline (the same proposal also included Luunja rural municipality). Vaivara rural municipality and Kohtla-Järve city agreed to transfer part of the territory of Kohtla-Järve (the district of Viivikonna) to Vaivara. There were no other proposals where all parties concerned were in agreement.

Residents were against government-initiated mergers almost everywhere, in particular in the rural municipalities of Sõmeru (98.9%), Vara (98.5%), Ülenurme (98.3%) and Tudulinna (98.2%). At the same time, there were also municipalities where residents were in favour of mergers: these were the cities of Kiviõli and Elva, and the rural municipalities of Hiiu, Käina, Imavere, Järva-Jaani, Koigi, Väike-Maarja, Vastse-Kuuste, Kaiu, Rapla, Laeva, Tabivere, Alatskivi, Meremäe, Mikitamäe, Värskä, Keila and Tähtvere. In the rural municipalities of Raikküla and Puhja, votes were split equally.

There were seven merger proposals where none of the parties that received the proposal was in favour. These concerned the merger proposals of Kuusalu rural municipality and Loksa city; of the rural municipalities of Toila, Kohtla, Kohtla-Nõmme, Mäetaguse, Illuka, Iisaku, Alajõe, Mäetaguse and Tudulinna; of Vaivara rural municipality,

the cities of Narva-Jõesuu and Sillamäe; of the rural municipalities of Haljala, Vihula, Sõmeru and Rakvere; of the rural municipalities of Häädemeeste, Tahkuranna, Saarde and Surju; of the rural municipalities of Kambja and Ülenurme; and of the rural municipalities of Antsla, Urvaste, Vastseliina, Orava, Lasva, Sõmerpalu and Võru.

The local authorities had many arguments against the mergers, referring, in particular, to the sufficiency of their existing capacity, the lack of commonalities, and the fact that the merger would not result in an integrated municipality. The main arguments presented by the local authorities at the time are listed below.

- The existing municipality or the municipality to be formed through a merger initiated by the municipal councils themselves already has sufficient capabilities and administrative capacity; it has the required competence and capability to organise and manage local issues independently, and to perform functions arising from law. Therefore, no additional merger is necessary (e.g. the rural municipalities of Alajõe, Iisaku and Tudulinna, Illuka rural municipality, the rural municipalities of Vastseliina and Orava, Pühalepa rural municipality, Kambja rural municipality, Pala rural municipality, Nõo rural municipality, Keila city, Padise rural municipality, Vasalemma rural municipality and Luunja rural municipality).
- The municipality that the government wants to merge with the municipality in question is in a weaker position economically or has a different structure, which may also weaken the capacity of the municipality in question (e.g. Kuusalu rural municipality, Sillamäe city, the rural municipalities of Alatskivi, Peipsiääre and Vara, Keila city).
- There are no current relations or sense of cohesion that would ensure the ability of the merged municipality to provide integrated and functional services and cooperation between its different parts in the future (e.g. Kuusalu rural municipality and Loksa city, Vaivara rural municipality and the cities of Sillamäe and Narva-Jõesuu, the rural municipalities of Alajõe, Iisaku and Tudulinna, the rural

municipalities of Antsla and Urvaste, Rakke rural municipality, Mikitamäe rural municipality, Haljala rural municipality, Vihula rural municipality, Rakvere rural municipality, Sõmeru rural municipality, Keila city).

