

IMPLEMENTATION OF COMPETENCES OF GAGAUZ YERI: CHALLENGES AND PERSPECTIVES

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Implementation of competences of Gagauz Yeri: challenges and perspectives

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Abstract

One of the fundamental principles of a fully-fledged functioning autonomy in a state is the implementation of powers provided by law to regional self-government bodies. The incomplete nature of powers' devolution and of powers' specification, as well as the lack of solid guarantees are the main reasons that have caused the weakening of the special status in the territorial division, and tensions between central authorities and the authorities in the autonomous unit. Since the establishment of its special legal status Gagauzia has been demonstrating a serious problem related to the implementation of its powers (competences). The core of this problem has been manifested in inconsistencies in legal frameworks regarding their [competences'] implementation. The lack of mechanisms ensuring a permanent dialogue with the central authorities has made matters worse and it would not allow solving the existing problems of the autonomy's functioning.

This paper introduces an analysis of how the authorities of Gagauzia have been implementing competences stipulated under the Constitution and other legal acts of the Republic of Moldova. The research examines feasible mechanisms of power sharing between the authorities of Gagauzia and the central authorities. The research aims to study the process of implementing competences by the authorities of Gagauzia as provided by the law since the autonomy's establishment, as well as to determine the level, at which they had been implemented in the light of reforming the laws of the Republic of Moldova.

The paper has the following objectives: to review competences of the autonomous-territorial unit as stipulated by the law; to analyse the degree of coherence between the competences specified in the Constitution and in the laws of the Republic of Moldova; to identify mechanisms, practices and problems related to the implementation of Gagauzia's competences; to explore financial guarantees in the implementation of Gagauzia's status; to analyse the institutional capacity of the autonomy for its economic development.

The paper includes an introduction, three parts, recommendations and annexes. As it follows from the research there are competences that can be divided into three categories: devolved competences implemented by Gagauzia; non-devolved competences managed by the autonomy and non-devolved competences remaining within the jurisdiction of the central public authorities of the Republic of Moldova. The analysis of financial guarantees of the autonomy's existence and of its economic development helped identify weaknesses in its legal and institutional frameworks.

Key words: autonomy, division of powers, mechanisms, Republic of Moldova, autonomous territorial unit of Gagauzia (Gagauz Yeri), central authorities, second-level local public authorities, regional self-government bodies of Gagauzia.

Peer review

The interdisciplinary study “Implementation of Competences of Gagauz Yeri: Challenges and Perspectives” is aimed at uncovering the strengths and weaknesses of Gagauzia’s autonomy and thus serving as a basis for reform efforts towards its improvement.

The Approach

The study does so from diverse scientific perspectives with a focus on the most relevant aspects of autonomy. This comprehensive and, at the same time, targeted approach adds significantly to its practical usefulness.

First, the authors represent **different academic disciplines**, with each of them making a specific contribution, while still complementing each other. Even though the study is firmly rooted in a thorough analysis of the autonomy’s legal framework and points out the difficulties of effective implementation, it goes clearly beyond a purely legal examination. It also explores, including an economic perspective, crucial issues such as financial and economic resources, which are a necessary corollaries of any meaningful exercise of own legislative and executive powers.

The study’s interdisciplinary nature is closely related to its second main characteristic, that is, a decidedly **non-legalistic approach**: it does not only concentrate on the “law in the books”, but also on “law in action”. More precisely, it does so, by placing much emphasis on the extra-legal preconditions for the proper functioning of the autonomy’s legal framework. This is most obvious in the chapter dealing with the institutional capacities of Gagauzia’s public authorities, which are limited and thus form a main impediment to the effective exercise of self-government.

A third characteristic of the study concerns its focus which is not only the “regional” level, i.e. the Autonomous Territorial Unit of Gagauzia, but also includes **local government** demonstrating the problem of lacking municipal autonomy *within* Gagauzia as decentralization has failed to include the local level. However, this is not a unique situation, but rather typical of many other autonomous regions in Europe, too.

The fourth valuable feature of the study are references, where relevant, to **international experiences** and documents adopted by international organisations, such as the 1985 European Charter of Local Self-Government and the 2009 Reference Framework for Regional Democracy, which enable the reader to view Gagauzia’s autonomy in a broader context.

The Contents

While Chapters 1 and 2 of Part 1 have improved much compared to the first draft and are now convincing (with only few comments and suggestions on details to be made), the improvements in Chapter 3 of Part I appear more limited (in some parts, there are neither changes according to the comments or suggestions made nor is there a comment on why those are not to be considered). Part II and III mostly concentrate on the economic and financial situation.

More attention has to be paid to a uniform use of terminology, in particular: «local», «regional», «first/second level authorities» etc. A graph with the structure and relations of the regional and local (self-)government bodies may be considered as well as a brief introductory part (1-2 pages) for a clarifying overview on terminology and institutional relations.

Additional clarification on concepts, such as «non-devolved and implemented» competencies or similar would help, too, starting from well-known concepts in comparative law. The question whether there are (some) exclusive legislative powers should be specifically addressed and clarified; also «local legislative acts» needs some more explanation (Chapter 2).

With a view to its purpose of providing a basis for bilateral talks, the study draws from all analysis and evidence gathered **conclusions and recommendations** for practical use. Grouping these recommendations according to addressees, priority and their time-dimension (short-, medium- and long-term recommendations) would add to their practical usefulness as a basis for bilateral talks. However, already in their current form the recommendations are relevant and linked to the conclusions.

Overall, the study clearly achieves this main purpose and may provide a solid basis for discussing reform efforts directed at improving the autonomy arrangement and its functioning in practice. Providing a useful matrix for the analysis of shortcomings (and potential strengths) of the Gagauz autonomy, the study also has the potential to be expanded and adjusted to further developments in the autonomy regime and in the relations with the Moldovan government.

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LIST OF ABBREVIATIONS

ATU – Autonomous Territorial Unit

ATU Gagauzia – Autonomous Territorial Unit of Gagauzia (Gagauz Yeri)

GDCT – General Directorate of Culture and Tourism

GDED – General Directorate of Economic Development

GDFA – General Directorate of Foreign Affairs

ECG – Executive Committee of Gagauzia

ICT – Information and communication technologies

ISMEs – Innovative Small and Medium Enterprises

SMEs – Small and Medium Enterprises

VAT – Value-Added Tax

PAG – People’s Assembly of Gagauzia

LPAs – Local Public Authorities

Introduction

The accordance of a special legal status to the localities in the Republic of Moldova densely populated by the Gagauz people is one of the few examples (as Crimea) of accommodating ethno-national diversity through the territorial (regional) self-government in the post-Soviet space and the South-Eastern Europe. Once adopted in 1994, the Law on Special Legal Status of Gagauzia¹ provided the basis for asymmetric approach to satisfying the needs of an ethnic community within the public administration system. By contrast the twenty-yearlong existence of this autonomous entity in the Republic of Moldova is characterised by certain tensions in the mutual relations between the central public authorities of the Republic and the authorities of the Gagauz autonomy.

Interest for the autonomy of Gagauz-Yeri manifested by various experts and expressed in numerous publications confirms the significance of this research subject, thus, proving the need to analyse problems accumulated in areas such as governance, economics, finances and culture.

The rationale behind this research is driven by the need to comprehend the problems related to the functioning of the autonomous-territorial unit of Gagauzia. The lack of experience in the territorial division of powers, the incomplete nature of competences' devolution and of their specification, and the lack of solid guarantees have significantly affected the implementation of competences by Gagauzia. Another factor that impacted upon this process is that joint efforts made by central and regional authorities in dividing and specifying provisions of the Law on Special Legal Status of Gagauzia had not gained momentum in the legislation.

This research represents an analysis of how the regional authorities of Gagauzia had been implementing their competences stipulated in the Constitution and other laws of the Republic of Moldova. The research aims to examine the process of implementing competences provided under the law by the authorities in Gagauzia since the autonomy's establishment and the identification of the level of such competences' implementation in the light of reforming the legal framework of the Republic of Moldova.

The paper has the following objectives:

- to review competences of the autonomous-territorial unit as stipulated by the law;
- to analyse the degree of coherence between the competences specified in the Constitution and in the laws of the Republic of Moldova;
- to identify mechanisms, practices and problems related to the implementation of Gagauzia's competences;
- to explore financial guarantees in the implementation of Gagauzia's status;
- to analyse the institutional capacity of the autonomy for its economic development.

