

# In What Way Should the Preparations for the 2017 Administrative Reform Have Been Different and Why?

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## SULEV MÄELTSEMEES

Since the restoration of independence, the issue of administrative reform has been brought onto the agenda in waves, just to ebb away again. Some described the reform of 2017 as the seventh wave and, considering that it rose higher than any before it, the description seems doubly appropriate. This is also supported by the fact that for the first time an Administrative Reform Act was adopted. Undoubtedly, our assessment of the reform depends largely on what we qualify as an administrative reform.

In education and research, it goes without saying that concepts must be defined clearly and unambiguously. This principle takes on an even wider practical meaning when a concept affects the daily life of a large proportion of the general public. The concept of administrative reform does just that. And at the same time, there are very few areas (if any) where a key term is used in such a variety of ways.

In order to illustrate this, I will provide a brief overview of how the concept of administrative reform has evolved over the last quarter of a century. In addition to the linguistic aspect, understanding this evolution is also essential in order to understand what should have (or at least could have) been different in the Administrative Reform Act adopted in 2016 and its implementation.

I believe that the process of preparing for an administrative reform should be as consistent as possible. There should be no campaign-style ad hoc activities that may well serve certain political objectives, but not the overall development of society. True, since the beginning of this century the process of preparing for the reform was indeed consistent, but regrettably the focus was solely on an administrative-territorial reform (a border reform). Important substantive matters, such as the distribution of responsibilities and funding between the different levels of public administration (which was even required by the Supreme Court in its judgment of 16 March 2010<sup>1</sup> , and the organisation of regional administration (in particular, county governments, and county-level associations of local governments), among other issues were merely widely discussed.

The phrase 'administrative reform' (*haldusreform*) was first used by the Supreme Council of the Republic of Estonia in its Resolution of 8 August 1989 on the implementation of an administrative reform in the Estonian SSR.<sup>2</sup> The Resolution established two objectives: the decentralisation of public authority, including developing management

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<sup>1</sup> Judgment of the Supreme Court en banc of 16 March 2010 No 3-4-1-8-09.

<sup>2</sup> ESSR Supreme Council and Government Gazette, 1989, 26, 348.

functions at the local government level, and the reorganisation of the territorial administrative structure. Therefore, the Resolution also covered a border reform, but this objective was (deliberately) abandoned.<sup>3</sup>

That particular administrative reform has been criticised for not changing the internal borders, which would have been easier to do at the time. Those who have expressed such an opinion are perhaps unaware that there were indeed ambitions for border change then too, but these were very disparate.

Mostly, the idea was to restore the borders established by the 1939 rural municipal reform, some wished to re-establish the rural municipal borders of the 1920s, and in some areas people even preferred the borders of the successful agricultural holdings (collective farms or state farms) of the 1970s and 1980s. Moreover, it is safe to say that, had the matter of the relocation of the border markers been addressed then, the legal and economic aspects of local government would have suffered.

An administrative reform expert committee set up by the Presidium of the Supreme Council (of which I was a member) sought the substantive restoration of local government. I dare say that this resulted in a significant success. Local government – dismantled half a century earlier – was restored in just a few years, and this also played an invaluable role in the re-establishment of statehood.<sup>4</sup>

Seeming to be regrettably overlooked in the evolution of the concept of administrative reform is a document dated just a couple of years later – the coalition agreement of Estonia's first government after regaining independence, which held office from 1992 to 1995. Strikingly, the term 'administrative reform' was used in a broad sense in that document. Because it is not widely known, I hereby present a longer excerpt from it:

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<sup>3</sup> See S. Mäeltsemees, 'Haldusterritoriaalne poliitika' – *Eesti poliitika ja valitsemine 1991–2011*. Ed. Raivo Vetik. Tallinn University Press, 2012, pp. 325–355.

<sup>4</sup> See e.g. S. Mäeltsemees, *Tallinna Linnavolikogu 140*. Tallinna Raamatutrükikoda, 2017.