- Negotiations initiated by municipal councils failed because some of the participants could not agree on beginning negotiations or the conditions of the negotiations, and the situation has not changed since (e.g. Loksa city, Pärnu city).
- The proposed merger would not result in an integrated municipality or a common service area because there would be several distinct areas with different directions of movement in the new municipality and there would be no common centre. Even the new merged local authorities would not be able to change the mobility of the residents and municipal seat would not be on the natural route of the residents of all municipalities to be merged (e.g. the rural municipalities of Häädemeeste, Tahkuranna, Saarde and Surju, the rural municipalities of Kanepi, Kõlleste and Valgjärve, the rural municipalities of Alajõe, Iisaku and Tudulinna, the rural municipalities of Toila, Kohtla-Nõmme and Kohtla, the rural municipalities of Lasva, Sõmerpalu and Võru, the rural municipalities of Antsla and Urvaste, the rural municipalities of Vastseliina and Orava, Kambja rural municipality, Haljala rural municipality, Vihula rural municipality, Rakvere rural municipality, Sõmeru rural municipality, Pala rural municipality, Luunja rural municipality).
- Smaller municipalities referred to the risk of peripheralisation, decreased availability and deterioration of services in the area as a whole, concentration of residents in centres, focusing attention to other, larger areas to be merged, and decline in local democracy (e.g. Illuka rural municipality, the rural municipalities of Kanepi, Kõlleste and Valgjärve, the rural municipalities of Antsla and Urvaste, Emmaste rural municipality, Koeru rural municipality, Tõstamaa rural municipality, Kambja rural municipality).

- Preference was given to an alternative merger option (e.g. Juuru rural municipality would have preferred to be merged with Kohila rural municipality, which is also one of the service and commuting centres in Rapla county and, in particular, in Juuru rural municipality).
- The authorities of the municipalities that met the minimum size criterion pointed out that there were not sufficient benefits for the parties meeting the criterion in the justification presented by the government (e.g. Keila city, Ülenurme rural municipality), and as merger negotiations had not been held before, the local authorities had not reached agreement on how to develop the future merged local authorities (e.g. Tartu rural municipality).
- The authorities of the municipalities to be merged found that even preparing the decisions at the stage initiated by municipal councils had been very difficult and emotional, and that forming a new rural municipality through a coercive merger would create even greater alienation from the residents (the rural municipalities of Alatskivi, Peipsiääre and Vara, the rural municipalities of Konguta, Rannu, Palupera and Puhja).

Almost every local authority that gave negative feedback highlighted the specific characteristics of the municipalities to be merged and the missing links between them, as well as insufficient positive effect, or even negative effect, on the circumstances listed in Article 7(5) of the Territory of Estonia Administrative Division Act. Pursuant to the Act, this was obligatory when giving an opinion.

Väike-Maarja rural municipality and Tartu city made a proposal to alter their administrative-territorial organisation by means of Väike-Maarja joining Tartu (instead of the two merging), to which the government agreed.⁵

⁵ While merging would have required the termination of both municipalities, joining meant that only the rural municipality of Väike-Maarja would be terminated as a legal person.

Final decisions made by the government with regard to municipal mergers

Having considered the feedback received from the local authorities and the recommendations given by the regional committees, the government withdrew ten merger proposals that concerned municipalities falling short of the minimum size criterion or groups of municipalities that were already merging on the initiative of municipal councils, and proceeded with the remaining 26 mergers of such municipalities.

The government decided not to proceed with the following procedures (mergers initiated by municipal councils remained in force):

- the merger of Kuusalu rural municipality and Loksa city;
- the merger of Keila city with Keila rural municipality, Paldiski city, Vasalemma rural municipality and Padise rural municipality;
- the merger of the rural municipalities of Toila, Kohtla and Kohtla-Nõmme with the rural municipalities of Iisaku, Alajõe, Mäetaguse, Tudulinna and Illuka (only the merger of the rural municipalities of Toila, Kohtla and Kohtla-Nõmme);
- the merger of Sillamäe city with the cities of Vaivara and Narva-Jõesuu;
- the merger of the rural municipalities of Sõmeru, Rakvere, Haljala and Vihula;
- the merger of the rural municipalities of Põlva, Ahja, Laheda, Mooste, Vastse-Kuuste, Kõlleste, Kanepi and Valgjärve;
- the merger of the rural municipalities of Saarde, Surju, Häädemeeste and Tahkuranna;
- the merger of Nõo rural municipality with the rural municipalities of Elva, Konguta, Rannu, Rõngu, Palupera and Puhja;
- the merger of Luunja rural municipality with Tartu city and Tähtvere rural municipality (only in the case of Luunja rural municipality);
- the merger of the rural municipalities of Antsla and Urvaste with the rural municipalities of Lasva, Sõmerpalu, Võru, Vastseliina and Orava.