According to the objectives of the study the authors: a) illustrated the legal framework of competences' implementation and its weaknesses, b) examined the legal contradictions; c) analysed the process of implementation of competencies and its problems. Financial relations and institutional capacities complete the picture providing additional information.

The novelty of this research is determined by the comprehensiveness of analysis of the process of implementing competences by the public authorities in the autonomous-territorial unit of Gagauzia. The research is grounded on the interdisciplinary approach to analysing matters, such as the autonomy's economic capacity, Gagauzia's financial autonomy, analysis of the administrative activity of the People's Assembly, Executive Committee and the Bashkan's Office.

¹ Law No. 344 on the Special Legal Status of Gagauzia (Gagauz-Yeri), dated 23.12.1994, published in the *Official Gazette* No. 003.

The identification of different categories of competences based on their effective exercise illustrates to which extent the legal framework ensures the autonomy's possibility to carry out functions within its territorial constraints. Under the existing practice of the autonomy's functioning in Moldova, we identified and made an examples-based analysis of competences in line with the following categories: (a) devolved and implemented competences by the autonomy; (b) not formally devolved but exercised competences, and (c) functions not devolved and remaining in the jurisdiction of the central public authorities. In the given research, devolved and not formally devolved competences should be understood as competences stipulated by the Law No. 344-XIII dated 23.12.1994 on Special Legal Status of Gagauz-Yeri. The clustering of competences based on the level of their coherence with the provisions of the Constitution and on the level of their reflection in the national laws that relate directly or indirectly to the functioning of the autonomy. In the event of non-devolved powers, the provisions of the law do not always coincide with the constitutional and legislative norms, thus impeding their full implementation and, therefore, creating tensions in the [autonomy's] relations with the central public authorities. In this context it was also important to analyse the process of competences' administration by the public authorities of the autonomous entity, to identify the extent to which financial autonomy of this territory is secured, as well as to examine the level of institutional capacity of the executive power in ensuring the economic development of Gagauzia.

Documents and recommendations of the international organisations, such as: European Charter of Local Self-Government (1985), Helsinki Declaration on Regional Self-Government (2002), Council of Europe Reference Framework for Regional Democracy (2009), Ljubljana Guidelines on Integration of Diverse Societies of the OSCE-HCNM (2012), Regions and territories with special status in Europe (2013)², etc. have had a significant importance for investigating the experience of Gagauzia, for analysing the process of competences' implementation, as well as they allowed us to develop practical recommendations.

The interdisciplinary nature of this research is based on a political-legal approach and a comparative legal analysis. These methods of analysis were used to explore the content and the comparison of practices of competences implementation. Empirical methods, such as description, observation, as well as comparison, synthesis and generalisation were used in exploring the research subject and helped discover a number of prerequisites that caused contradictions and tensions between the central public authorities and the autonomous territorial unit, as well as they helped to identify mechanisms to overcome them.

The research consists of an introduction, two parts, recommendations and attachments. The first part "*Challenges of the functioning of Gagauzia's status – the implementation of competences*" includes three chapters, analysing competences stipulated under the Law on Special Legal Status of Gagauzia and the process of their implementation. The first chapter entitled "*The implementation of devolved competences by Gagauzia*" focuses on the analysis of existing legal and regulatory framework that governs the implementation of competences devolved to Gagauzia, and explores the autonomy's experience in carrying out its competences. The second chapter entitled "*Managing non-devolved competences by the authorities of ATU Gagauzia*" is an example-based analysis of not formally devolved but exercised competences in such fields as economics, the organisation and functioning of local and regional public authorities, human rights in labour and family law. The third chapter entitled "Envisaged competences but not devolved to the ATU Gagauzia for administration" provides an analysis

² Council of Europe Reference Framework for Regional Democracy, MCL-16(2009)11; European Charter of Local Self-Government and explanatory report. Strasbourg, 15.X.1985; Helsinki Declaration on Regional Self-Government, MCL-13(2002)8 final; Regions and territories with special status in Europe [resolution, recommendation] Bruno MARZIANO, Italy (R, SOC). Congress of Local and Regional Authorities of the Council of Europe, CPR(25)2FINAL, Strasbourg, 30 October 2013.

of discrepancies between the competences provided under the Law on Special Legal Status and the provisions of the Constitution and other laws of the Republic of Moldova.

Part II of the research entitled “*Financial and economic framework of the autonomy of Gagauzia*” consists of two chapters studying the institutional capacity for economic development and financial guarantees in implementing competences of ATU Gagauzia. The first chapter on “*Financial guarantees in implementing competences of ATU Gagauzia*” focuses on the legal and regulatory framework governing the budget relations of ATU Gagauzia, budget performance indicators and on ways to improve budgeting in Gagauzia. The second chapter dedicated to “*Institutional potencial of the authorities in ATU Gagauzia - economics*” analyses the institutional capacity of the Executive Committee to ensure Gagauzia’s economic development; it explores the opportunities for long-term strategic planning and for investments generation; it also examines Gagauzia’s experience in developing international cooperation and interregional relations.

Annexes provide data about the most important sources of information and tables that researchers can use to study the question of the functioning of the autonomy Gagauz-Yeri.

Part I. Challenges for the implementation of status of Gagauzia: implementation of competences

Chapter 1. The implementation of devolved competences by Gagauzia, Elena Cuijuclu

Introduction

Regional self-government is the foundation for the development of regional democracy in a society. The main characteristics of this type of self-government are governing institutions, constitutional and/or legislative principles, on which basis a territorial entity functions and interacts with the central authorities, it participates in the decision-making process, it ensures protection against the involvement of other authorities in its competences and certain forms of control from the state.

Under principle A1.2 of the Helsinki Declaration on Regional Self-Government³, regional self-government denotes the existence of legislative power and the capacity of regional authorities to make decisions in the areas covered by their own competences, which must be clearly stated in the Constitution, in the region's statute or in the national laws.

Guided by gathered experience in implementing powers by regions and territories with special status in Europe⁴, in the case of Gagauzia, three basic groups of powers are of interest: (a) powers related to the ethnic community's culture; (b) decision-making powers with regard to matters arising within the confines of the autonomy's territory, and (c) powers defining the functioning of the region's governance.

(a) Culture-oriented powers imply the promotion of the region's culture, the development of its cultural heritage, the regulation of languages' use, education and courses organisation, adoption of symbols, founding museums, libraries, theatres and other culture, arts and sports institutions, as well as local media.

(b) Powers relevant to an autonomy's territory refer to urban and territorial planning, protection of environment, forest management, constructions, trade, hunting and fishery, transportation, roads building and maintenance, water and power supply, healthcare, social protection, local labour market, economic development, the use of natural resources, youth policy and international affairs.

(c) Powers that provide for the functioning of the region's governance, include laws on elections, the organisation of regions' administrative institutions, own state services in the majority of cases, regulatory powers, surveillance and co-funding of municipalities. Although Gagauzia does not implement many of the quoted above provisions included in the sphere of Autonomy's competences, many of them are noted in the Law on Special Legal Status of Gagauzia as areas related to the adoption of local laws by regional authorities.

This Chapter focuses on the issue of the implementation of devolved competences by Gagauzia within the framework of Constitution and the Moldovan legislation. Devolved competences mean powers as stipulated in the Law on Special Legal Status of Gagauzia (hereinafter referred to as the Law No. 344/1994) and not conflicting with the Constitution of the Republic of Moldova and/or other organic laws. Managing competences implies the existence of appropriate entities [responsible] for the implementation of the devolved competences.

³ Helsinki Declaration on Regional Self-Government, MCL-13(2002)8 final.

⁴ Regions and territories with special status in Europe...para 59-62. P. 10.

1.1 Legal and regulatory framework in support of the implementation of powers

The legal and regulatory framework in support of the implementation of devolved powers to Gagauzia includes the following: the Constitution of the Republic of Moldova, organic laws, resolutions and other governmental acts (take by the central authorities), as well as local laws⁵ adopted by Gagauzia's People's Assembly.