*Swift administrative reform is inescapable in order to consolidate Estonia's statehood and implement economic innovations. The administrative reform will specify the responsibilities, rights, and obligations of the state and local authorities. The basis of the government's policy is the decentralisation of power and bringing the decision-making process as close to the people as possible. It is necessary to pass legislation needed to implement the administrative reform (a local government act, an administrative border amendment act, a local government budget act, ...), to specify in more detail the rights and obligations of local authorities.*

*Particular attention should be paid to establishing local government institutions in the major cities. [...] Concurrently with the administrative reform and emergence of new administrative divisions, it is necessary to organise local government elections as soon as possible. Before that (Not after the elections! – S. M.) local authorities have to be ensured a fixed revenue base, which might consist of individual income tax, a part of the corporate income tax (in 1990–93 local governments received 35% of the corporate income tax – S. M.), value added tax, and 'resource taxes'. The role of local authorities in imposing taxes and granting benefits should be increased.<sup>5</sup>*

The next significant step in the administrative reform process was the development of a concept document, 'Principles of Public Administration', in 1996–98. Thus far, this has been the only comprehensive document addressing all levels of public administration and its key issues, in which the administrative-territorial reform was also widely covered.

With respect to the concept of administrative reform, a fact that is worth remembering about this document is that the first step was to set up an expert committee of the Government of the Republic (by Order No 452-k of 11 June 1997), which was assigned the task of developing the concept of administrative reform. But as early as the first discussions,

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<sup>5</sup> Coalition agreement of 1992–1995 of the Estonian National Independence Party, the Pro Patria Union, and the Social Democrats.

this committee, consisting of twenty-five members, including Members of the *Riigikogu*, government ministers, county governors, representatives of local governments and local government associations, as well as researchers, concluded that the key phrase 'administrative reform' was already (NB! 20 years ago!) overused, and that it was also uncertain how reform-minded the proposed concept would in fact turn out to be, which is why the committee set out to draft a document entitled 'Principles for the Development of Public Administration'.

The organisation of regional administration became an important aspect of the concept. It is not without significance that at that very time, i.e. in the second half of the 1990s, the Council of Europe was discussing the European Charter of Regional Self-Government. Now, in early 2018, a radical change was made at the regional level, with the abolition of county governments.

An important legal effect, including the amendment of Article 156 of the Constitution, was achieved with the merger of the city of Abja-Paluoja and the Abja rural municipality in 1998, which was carried out between regular elections of municipal councils.

At the turn of the century, the Government of the Republic assigned the development of the administrative reform concept to researchers from the University of Tartu. Around that time, the phrase 'administrative reform' took on a rather different meaning, compared with earlier as well as later practices, the keyword being a 'creeping administrative reform'. This mainly meant centralising the responsibilities of county governments by the ministries, in particular by various boards and inspectorates. This 'creeping administrative reform' involved no changes whatsoever in the borders of municipalities.

In the years to follow, the proposal, made in 2000 by the Minister of Regional Affairs Toivo Asmer, to reorganise counties into rural municipalities remained almost unnoticed. According to this proposal, Estonia would have 15+5 municipalities (15 rural municipalities and 5 major cities). The Minister maintained that the coercive merging of ru-

ral municipalities and cities by the government would cause a lot of disagreement between municipal leaders and would not produce the desired result. In his opinion, the existing rural municipalities could be preserved as rural municipal districts.<sup>6</sup>

Indeed, the administrative reform of 2017 did produce rural municipalities (Hiiumaa and Saaremaa) that are (almost) the size of a county, and critics have said that such municipalities should have been formed in more counties.

By the start of the century, the preparations for the administrative-territorial reform had progressed quite a bit under the leadership of the Minister of the Interior Tarmo Loodus, but the process was interrupted by the presidential election campaigning and the formation of a new government. The next period yielded proposals by the Ministers of Regional Affairs Jaan Õunapuu and Vallo Reimaa about reforming specific areas of public administration. The administrative-territorial reform models developed by the Minister of Regional Affairs Siim Kiisler (including the model of local commuting centres) survived the longest. Substantial work on proposals for a state reform was carried out by the Estonian Cooperation Assembly headed by Külli Taro.<sup>7</sup> In 2016, under the leadership of the Minister of Public Administration, Arto Aas, the Administrative Reform Act was finally adopted.