The merger procedure was terminated for seven municipalities that had merged on the initiative of municipal councils. These municipalities had a distinct and independent functional space, and all of them had more than 4,000 residents (the rural municipalities of Toila, Haljala, Kanepi, Saarde, Häädemeeste and Antsla, and Narva-Jõesuu city to be formed through mergers initiated by municipal councils). Some of them fell short of the minimum size criterion by just a few dozen residents (the rural municipalities of Kanepi and Häädemeeste to be formed through mergers initiated by municipal councils).

The merger procedure was also terminated for three single municipalities that did not meet the criterion (Loksa city, Luunja rural municipality and Nõo rural municipality).

The government based its decisions on the feedback received from the local authorities, by assessing whether the justifications and counterarguments submitted were sufficiently valid for the termination of the procedure, and by taking into account the initial reasons for making the proposal in question.

For several withdrawn proposals, it was also pointed out by the relevant regional committee that if local authorities could justify in their opinion that they were able to achieve the goal of the administrative reform and that an additional merger would mostly have a negative effect, terminating the procedure should be considered.

The government made a decision concerning most municipalities and proposals in its session of 15 June. It terminated the procedure for the alteration of administrative-territorial organisation for six and proceeded with the procedure for 18 municipalities or groups of merging municipalities that did not meet the minimum size criterion. The government adopted the relevant regulations on 22 June 2017.

In its session of 15 June, the government did not make a decision with regard to four areas; for these, it requested another assessment from the regional committees, including the results of opinion polls carried out among the residents. The re-assessed proposals were as follows:



A picket against the government's proposal to merge Nõo rural municipality with Elva city in front of the government building on Toompea, Tallinn. Nõo was one of the rural municipalities with fewer than 5,000 residents that the government decided not to merge. Source: Delfi

- (1) the merger of Keila city, Keila rural municipality, Padise rural municipality, Paldiski city and Vasalemma rural municipality;
- (2) the merger of the rural municipalities of Haljala and Vihula with the rural municipalities of Rakvere and Sõmeru;
- (3) the merger of Nõo rural municipality with Elva city and the rural municipalities of Konguta, Palupere, Puhja, Rannu and Rõngu.
- (4) the joining of the rural municipalities of Luunja and Tähtvere with Tartu city.

The regional committees discussed the above merger proposals in their meetings of 20 June, and submitted more detailed opinions to the government. It was suggested that for some proposals, the procedure could be partly terminated, by proceeding with the merger of Keila rural municipality, Padise rural municipality, Paldiski city and Vasalemma rural municipality, and the joining of Tähtvere rural municipality with Tartu city, in order to ensure a consistent approach to government-initiated mergers. At the same time, it was suggested that it would be useful to consider additional mergers in the future.

Consequently, the government decided in its session of 6 July 2017 to terminate the procedure for the alteration of the administrative-territorial organisation in the case of Keila city, Luunja rural municipality and Nõo rural municipality, as well as the rural municipalities of Haljala and Vihula, whose merger had been initiated by the municipal councils. It was decided to proceed with the procedure for the merger of Keila rural municipality, Padise rural municipality, Paldiski city and Vasalemma rural municipality, and the joining of Tähtvere rural municipality with Tartu city. In the same session, it was decided to include Setomaa rural municipality in Võru county.