Constitutional framework that guarantee the autonomy's existence and the special legal status of Gagauzia is specified under the Art. 111 and the Art. 73, as well as indirectly under the Art. 97 and the Art. 135. *Institutional foundation* of autonomy's functioning are defined under the Constitution in the following provisions. It is possible to refer indirectly to Art. 96, 97 and 135 that stipulate possibilities for subjects, provided under organic laws, to use their right to be represented and to participate at the national level, as well as to initiate control over decisions made by the Parliament and the Government. Art. 97 provides for the structure of the Government, allowing appointing its other members specified in the organic law. In this case, we refer to the Presidential Decree by which the Governor of Gagauzia is affirmed as a member of the Government. The right to be represented in the Government is defined in Art. 14 p.(4) of the Law on Special Legal Status of Gagauzia. Art. 97 of the Constitution echoes Art. 4 p.(1) of the Law on the Government (1990) determining the composition and the constitution of the Government. Although the Law on the Government does not directly indicate the status of the autonomy's Governor nor the procedure for affirming him/her as a member of the Government, it does specify the possibility to be represented aside from the prime-minister, first vice [prime-minister], vice prime-ministers, ministers and other members as defined by the law. Agreeably, Art. 96 of the Constitution governing the activity of the Government also ensures the autonomy with the *right through the participation of the Governor of Gagauzia in its [Government's] work to implement domestic and foreign policy of the state* based on the Government's Programme as approved by the Parliament.

Art. 135 p. (2) of the Constitution stipulates the pursuit of activity by the Constitutional Court at the initiative of subjects entitled to access under the organic law on the Constitutional Court. *Subject entitled to exercise such right [to access] include the People's Assembly of Gagauzia* in compliance with the Law on Special Legal Status of Gagauzia (1994), Law on the Constitutional Court (1995) and by the Constitutional Jurisdiction Code (1995).

Following the amendment of Art. 111 of the Constitution in 2003, Special Legal Status of the autonomous-territorial unit of Gagauzia obtained constitutional recognition, thus allowing the autonomy in making political, economic and cultural decisions in areas covered by its own competences. However, the Constitution of the Republic of Moldova does not provide for a list of powers for an autonomous entity, which would define a framework within which such autonomous entity would make decisions independently. The Constitution proper does not fully specify the limits of the autonomy's powers, the implementation of which would not conflict with the interests of the entire country's population. Representative and executive authorities (People's Assembly of Gagauzia and Executive committee of Gagauzia) ensure the autonomy's governance and its powers' implementation. Under point (1) of this article, authorities in Gagauzia should make decisions in line with the stipulations of the Constitution. The State guarantees all rights and freedoms provided by the Constitution and the national legislation on the territory of the autonomy. Besides it, the national legislation shall be binding in all areas within the territory of Gagauzia. The control over the observance of the legislation

⁵ According to Art. 12 (2) of the Law Nr.344-XIII on the special legal status of Gagauzia (Gagauz Eri) from 23.12.94, People's Assembly of Gagauzia can adopt local laws, that shall be binding on the territory of Gagauzia.

of the Republic of Moldova on the territory of Gagauzia is being carried out by Government in accordance with the law⁶..

The Constitution makes reference to the *legislative power of the autonomy* only under Art. 73, which entitles the representative body, the People's Assembly of Gagauzia, to *legislative initiative(s) in the Parliament*.

Alongside with the constitutional provisions guaranteeing special rights for Gagauzia, there is a number of organic laws governing the order of the organisation and functioning of the territorial entities, which to a certain extent reflect the limits of the authorities' powers⁷. With the Law on Special Legal Status of Gagauzia as a primary one, such laws include also the Law on Local Public Administration, Law on Administrative Decentralisation, Laws on Local Public Finances and other organic laws governing the areas that are specified as part of the People's Assembly' power competence to adopt normative acts.

Organic laws adopted in the period after the Law no. 344/1994 and governing the main areas of functioning, do not determine, except on occasions, any concrete competences of an autonomous entity that would go beyond the powers of the second-level local public administration authorities. Art. 2 p. (2) of *the Law on Local Public Administration* (2006)

⁶ Provision on the control by Government was introduced by amendments of the Constitution in 2003 of Art. 111 (6), which was reflected in Art. 9 (3) of the Law no. 317 on Normative (Regulatory) Acts of the Government and other central and local public administration authorities (2003), and in the amendment of Art. 19 (1) of the Law Nr. 64 on the Government (1990).

⁷ Here, it is necessary to explain the specifics of organic laws and power of Gagauzia to take part in the process of adopting the laws. According to the Art. 9 (1) of the Law Nr. 780 On the Legislative Acts from December 27, 2001, organic laws are legislative acts that represent the development of constitutional norms and may be in force only in the fields directly stipulated in the Constitution, or in other essential fields for which the Parliament recommends the passing of organic laws. According to the Art. 73(3) of the Constitution the Parliament adopts organic laws that regulate the following: the electoral system; the organization and carrying out of referenda; the organization and functioning of Parliament; the organization and functioning of Government; the organization and functioning of the Constitutional Court, the Superior Council of Magistrates, the judiciary and courts of administrative judicature; the organization of local administration and territory, as well as the general regime on local autonomy; the organization and functioning of political parties; the manner of establishing of the exclusive economic zone; the general legal system on private property and inheritance; the general system on labor relations, trades-unions and social protection; the general organization of the education system; the general system on religious worships; the state of national emergency, martial law and war; the criminal offences, punishments and the manners of their execution, the granting of amnesty and pardon; other fields for which, pursuant to the Constitution, it is stipulated the adoption of organic laws; other fields for which the Parliament recommends the passing of organic laws. Besides the fields listed in the Constitution, the organic law in the Art. 9(n) of the Law on the Legislative Acts regulates "special forms and conditions of the autonomy of some communes on the left bank of the Dniester river and the south of the Republic of Moldova". Organic laws are adopted by the majority of the elected deputies, unless the Constitution stipulates a different majority. In the case of the Law Nr.344/1994, the Constitution stipulates the law can be reviewed by the qualified majority (3/5 of the deputies' votes). The organic laws are adopted after consideration in at least two readings and should comply with the constitutional laws. The ordinary laws shall intervene in any field of social relations, except for the spheres regulated by constitutional and organic laws. As a rule, they include State conceptions and strategies on the basic directions of the domestic and foreign policy of the country. The ordinary laws are adopted by the majority of the attending deputies' votes and should abide by the constitutional and organic laws. Participation of Gagauzia in the law-making process on the national level is secured under the right of the People's Assembly for the legislative initiative (of any type of laws) to the Parliament (the Constitution does not limit the range of questions and fields for the People's Assembly to submit an initiative), and under the Bashkan's right to initiate, develop and participate in the process of consideration of draft laws in the Government, as well as under the procedures empowering the People's Assembly and the Executive Committee to provide comments on the draft laws in the Parliament that require feedback for an agreement with interested bodies and institutions. But the procedure is not always followed in relation to the authorities of Gagauzia. We can assume that in some cases it is unclear whether provisions of the draft laws refer to the autonomous territory. On the other hand, the regional authorities do not regularly follow the decision making process in the Parliament and rarely react to amendments made to the legislation. It should be noted that the amendments to the legislation regarding Gagauzia may be made without its formal agreement or positive feedback.

explains the order of organisation and functioning of local public administration authorities in an autonomous territorial entity with special legal status that is governed by provisions stipulated in “*the Constitution, the Law on Administrative Decentralisation, and Law on Special Legal Status of Gagauzia and the given law*”⁸. (Art. 6 of) The Law on Local Public Administration also provides for general principles that have to be the basis of the relations between the central and all local public authorities, including the autonomy, legality, publicity and collaboration in making decisions regarding common problems. Besides the specified principles, in the autonomy shall be applied provisions on the order of the organisation and functioning of the first-level authorities, which include local councils and mayors, as well as the provision stipulating that the central authorities carry out administrative control over the compliance with the legislation of the Republic of Moldova by the authorities of Gagauzia⁹.

According to the general provisions of this Law, local public authorities are divided in to two levels: village/municipal councils are referred to the first-level local authorities; rayon (district) councils, municipal councils of Chişinău and Bălţi and regional¹⁰ public authorities of autonomous territorial unit of Gagauzia – to the second-level local public authorities. Under the term of “local council” is been considered representative and authorized public regulatory body of administrative-territorial entity of first or second level¹¹. The provision means that People’s Assembly of Gagauzia is been included under this category. It’s worth to mention, that the legislation of RM in overwhelming majority of cases uses the term “local public authorities of first and second level” on questions of delegation to them competences in some areas and character of relationship with central public authorities, without the consideration of provisions of Law Nr. 344/1994.