Regrettably, only one related piece of legislation was passed with the Administrative Reform Act in June 2016 (on 7 June), being the Act Amending the Status of Members of the *Riigikogu* Act and the Local Government Organisation Act (also known as the 'two seats act'), which entered into force on 16 October 2017. Leaving aside the problematic nature of the right to simultaneously hold a seat in the *Riigikogu* and on a municipal council,<sup>8</sup> I think that, in order to launch the administrative-

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<sup>6</sup> <http://epl.delfi.ee/news/eesti/asmeri-haldusreformi-idee-valistab-vallajuhtide-tulid?id=50842443>

<sup>7</sup> [https://www.kogu.ee/wp-content/uploads/2014/11/Omavalitsuskorraldus-ja-regionaalhalduse-anal%3%bc%3%bcs\\_loplik\\_27.11.14.pdf](https://www.kogu.ee/wp-content/uploads/2014/11/Omavalitsuskorraldus-ja-regionaalhalduse-anal%3%bc%3%bcs_loplik_27.11.14.pdf)

<sup>8</sup> See e.g. S. Mäeltsemees, *Tallinna Linnavolikogu 140*. Tallinna Raamatutrükikoda, 2017.

territorial reform successfully, many more matters of legal, economic and administrative nature among others should have been regulated as well. These and other issues were raised by local authorities and associations of local authorities at the General Assembly of Estonian Cities and Rural Municipalities on 31 March 2012.<sup>9</sup>

For years it was said and written that one of the reasons a radical administrative-territorial reform is needed is to save administrative costs. In 2009, I wrote:

*In regard to possible savings in administrative costs, the possibility of and the need for recruiting better qualified public officials [following the reform] should disprove this illusion. The smaller rural municipalities and cities that could merge employ only about one thousand public servants. Moreover, even with the extreme version (15+5) of the proposed administrative-territorial reform, the best of them would anyway find employment with the new rural municipal governments that will be located in the county capitals. There will certainly be reductions in the numbers of municipal council members, which is also identified as a potential benefit in the explanatory memorandum to the draft Administrative-Territorial Organisation Reform Act submitted by the Minister of Regional Affairs in March 2009. However, reducing the number of municipal council members does not result in any noteworthy economy of administrative costs. One of the objectives of our young political culture should also be raising a political progeny. In Sweden, there are nearly 46,000 politicians in the municipalities, with another 3,500 serving on county councils. Around 1% of the adult population of active age (18- to 80-year-olds) are involved in local politics. In Estonia, this figure is about three times lower (approximately 0.3 %).<sup>10</sup>*

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<sup>9</sup> [http://f.ell.ee/failid/ELL\\_volikogu/2012/2012-03-31\\_Eestimaa\\_Linnad\\_ja\\_Vallad/DEKLARATSIOON\\_kinnitatud.pdf](http://f.ell.ee/failid/ELL_volikogu/2012/2012-03-31_Eestimaa_Linnad_ja_Vallad/DEKLARATSIOON_kinnitatud.pdf)

<sup>10</sup> S. Mäeltsemees, 'Rechts- und Wirtschaftsprobleme der Gebietsreform in Estland' – *Estnische Gespräche über Wirtschaftspolitik XVII*. Lehrstuhl für Wirtschaftspolitik der Universität Tartu, Lehrstuhl für Regionalpolitik der Tallinner Technologischen Universität, Institut für Volkswirtschaftslehre und Wirtschaftspolitik der Fachhochschule Kiel. Berliner Wissenschafts-Verlag, 2009, pp. 56–63.

The media has already pointed out the fact that 'although one of the objectives set for the administrative reform was sustainable governance, the example of Saaremaa shows that creating a single large merged municipality does not provide savings in terms of the number of public servants, at least not in the short term'<sup>11</sup>. In a short period of time a large number of articles<sup>12</sup> have been published that address the sometimes manifold increase of the remuneration paid to the leaders of newly formed large municipalities.<sup>13</sup>

I have never objected to the merging of our undersized municipalities where it is practical. In interviews given as far back as 20 years, I have maintained that the number of rural municipalities should be halved,<sup>14</sup> but I also share the opinion of Professor Arto Haveri of the University of Tampere, that a discussion about the number of municipalities is merely wordplay.<sup>15</sup> Municipalities should be furnished with substance appropriate for a modern democratic civil society.

I have taken a pessimistic view towards the claim that large municipalities help to reduce geographic marginalisation. This is not only because of the experience with the merging of agricultural holdings in the 1970s (known as the campaign of large agricultural holdings), which resulted in the decline of a large number of villages. For years it was discouraging to read opinions in our media about the radical border reform implemented in Latvia in 2009, in the process of which the number

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<sup>11</sup> <http://www.err.ee/641420/haldusreform-ametnike-arvu-saaremaal-ei-vahendanud>

<sup>12</sup> Note: Unfortunately, one must mostly rely on references to newspaper articles here, as there are almost no academic publications analysing the current situation. In fact, given the novelty of the activities taking place under the 2016 Administrative Reform Act, no such analyses can be available yet.