Regarding other merger proposals, there were different reasons for the termination of the procedure. The government concluded that Kuusalu rural municipality and Loksa city were completely separate municipalities whose residents had no sense of cohesion, and that – despite several cooperation initiatives – had not achieved functional coherence or integrated into a coherent service area and settlement system.

The government decided not to proceed with the mergers of Toila rural municipality and Alutaguse rural municipality, Sillamäe city and Narva-Jõesuu city, Kanepi rural municipality and Põlva rural municipality, Saarde rural municipality and Häädemeeste rural municipality, and Antsla rural municipality, as the local authorities' arguments against the mergers were well-founded, thorough and justified, and it was clear that the municipal councils did not see any means of forming a single

municipality. There would be no single clear common centre, nor would it emerge after the merger. The current functional areas would continue to exist separately and the residents would continue to move in different directions. For most of the proposals, the centres would continue to be the closest larger cities. It was decided not to merge Antsla rural municipality, as it was found that despite the small number of residents, Antsla rural municipality was a separate strong centre that might become weaker when merged with an additional area. Likewise, there was no common centre in the rural municipalities of Haljala, Vihula, Sõmeru and Rakvere, and the municipality would have continued to cover different functional areas.

It was decided not to merge Keila city, Nõo rural municipality, Luunja rural municipality, and the rural municipalities of Haljala, Vihula, Sõmeru and Rakvere, as the government had previously terminated the procedure for the mergers of several municipalities falling short of the minimum size criterion. It thus ensured a more consistent approach to government-conducted mergers.

For Setomaa rural municipality, a survey was conducted on the initiative of the government on 12 and 13 June in order to determine the residents' county preference. 31.5 % of the residents of what would become Setomaa rural municipality participated in the survey. The results showed that a majority (in total, 59.1%) were in favour of belonging to Võru county (99.6% of the respondents in the rural municipalities of Võru county, and 20.7% of the respondents in the rural municipalities of Põlva county). 40.9 % of the respondents were in favour of belonging to Põlvamaa county (0.4 % of the respondents in the rural municipalities of Võrumaa county, and 79.3 % of the respondents in the rural municipalities of Põlvamaa county). The government decided to respect the residents' opinion and approved the inclusion of Setomaa rural municipality in Võrumaa county.

After the mergers were approved by the government, the rural municipalities of Rakke, Koeru, Lügánuse, Lasva, Võru, Vastseliina,

Sõmerpalu, Pala, Kambja, Ülenurme, Illuka, Mikitamäe, Tõstamaa, Emmaste, Pühalepa, Padise and Vasalemma filed an application with the Supreme Court to declare the government's merger regulation unconstitutional and invalid. The Supreme Court dismissed the applications of the local authorities, ruling that the Government of the Republic had wide discretion to decide on municipal mergers, that the mergers were not unconstitutional, and that the government had taken into account important and relevant circumstances in the alteration of the administrative-territorial organisation of municipalities, and had not based its decisions on incorrect facts. The applications filed with the Supreme Court and their review have been addressed in more detail in the article 'The Protection of the Constitutional Guarantees for Local Government during the Administrative-Territorial Reform' by Liina Lust-Vedder and Vallo Olle.

Conclusion

Before the administrative reform, there were 213 municipalities in Estonia: 183 rural municipalities and 30 cities. After the mergers initiated by municipal councils, a total of 102 municipalities would have remained, but after the mergers initiated by the government, the number of municipalities in Estonia totalled 79: 64 rural municipalities and 15 cities.

The stage of mergers initiated by the government was necessary to achieve the goals of the administrative reform, as by the end of the stage of mergers initiated by municipal councils, there were still 51 municipalities or merged municipalities that did not meet the minimum population size criterion.

The government used its right to terminate initiated merger procedures on ten occasions, primarily in the case of those municipalities that had merged on the initiative of municipal councils and where it was obvious that they had a clearly independent functional space, within the bounds of which they had already merged. The procedure was also terminated in the case of three single municipalities that did not meet the minimum size criterion.