The Law on Administrative Decentralisation (2006)¹² stipulates general principles of the regulation of administrative decentralisation based on the principle of the division of powers between public authorities. It specifies areas of activity assigned to the first- and second-level local public authorities. This law doesn’t directly refer to the competences of the People’s Assembly, of the Governor of Gagauzia and of the Executive Committee. However, according to the Law on local public authorities, all of these entities come along with districts under the concept “second-level local public authorities”.

In line with Art. 4 p. (2), second-level local public authorities have the following areas of activity assigned to them; the areas which, to a certain extent, specify some of competences of the Peoples’ Assembly¹³:

a) governing public and private areas of a rayon;

⁸ Law on Local Public Administration no. 436 dated 28.12.2006, published in the *Official Gazette* no. 32-35 Article no.116, 09.03.2007

⁹ State Chancellery of the Republic of Moldova exercises administrative supervision in Gagauzia through its territorial office in Comrat on the basis of Art. 111 h. (6) of the Constitution and part 2 of Article 13 of the Law No. 317 from 18.07.2003 on the Normative Acts of the Government and other central and local public administration authorities. Disputes arising between the center and the autonomy are settled by the first instance administrative court on the basis of requests submitted by the territorial Office of the State Chancellery of the Republic of Moldova in Comrat of adopted normative acts (or local laws) by regional authorities of Gagauzia.

¹⁰ The RM legislation does not use the terms of ‘regional authorities’ and ‘region’. Therefore, in the case of Gagauzia, there are used such concepts as ‘local public authorities of the Autonomous Territorial Unit of Gagauzia’ or the generalized term of ‘local public administrations of the second level’.

¹¹ It is important to note Law No 764-XV on Administrative-Territorial Organization of 27.12.2001. Under Art. 4 (4) the administrative-territorial organization of the Republic of Moldova consists of two levels: villages (communities) and cities (municipalities) making the first level while districts make the second level. It is obvious that the Autonomous Territorial Unit of Gagauzia is not included in the second level of the RM administrative-territorial organisation.

¹² Law on Administrative Decentralisation no. 435-XVI dated 28.12.2006. published in *Official Gazette* no. 29-31/91 dated 02.03.2007

¹³ Ibid.

- b) planning and managing construction sites, the maintenance and administration of certain state assets meant for rayon purposes;
 - c) construction, maintenance and repair of district roads, as well as of road infrastructure;
 - d) organisation of passenger's transportation, management of local and district bus stations;
 - e) establishing common grounds of landscaping and public amenities at rayon level, as well as district forest protection;
 - f) support and encouragement of initiatives on economic development of an administrative-territorial unit;
 - g) development and implementation of projects on interurban gas pipelines' construction (including moderate pressure gas pipeline), as well as other district thermal power objects;
 - h) management of institutions responsible for a district's culture, tourism and sports development, as well as for other educational, cultural and sports activities carried out at a district level;
 - i) management of district municipal enterprises;
 - j) management of district social welfare institutions;
 - k) development and management of local social services oriented towards socially vulnerable population; monitoring of the social services' quality
- Art. 4 p (3) provides for a possibility to assign other powers to local second-level public authorities under the law.

Based on the provisions of the Constitution and organic laws governing the order of organisation and functioning of local public authorities in an autonomous entity, it becomes clear that many powers assigned to local authorities of Gagauzia are not reflected or [they] are not expressly specified to [ensure] their fully-fledged implementation. Constitutional framework doesn't include a list of powers assigned to the autonomy, whereas the organic laws do not expressly clarify what is meant by Special Legal Status, thus constraining it to vague provisions of the Law no 344/1994. In spite of the fact that the Law no. 344/1994 is the only organic law stipulating for the three fifths (3/5) of the Parliamentary majority [required] to allow making any amends to it, the law doesn't have a special status that would distinguish it from the rest of organic laws adopted by the Parliament of the Republic of Moldova. Hence, there are cases when certain legislative acts that were adopted later [than 1994] do not take into consideration provisions of the Law no. 344/1994 and result in "blocking" them¹⁴, or otherwise they only partially ensure the implementation of powers assigned to Gagauzia.

1.2 The implementation of devolved powers by the autonomy's public authorities

The system of executive (the Bashkan and the Executive Committee) and representative authority (the People's Assembly) of the autonomy has specific particularities in comparison with the procedure of constitution and functions of the second-level local public authorities, which we will analyse later.

1.2.1 Powers of the People's Assembly

Law no. 344/1994 is the basic law that the autonomy's authorities are meant to enforce. The provisions on the law no. 344/1994 specify a list of competences of the People's Assembly, competences of the Governor of Gagauzia and of the Executive Committee. Under

¹⁴ For example, in holding local referendum on matters related to the competence of Gagauzia by the People's Assembly. According to Electoral Code of Moldova, Gagauzia, as well as other local authorities first or second level in the Republic of Moldova, has no power to regulate this process. Also in the field of education the regional authorities of Gagauzia, in accordance with the Code on education, are not entitled to take decisions on development and implementation of their own educational programs. See details in Chapter 3.

the provisions of this law, the People’s Assembly is a representative and legislative body of the autonomy, consisting of 35 deputies that represent all localities of the autonomous-territorial entity. There are 8 line standing commissions that work under the People’s Assembly to enforce their competences in the following areas:

1. industry, construction, transport, communications and services,
2. agriculture, process industry, natural resources and environment,
3. economic policy, attraction of investments, budget, finances and regional development,
4. healthcare, social welfare, child welfare, family and labour,
5. science, education, culture, language and cults,
6. legal matters, human rights, legality, rule of law, public communication policy and mass media,
7. regulation, appointments, immunities and deputies’ deontology,
8. youth, sports and tourism.

People’s Assembly’s competences, specified under Art. 11 and 12 of the law no. 44/1994, are only partially implemented in compliance with the Constitution and is consistent with other organic laws of the Republic of Moldova that were adopted on a later stage. For instance under Art. 12 only seven out of ten competences are in harmony with the Constitution’s provisions and [they] are implemented partially or fully in compliance with the national legislation (see Table¹⁵).

Table 1. Correlation between the implemented powers of the People’s Assembly and the assigned powers under the Law on Special Legal Status of Gagauzia in compliance with the Constitution and legislation of the Republic of Moldova.

No	List of assigned powers and their implementation
1.	Under Art. 11 the People’s Assembly adopts local laws within the limits of its powers.
2.	Under Art. 12 (1), the People’s Assembly’s powers refer to the adoption of normative acts [that are] legally binding on the territory of Gagauzia, and [of] the Code of Gagauzia. (2) People’s Assembly adopts local laws in areas of: a) science, culture, education; b) housing and utilities, public services and amenities; c) healthcare, physical culture and sports; d) local budgeting, financing and taxes; e) economy and ecology; f) employment relationship and social security.
3.	(3) a) make decisions, as provided by the law, with regard to matters of territorial division of Gagauzia, establishing and amending the categories of localities, borders of districts, towns and villages, and their denomination and renaming;
4.	b) participation in the implementation of the domestic and foreign policy of the Republic of Moldova in matters of Gagauzia’s interest;
5.	c) establishing the procedure of the organisation and work of local public authorities in Gagauzia and [of] unions of citizens, except for [political] parties and other socio-political organisations;
6.	d) announcement, organisation and running of elections of deputies into the People’s Assembly, and the approval of the Central Election Commission’s composition for running elections; appointment of elections to the local public authorities of Gagauzia;

¹⁵ Table 1 provides for the implemented and non-implemented powers of the Assembly, which we coded in colours. Colour orange distinguishes the powers, which under the Constitution and national legislation, had not been devolved to the autonomy and, therefore, are non-implemented; blue marks the powers that were partially devolved and implemented, whilst green marks the powers that are both devolved and implemented. Competence specified under Art. 22 (1) will be examined under the section on Executive Committee.

7.	e) holding local referendum on matters relevant to competences assigned to Gagauzia;
8.	f) approval of provisions on Gagauzia's symbols;
9.	g) establishing titles of honors and validation of rewards;
10.	h) examine and initiate in the Parliament of the Republic of Moldova the announcement of the state of emergency on the territory of Gagauzia and the establishment - in a specified case - of a certain regime of governance aiming to protect and secure the population of Gagauzia;
11.	i) entitlement to appeal to the Constitutional Court of the Republic of Moldova in line with the procedure established under the law with regard to acknowledging normative acts [produced] by the executive and legislative powers of the Republic of Moldova as invalid, should they violate powers assigned to Gagauzia.
12.	Art. 21. 2) Upon the recommendation of the People's Assembly, the General Prosecutor of the Republic of Moldova appoints the Prosecutor of Gagauzia, who by virtue of his/her position, shall be a member of the Board of the General Prosecutor's Office of the Republic of Moldova.
13.	(3) Upon the recommendation of the Prosecutor of Gagauzia [made] in agreement with the People's Assembly, the General Prosecutor of the Republic of Moldova appoints lower-level prosecutors in Gagauzia.
14.	Art. 22 (1) Upon the recommendation of the People's Assembly, the Minister of Justice of the Republic of Moldova appoints and dismisses the Head of the Justice Department in Gagauzia.