<sup>13</sup> E.g. E. Arula, 'Vallad kaovad, vallajuhtide palgad kerkivad' – *Postimees*, 17.11.2017.

<sup>14</sup> U. Paet, 'Valdu võiks vähendada kuni poole võrra'. An interview with Sulev Mäeltsemees – *Postimees*, 14.2.1997.

A. Ammas, 'Kümne aasta pärast peaks Eestis olema alla saja valla'. An interview with Professor Sulev Mäeltsemees, Tallinn University of Technology. – *Eesti Päevaleht*, 16.1.1998.

<sup>15</sup> A. Haveri, E. Laamanen, 'Boundaries, Size and Performance: A Delphi Study on the Development of Local Government Structure in Finland' – *Finnish Local Government Studies* 4, 2006, p. 324.



of municipalities was reduced by 4.5 times (from 525 to 119). After this, many here asked why we were not doing what the Latvians did.

Only in 2016 was it admitted (in the editorial of *Eesti Päevaleht* of 10 March) that: 'In addition to voluntary and coercive mergers of municipalities, we must start thinking seriously about a more important issue: how to avoid the Latvian scenario – that instead of the expected improvement of the situation, the administrative reform is followed by a new round of the depopulation of remote regions.'

A month later (on 6 April 2016), at the first reading of the draft Administrative Reform Act in the *Riigikogu*, the Minister of Public Administration Arto Aas said that: 'The objective of the administrative reform is to support the capacity building of local authorities, regional competitiveness, and thereby also more balanced development of Estonia as a whole. The objective is to raise local government to a qualitatively new level in order to be prepared for future challenges.' Undoubtedly this is true, but how could this be achieved in real life?

The general public is misled by the statements made after the municipal council elections in 2017, that the long-discussed administrative reform has finally been realised. The media has repeatedly made such statements, claiming, for example, that 'the administrative reform has been completed',<sup>16</sup> or less resolutely, but saying the same thing, that 'the administrative reform in Estonia has been formally carried out'<sup>17</sup>.

Fortunately, one can also hear and read different opinions, one of the most succinct of which is an article by Igor Gräzin.<sup>18</sup> In it, Gräzin points out that the problems with the administrative reform are only just starting to manifest themselves and that the gravest of these problems for the existence of the Estonian state is the nearly complete inability to be present throughout the entire territory of the country.

On the positive side, it should be admitted that lately the govern-

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<sup>16</sup> J. Värk, 'Skandaalide pitser valitsuse esimesel aastal' – *Postimees*, 23.11.2017.

<sup>17</sup> M. Koemets, 'Suure Elva valla algus kujunes tormiliseks' – *Tartu Postimees*, 7.2.2018.

<sup>18</sup> I. Gräzin, 'Haldusreformi probleemid alles algavad' – *Õhtuleht*, 30.11.2017.

ment has paid a great deal of attention in particular to the development of the state outside its capital city. The Minister of Public Administration, Jaak Aab, has also reaffirmed that the administrative reform does not amount merely to the redrawing of municipal borders and instead creates a framework for assigning more decision-making powers and responsibilities.<sup>19</sup>

### **What should have been done differently in the administrative reform initiated in 2016?**

- An administrative reform is more effective when it is prepared consistently.
- The outcome of the administrative reform should have been planned more objectively. The general public should not be fed misleading illusions, for example, about saving the taxpayers' money.
- The border reform should not have been an end in itself. A number of earlier administrative reform plans, starting with the coalition agreement of the Government of the Republic of 1992 could have served as an example.
- One of the issues that was completely neglected, but should be addressed, is the role of the capital city and the surrounding region in our local government system and public administration as a whole, along with the question of how to encourage local authorities to engage in regional business development.
- We must stop regarding administrative reform as a synonym for administrative-territorial reform (border reform).

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<sup>19</sup> J. Aab, 'Omavalitsuste ajaloost ja tulevikust' – *Eesti kohalik omavalitsus ja liidud – taastamine ning areng 1989–2017*. Tallinn, 2017, p. 16.