This chapter examines those powers (competences) that are in line with the Constitution as well as – entirely or partially – with other organic laws.

The adoption of normative acts by the People's Assembly and lawmaking

Under Art. 12 p. (1) (2) the People's Assembly is entitled to *adopt normative acts (local laws) legally binding on the territory of Gagauzia, and the Code of Gagauzia*. In this case it is necessary to mention the rank of the People's Assembly acts (local laws) in the common hierarchy of legal and regulatory acts. Art. 12 p. (6) stipulates the subordination principle for local laws to the Constitution and the Law No. 344/1994. However, under the Constitution and the Law on Legislative Acts (2001) of the Republic of Moldova, the concept of "local law" was not reflected in the hierarchy of legislative acts. The law on Normative (Regulatory) Acts of the Government and other central and local public authorities (2003)¹⁶, which was adopted later, establishes the order of subordination thereof to the higher-level acts. Therefore, the People's Assembly should adopt local laws not only in accordance with the Constitution and Law No. 344/1994, yet with all regulatory legislative acts [adopted] by the central authorities. It is obvious that the normative acts (local laws) of the Assembly can only be valid and legally binding on the territory of the autonomy if they comply with the established framework¹⁷.

Art. 12 p. (2) of the Law no. 344/1994 stipulate *areas for the adoption of normative acts (local laws) by the People's Assembly*. Such areas include: a) science, culture and education; b) housing and utilities, amenities; c) healthcare, physical culture and sports; d) local budgeting, financing and taxes; e) economy and ecology; f) employment relations and social

¹⁶ Art. 77 p. (2) of the Law on Normative Acts of the Government and other central and local public authorities No. 317 dated 18.07.2003; published in the *Official Gazette* No. 208 -210, article No. 783, dated 03.10.2003.

¹⁷ As it is not clear from Law No 344/1994 what competence of Gagauzia are exclusive or shared, while other RM legal acts do not take into account its provisions, the situation, in practice, has become such that provisions of local laws and other normative acts adopted by the People's Assembly and published under Law No 344/1994, but contradicting other RM laws, are cancelled based on the Administrative Court decision.

protection. Taking into consideration the lack of clear division between the central authorities' powers and the autonomy's competences, and the established subordination of PA's normative acts (local laws) to the higher-level acts, the right to make local laws can be exercised only in the event if a PA's adopted normative act corresponds to areas and powers assigned by the Law on *Administrative Decentralisation* and *Law on Local Public Administration* to the local second-level public authorities. With account of the nature of subordination of normative acts of the People's Assembly that are at the same level with those of other local authorities versus the normative acts of the central authorities, it is necessary to stipulate in Law No 344/1994 and the Constitution exclusive, shared and other competences of Gagauzia in decision-making at the regional level in order to resolve the issue of delineation of powers.

Since 1995 People's Assembly adopted 349 local laws referring to the majority of areas stipulated by the law, of which 31 laws became invalid, were cancelled by a court's decision or they were not signed by the Bashkan¹⁸. Below is a graph on local laws adopted by the People's Assembly during 1995-2015.¹⁹

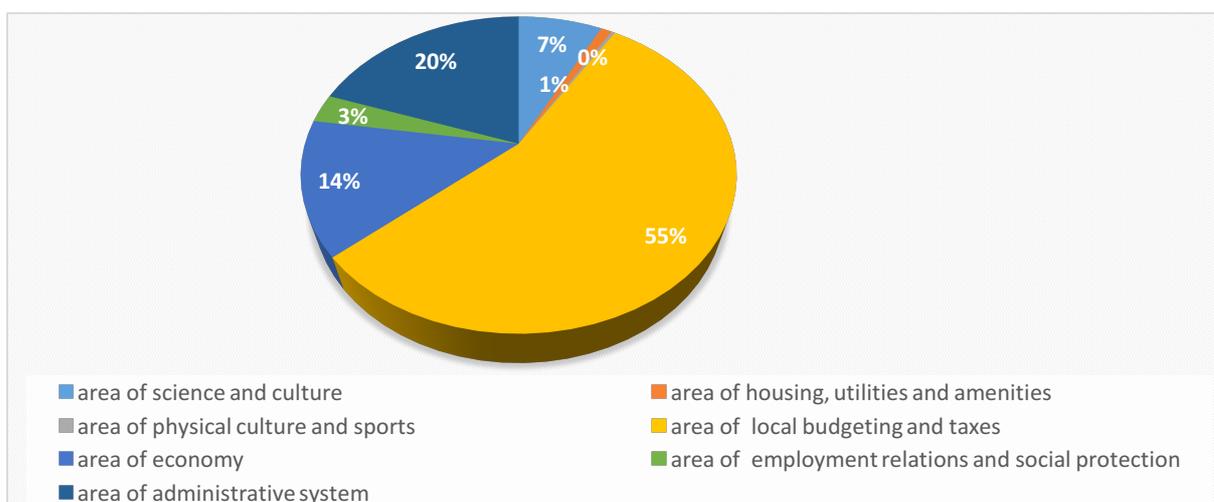


Image 1. Ratio of adopted local laws by areas during 1995-2015

It should be clarified that a list of adopted laws in the area of culture includes the development of cultural heritage of this territorial unit, regulation of languages, validation of symbols, as well as a law on television and radio broadcasting.

The group of the adopted local laws is complemented by laws governing the functioning of the administration system (laws governing elections in the autonomy's authorities, the administrative-territorial administration in Gagauzia, the activity of Gagauzian authorities, etc.). At the same time some areas were not covered in the decision-making. They are science, education, healthcare and ecology. The PA's decision-making process focuses on major areas such as local budgeting and taxes, politics and economy, since the majority of the autonomy's laws were adopted in these areas. It is interesting that out of 160 laws adopted by the Assembly in the area of local budgeting and taxes, half of the laws refer to Gagauzia's budget.

Currently it is quite difficult to identify which of the local regulatory acts adopted by the Assembly are in accordance with the Constitutions, with the laws and comply with its powers. One of the factors that make it difficult to identify is the lack of clear-cut framework in areas referring to local laws making. The challenge in establishing to which extent do local laws

¹⁸ Here is meant that 5 laws were cancelled under the court instance decision as unlawful because of their contradicting the RM legislation; 5 laws were not signed by the Bashkan; while the other laws were cancelled under the People's Assembly decision as a result of the local legislation reform.

¹⁹ See Table 1 in Annex 1.

comply with the legislation of the Republic of Moldova lies *inter alia* in the fact that a permanent administrative control over the compliance with the national laws on the territory of the autonomous territorial unit of Gagauzia started working once the Law on Local Public Administration was adopted in 2006. This explains why during the period of the People's Assembly's activity only an insignificant number of local laws was subjected to administrative control and appeals in the courts. In this context, the question about fully-fledged or partial implementation of local laws in the region presents interest. The majority of local laws were at first adopted without any coordination with the national legislation and they were not improved in line with the demands of the legal reforms implemented in the country. Hence, there is an issue regarding their implementation, since a certain part of the laws once adopted by the People's Assembly is now outdated and doesn't comply with the modern requirements of a functioning system. There is only a limited number of provisions established by the Assembly's regulatory acts that can be implemented; they are the ones that don't contradict the national legislation. At the same time, there is a number of local laws governing such areas as the imposition of taxes, employment relations and other areas of the region's social life, which cannot be implemented for reasons mentioned above²⁰.

The Assembly's lawmaking can be carried out within the powers stipulated under the Art. 12 p. (3) b) of the Law no. 344/1994. Thus, the powers of the People's Assembly include *participation in the implementation of the domestic and foreign policy of the Republic of Moldova in areas of interest for Gagauzia*. It was mentioned above that this one power was reflected at the constitutional level (under Art. 73) and in the Regulation of the Parliament of the Republic of Moldova by which under Art. 47 the People's Assembly was invested with the right to legislative initiative. All attempts the Assembly took to exercise this right referred mainly to introducing amends and additions in organic laws governing such areas as local public administration, finances, election system etc., which, in the opinion of the autonomy's authorities, did not take into consideration Gagauzia's interests. Nevertheless, the respective initiatives did not receive any feedback and were not discussed in the Parliament's sessions. Inefficiency in exercising this right is reasoned primarily by the low quality of provided draft initiatives and by insufficient lines of reasoning provided in support thereof²¹. On the other hand, respective drafts did not receive the support of the Parliament's MPs because often the suggested amends would be considered as [an attempt to] create a privileged status for Gagauzia in comparison with other territorial units, therefore considered as contradicting constitutional provisions and national legislation and not being part of the autonomy's powers²².

In this respect, the issue of the quality of the People's Assembly's legislative activity requires more careful and continuous attention from the side of the central authorities (Government and Parliament of the Republic of Moldova) and of the experts' community, in order to increase the efficiency of the autonomy's participation in the development and implementation of national policy, as well as to ensure a fully-fledged implementation of the

²⁰ See details in Chapter 2 and Chapter 3.

²¹ The most common comments made by the permanent committees of the Parliament were related to the arguments of the explanatory note, which were considered insufficient for the adoption of the draft. In some cases it was necessary to provide the results of expert examination of the draft and the results of the public consultations related to the draft law. Another problem was related to the ability to correctly interpret national legislation and make use of the proper terminology. Provisions in a majority of draft laws were in conflict with the provisions of other laws of the Republic of Moldova; they in few cases contradicted the Constitution; almost all of the draft laws had minor or serious technical, terminology and linguistic shortcomings and did not meet procedural requirements. In this connection, draft laws were not recommended or no decision was taken by the permanent committees of the Parliament. See details in "The implementation of the status of autonomy Gagauz Yeri: challenges and prospects", by E. Cuijuclu, M. Sircheli, p.13-14.

²² Ibid., p. 23-33.

autonomy's status. In this context possibly the status of local laws will be reviewed. The subordination of local regulatory acts adopted by the Assembly and their equating with the decisions taken by district council and other second-level local public authorities does not secure Special Legal Status of the autonomy. In their turn, the autonomy's authorities do not always focus on meeting certain specific requirements of the territorial unit, thus often duplicating provisions that are governed by the central authorities. Therefore when the local authorities attempt to appropriate the powers that are assigned to the central authorities, there appear contradictions between the local and national legislation.

People's Assembly's efficient participation in the national decision-making depends on its level of abilities to timely propose legislative initiatives [that will be] qualitative and meeting the requirements of the proposition that would improve the situation in the autonomy. To a certain extent, in the process of reforming the national legislation changes to be made depended on the commitment of the autonomy's authorities to register their propositions relevant for Gagauzia.

In the case of Gagauzia we can notice a weak connection between the implemented reforms of the national legislation with the local one. The experience of [other] countries that have territorial autonomies presents possible ways to accommodate local laws to the changes in the national laws that target fundamental socio-economic reforms in the state.

Often the introduced changes require using special procedures that involve providing the autonomy with a certain period of time in order to present their propositions reflecting the special needs of a territorial unit, as well as to adapt the new principles in the local legislation to the local context²³. Therefore, in terms of lawmaking and legal harmonization, the mechanisms of cooperation between central authorities and Gagauzia can be extended by introducing such a special procedure allowing the autonomy reacting more efficiently to amendments in the national legislation, presenting its own proposals to draft laws, especially when the matters in question relate to Gagauzia's interests.

Implementation of powers regarding elections in the autonomy

Art. 12 p. (3) d) of the Law no. 344/1994 provides the People's Assembly's power regarding elections on the territory of the autonomy. It stipulates *the calling, organisation and holding of elections of deputies in the People's Assembly; adoption of the composition in the Central Election Commission responsible for holding elections, as well as the calling of elections in the local public authorities of Gagauzia*. Under this provision the autonomy is entitled to fully regulate the process of elections of deputies in the People's Assembly. At the same time, this law does not include any provision regarding the organisation and holding of election of the Governor of Gagauzia (Bashkan).

Art. 119 p.(3) of the Electoral Code specifies that *"In special status administrative-territorial units, local elections shall be conducted under provision of this Code and acts adopted by the representative authorities of the relevant administrative-territorial units"*. This is one of the cases with plenty of unclarified aspects. This provision is included in that chapter of the Electoral Code that refers to local elections, in other words, elections of mayors in localities, local and district councils. Following this logic, elections of the autonomy's Governor (Bashkan) (as well as elections of deputies in the People's Assembly) are governed in compliance with *"the documents"* adopted by the Assembly. However, in the chapter stipulating *"calling of elections in local public administration authorities of Gagauzia"*, the Law no. 344/1994 does not clearly specifies which local authorities are meant. Pursuant to the previous experience of the autonomy's functioning, the Assembly would take decisions about calling elections of mayors and in local councils by way of duplicating a relevant Parliament's decree, since under Art. 122 of the Electoral Code it is the Parliament that has the power to call

²³ Regions and territories with special status in Europe...para 39, P. 8.

general local elections. Central authorities and the Assembly appeared to have contradictions about the calling of the latest local elections in 2015. The People's Assembly adopted a decree on a date [of local elections] empowering "*the Central Election Commission of Gagauzia responsible for the elections of the Governor (Bashkan) of Gagauzia (Gagauz Yeri) to organise and hold elections in local public authorities of Gagauzia*"²⁴. The State Chancellery's Territorial Office subsequently appealed against that decision in the administrative court and it was annulled as illegal. The court found that the decree was issued in breach of the Law and in excess of [the Assembly's] powers not only in terms of offering powers to the election commission, but also in terms of the provision establishing the election date. Thus, there is a twofold interpretation of provisions both under the Law no. 344/1994 and under Art. 119 of the Electoral Code with regard to which bodies should be referred to as local public administration authorities of Gagauzia²⁵. On the other hand, even if we assume that the Law no. 344/1994 refers to the Bashkan as the authority of Gagauzia (apart from People's Assembly and the Executive Committee), the Law, nevertheless, does not give the right to the People's Assembly to organise and hold these elections, except pursuant to the above mentioned unclear Article of the Electoral Code. Although it is clear that the right to organize and conduct elections of the Governor of Gagauzia is recognized as an authority of the autonomy, nevertheless the national legislation requires clarification.

In this context it is necessary to make amendments and additions to the Law no. 344/1994 as well as the Electoral Code of the Republic of Moldova with the aim to specify the order of the organisation and holding of elections of the autonomy's Governor (Bashkan), People's Assembly and first-level public authorities. Taking into consideration the status of Bashkan as a member of the Government, a specification of this provision in the national legislation will be significant for the autonomy.

Adoption of symbols

Art. 12 p (3) f) of the Law no. 344/1994 specifies this power to *adopt provisions on Gagauzia's symbols* that is guaranteed by the People's Assembly's decree. Art. 4 of the Law no. 344/1994 also says that Gagauzia's symbols are to be used alongside with the state symbols of the Republic of Moldova. In accordance with Art. 5 of the Law of the Republic of Moldova on Public Symbols²⁶ this decree becomes valid once the Herald National Commission issues its decision. Thus, under these provisions in the national legislation the autonomy is entitled to adopt symbols as much as other second-level local authorities. Based on this entitlement the People's Assembly adopted local laws on Flag, Coat of Arms and Hymn of Gagauzia.

Adoption of local awards and honorary titles in Gagauzia

Art. 12 p. (3) g) of the Law no. 344/1994 provides the People's Assembly with the possibility to *determine honorary awards and to adopt local awards*. It is important to specify here that under the local Law on Awards²⁷ awards refer to certificates of honour and titles of honour in various fields, thus allowing them to be awarded to any other local public administration authority. The laws on awards and on honorary citizen of Gagauzia function in the autonomy in compliance with the above provision.

Right to present in the Parliament an initiative announcing state of emergency in Gagauzia

²⁴ <http://halktoplushu.md/index.php/zakonodatelstvo/postanovleniya/1075-o-naznachanii-daty-vyborov-v-organy-mestnoj-publichnoj-vlasti-gagauzii>

²⁵ For more information see Chapter 2.

²⁶ Law no. 86 On Public Symbols, dated 04.10.2011. Published in *Official Gazette* no. 164-165, Article no. 478, 01.01.2012

²⁷ Law no. 15-XI/I on Awards in Gagauzia (Gagauz-Yeri).

<http://halktoplushu.md/index.php/zakonodatelstvo/zakony-ato-gagauziya/753-2012-12-13-12-36-07>.

Art. 12 p. (3) h) of the Law no. 344/1994 allows for *examination of the issue and presentation of initiative in the Parliament of the Republic of Moldova regarding the announcement of state of emergency on the territory of Gagauzia and in the specified event enacting a special form of governance for the protection and security of the people of Gagauzia*. It is difficult to understand, in what case and based on what procedures the given opportunity can be used. However, with account of the right of the People's Assembly to legislative initiative in Parliament, there should be used the same procedures (according to the parliamentary rules and based on the request of the People's Assembly Chairperson that is based on the Decision approved by the majority of the regional regulatory body deputies). In this case there is no breach of the Constitution or legislation of the Republic of Moldova, because it foresees the presentation of initiative for the Parliament's consideration with regard to a state of emergency and solving the issue of protection and security of the population locally.

Right to appeal to the Constitutional Court

Art. 12 p. (3) i) of the Law no. 344/1994 entitles the People's Assembly to *appeal in line with the procedure established by the law to the Constitutional Court of the Republic of Moldova with regard to acknowledging invalidity of normative acts adopted by the legislative and executive powers of the Republic of Moldova should they violate the powers assigned to Gagauzia*²⁸. As mentioned above, this provision was further elaborated on under the Law on the Constitutional Court and under the Constitutional Jurisdiction Code of the Republic of Moldova dated 1996. The Code also specified which normative acts should be subject to a constitutional check: laws, regulation and decrees adopted by the Parliament, Presidential decrees, Governmental decrees and regulations. The list of normative acts included also international agreements signed by the Republic of Moldova which could limit the autonomy's powers. The People's Assembly has rarely (on 7 occasions only) and inefficiently used this provision. In case of Gagauzia, in comparison with other territorial autonomies (as South Tyrol, Quebec, and others), the right to appeal to the Constitutional Court has no practical use. Besides the lack of essential constitutional guarantees of autonomy functioning²⁹ and vague wording of powers regarding the adoption of normative acts (local laws) by the Assembly under the law no. 344/1994, which don't allow exercising fully the right to defend the autonomy in the Constitutional court, the appeals, in their turn, were of poor quality and ultimately returned with a rejection to be heard on merits³⁰.

Appointment of prosecutors in Gagauzia

The power allowing participating in the appointment of prosecutors³¹ is guaranteed based on the compliance of the Law no. 344/1994 with the Law on Prosecution Service³² no. 294 dated 25.12.2008.

²⁸ Request of the National Assembly to the Constitutional Court shall be based on a Decision adopted by majority votes of the deputies at its session.

²⁹ For example, establishing in the Constitution the People's Assembly right to legislative activity and other similar competences that are stated in Law No 344/1994. The right of the People's Assembly to adopt local laws was not initially proscribed within the constitutional framework and, respectively, was not fully developed and fixed in the national legislation. Changes, entered in the Constitution in 2003 with respect to Gagauzia, specify special legal status of the territorial unit, while not disclosing its meaning. Under the entered amendments, procedure of Gagauzian regional authorities' activity is regulated, on the whole, by the national legislation. As practice shows, the legislation does not take into consideration provisions of Law No 344/1994.

³⁰ For more information see "Reciprocal control between the centre and autonomy: experience of implementing the Gagauz status" by E. Cuijuclu, M. Sircheli, p. 11.

³¹ Upon the recommendation of the People's Assembly, the General Prosecutor of the Republic of Moldova appoints the Prosecutor of Gagauzia in accordance with general requirements for a candidate for the position indicated by the Law on Prosecution Service.

³² <http://lex.justice.md/index.php?action=view&view=doc&lang=2&id=331011>

1.2.2 Powers of the Governor of Gagauzia (Bashkan)

Art. Art. 14, 19 and 24 of the Law no. 344/1994 (see Table 2)³³ stipulate the power of the Governor of Gagauzia (Bashkan).

Table 2. Compliance of exercised powers of the Governor of Gagauzia with the powers assigned to him/her under the Law on the Special Status of Gagauzia in accordance with the Constitution and the legislation of the Republic of Moldova

No	List of assigned powers to the Governor of Gagauzia and their implementation
1.	Art. 13 (1) An adopted local law is signed by the Governor (Bashkan) of Gagauzia within 10 days. In the event of disagreement with the adopted law, the Governor of Gagauzia shall return it for revision.
2.	Art. 14 (1) The highest official of Gagauzia is its Governor (Bashkan). All public administration authorities in Gagauzia abide by him/her.
3.	(4) Through a Presidential Decree, the Governor of Gagauzia is appointed as member of the Government of the Republic of Moldova
4.	(6) Governor of Gagauzia carries out the management of activity by public administration authorities and is responsible for the exercise of his/her powers assigned to him/her under the legislation.
5.	(7) In line with the given Law, the Governor of Gagauzia issues decisions and instructions that are legally binding and valid from the date of their publication on the entire territory of Gagauzia.
6.	Art. 19. Upon the recommendation of the Governor of Gagauzia, managers of relevant line departments become parties of boards in ministries and departments of the Republic of Moldova.
7.	Art. 24 (1) The Head of Interior Department of Gagauzia is appointed and dismissed by the Minister of Interior of the Republic of Moldova upon the recommendation of the Governor of Gagauzia in agreement with the People's Assembly.
8.	(4) The Head of the municipal police from the Interior Department of Gagauzia is appointed and dismissed by the Governor of Gagauzia upon the recommendation of the Head of Interior Department of Gagauzia and he/she is in the latter's operational subordination.
9.	(5) The Commander of Carabineers' (Internal Troops) Subdivision is appointed and dismissed by the Minister of Interior of the Republic of Moldova upon the recommendation of the Governor of Gagauzia.

The provided table shows that the majority of powers that are assigned to the autonomy's Governor are devolved and exercised. Under Art. 14 Bashkan has in his/her subordination all public administration authorities of Gagauzia. However this provision should be examined as partially exercised [by the Bashkan], because it does not comply with the general principle of the local autonomy [assigned to] the first-level authorities as stipulated under the Constitution and the Law on Administrative Decentralisation³⁴. Only the Executive Committee of Gagauzia and the administrations of the autonomy's "dolays" ([dolay is a local

³³ For the purposes of this research Table 2 identifies in colours the Bashkan's powers that are implemented or non-implemented. Thus, colour orange stands for powers that were not devolved to the autonomy pursuant to the provisions of the Constitution and the national legislation, therefore they are non-implemented; colour blue stands for the powers that are partially devolved and implemented; whilst colour green identifies devolved and implemented powers. Points coloured in orange are described in Chapter 3, those in blue – Chapter 2 and Chapter 3.

³⁴ For more information see Chapter 2 and Chapter 3.

word for] districts) that are part of regional institutions can be enlisted as authorities with a subordinate nature to the Governor.

The autonomy's Governor issues decisions and instructions³⁵ that are legally binding on the territory of Gagauzia, s/he signs local laws and is entitled to legislative initiative in the People's Assembly. S/he presents for the People's Assembly's adoption [the composition of] and s/he chairs the Executive Committee of Gagauzia. Governor of Gagauzia decorates with awards and bestows titles in Gagauzia in accordance with the local law.

Under Art. 24 p. (1) of the Law no. 344/1994 and Art. 7 e) of the Law on Police of the Republic of Moldova, the Head of the Police Department of ATU Gagauzia (Head of the Interior Department of Gagauzia) is appointed and dismissed by the Minister of Interior of the republic of Moldova upon recommendation of the Governor of Gagauzia in agreement with the People's Assembly³⁶. The municipal police, in its turn, carry out its duties in an administrative-territorial unit found in its competence and subordinates to the Chief Police Inspectorate of the Ministry of Interior, to the district and local councils, and to Bashkan in Gagauzia³⁷. Bashkan carries out the organisation, management and coordination of activity [implemented] by the municipal police³⁸, also the Governor of the autonomy can have influence on the appointment of the head of the municipal police in accordance with the Law on Police Activity and the Status of a Police Officer.

Through a Presidential Decree, Bashkan is appointed as a member of the Government (without portfolio) of the Republic of Moldova. Hence it ensures the implementation of the provision under Art, 68 p. (1) of the Code of Gagauzia with regard to *the representation of the autonomy in the decision-making process regarding the domestic and foreign policy of the Republic of Moldova relevant for Gagauzia's interests*. The status of a member of the Government does not imply the Governor's subordination to the central authorities. It is meant to ensure "*efficient cooperation and representation of interests of the population of Gagauzia in public administration*"³⁹. Besides the right to participate in debates during [the Government's] meetings and to present propositions, Bashkan has the possibility to participate in the Parliament's sessions in events when [the Parliament] examines matters relevant for the autonomy. As a member of the central executive power, Bashkan is part of the composition of various governmental commissions, particularly, the commission on the reintegration of the state, European integration of the Republic of Moldova, on emergencies etc.

Although the representation by Gagauzia's Governor in the Government offers certain advantages to the autonomy in comparison to other territorial units, this mechanism,

³⁵ There is a difference in the way normative acts are adopted by the regional authorities of Gagauzia and district councils (as well as by their Chairpersons). Under the Law on Local Public Administration, the District Council makes decisions, while the District Council Chairperson issues instructions of normative and individual nature. Law No 344/1994 specifies that Bashkan makes decisions and instructions mandatory on the Gagauzian territory as a whole. Besides, the local Law on Executive Committee says that the Head of the Autonomy publishes instructions as Chair of the Executive Committee. The Chair and Deputy Chairs of the Executive Committee issue executive Committee Instructions. Decisions are adopted by the majority vote of Executive Committee members and subsequently signed by the Head of Gagauzia. However, neither the national legislation nor the local laws of Gagauzia provide explanations on the types of issues requiring decisions and instructions of the Head of Autonomy.

³⁶ Law no. 320 dated 27.12.2012 On the Police Activity and the Status of a Police Officer. Published in *Official Gazette* no. 42-47, Art. No 145.

³⁷ Governmental Decree no. 139 dated 20.02.2001 on the adoption of the Regulation on the municipal police of the Chief Police Inspectorate of the Ministry of Interior. Published in *Official Gazette* no. 25-26, Art. No 177.

³⁸ Law no. 320 dated 27.12.2012 on the Police Activity and the Status of a Police Officer. Published in *Official Gazette* No. 42-47, Art. No 145.

³⁹ Decision of the Constitutional Court No. 7 of 02.04.2014 on the rejection of notification no. 22a/2014 regarding the control of constitutionality of Art. 14 para (4) of the Law no. 344 344-XIII dated 23 December 1994 on the Special Legal Status of Gagauzia (Gagauz-Yeri).

nevertheless, is largely used to solve current local problems. It is difficult to consider the [Governor's] participation in the deliberations about national development strategies and draft laws as efficient. Despite the provided opportunity to make propositions regarding the autonomous unit⁴⁰, the specific needs [of the autonomy] are rarely taken into consideration during the decision-making process. For the sake of implementation of this power, it is important for the authorities to provide a clear definition of Gagauzia's needs and to integrate these in the agenda of the central authorities. The political situation in the country, in its turn, significantly affects the sustainability of the decision-making process, with a particular pattern in lengthy political crises and lack of the political will on behalf of the ruling elites. The usage of this mechanism also proves to be insufficient in ensuring an ongoing constructive dialogue between the centre and the autonomy, which requires additional efforts and joint actions by all involved sides.

1.2.3. Structure and powers of the Executive Committee

Under Art. 16 of Law No. 344/1994, the Executive Committee is the permanent executive authority in the autonomy formed by the People's Assembly for its mandate of functioning, upon the recommendation of the Governor of Gagauzia. The executive authority operates based on the Activity Program that is approved on a period of its mandate by the People's Assembly.

Art. 20 of the local law on the Executive Committee of Gagauzia No. 31-XXX of 09.07.1998⁴¹ governs the structure of the Executive Committee. Its system includes 14 Main Directorates⁴², and, since 2015, it is completed with the Research Center of Gagauzia named after "M.V. Marunevich", as well as the Presidents of Comrat, Ceadir-Lunga and Vulcanesti dolays (districts). Main Directorates functioning within the Executive Committee are its direct structural divisions, although the majority of them expressly coordinate their activity with the respective ministry. It should be noted that similar Directorates in the field of education, finance, culture, social protection, agro-industrial complex, economy, construction and infrastructure exist in district councils as their structural subdivisions and exercising similar powers.

In line with the created structure, the heads of the four among fourteen of directorates lead de-concentrated services⁴³, directly subordinated to the central public administration

⁴⁰ Decision adopted at the Executive Committee session; submit his/her own proposals as Member of the Government without coordinating them with the Executive Committee. Being Head of the Executive Committee, Bashkan can exert influence on the central authorities' agenda through a legislative initiative submitted to the People's Assembly that, in its turn, through formulating draft laws to be submitted to the Parliament, formulates initiatives related to Gagauzia.

⁴¹ Law No. 31-XXX on the introduction of amendments and completion into the law «On the Executive Committee of Gagauzia» of 09.07.1998.

⁴² Main Directorate for Affairs of the Governor and the ECG; Main Directorate for Economic Development; Main Directorate of Finance; Main Directorate of Construction and Infrastructure; Main Directorate of External Relations; Main Directorate of the Agro-Industrial Complex; Main Directorate of Healthcare and Social Security; Main Directorate for Education; Main Directorate for Affairs of Youth and Sports; Main Directorate of culture and tourism; Main Directorate of Fiscal Administration and Control; Main Directorate of Internal Affairs Main Directorate of Justice; Main Directorate of the Service for Intelligence and Security.

⁴³ Under Art. 31 (3) of the Law No 98 on Specialized Central Public Administration of 04.05.2012, a ministry or some other central administrative body can have deconcentrated public services under their direct control that should perform their functions and provide public services to the population in conformity with their authority. The Central Tax Administration and Control Office, Central Administrative Office of Internal Affairs, Central Administrative Office of the Information and Security Service and Central Administrative Office of Justices are the administrative offices subordinated to the respective ministries as structures within Gagauzia's Executive Committee.

authorities and are funded from the republican budget. There is a certain inconsistency in the legislation with regard to the appointment of heads in respective directorates. Thus, the repeatedly formed composition of the Executive Committee [adopted] by People's Assembly decision does not guarantee the appointment of a person in the position of a head, who - under RM Law no.158 of 04.07.2008 On Positions in State Institutions and the Status of a Public Servant – is appointed in this position based on a contest carried out by a relevant central authority or is appointed by a minister. As a result, the period of [an appointment's] confirmation is protracted, whilst the proposed candidate does not always conform to the requirements specified in the national legislation for occupying the position. Although the Law on the Executive Committee of Gagauzia stipulates that its structure includes directorates that are de-concentrated public services, only the heads of these departments are subordinate to the Governor of Gagauzia.

Powers of the Executive Committee of Gagauzia are exercised in line with Art. 17 (see Table.3⁴⁴).

Table 3. Correlation of the exercised powers of the Executive Committee of Gagauzia with the powers assigned to it by the Law on Special Legal Status of Gagauzia in accordance with RM legislation.

No.	List of powers assigned to the ECG and their implementation
1.	Art. 17. (1) Executive Committee of Gagauzia guarantees: a) execution and abidance to the Republic of Moldova Constitution and legislation, as well as to the normative (regulatory) acts of the People's Assembly;
2.	b) participation in the activity of the central sectoral public administration authorities of the Republic of Moldova with regard to issues concerning the interests of Gagauzia;
3.	c) regulation, in line with the law and on the entire territory, of ownership relations, economy management, socio-cultural building, local budgetary-financial system, social security, remuneration, local taxation, environmental protection and the rational management of natural resources;
4.	d) defining the structure and priorities for the development of economy and of scientific and technical progress;
5.	e) development of programs for the economic, social and national-cultural development, environmental protection and their implementation following approval by the People's Assembly;
6.	f) development of Gagauzia's budget, its presentation for the approval by the People's Assembly and budget execution;
7.	g) solving issues of ecological safety, rational use, protection, reproduction of natural resources, introduction of quarantine and announcement of areas of natural disaster;
8.	h) development and implementation of programs in the fields of education, culture, healthcare, physical culture and sport, social welfare, as well as the protection and use of historical and cultural monuments;
9.	i) equality of rights and freedoms for its citizens, national and civil consent, protection of legality and public order;
10.	j) development and implementation of an scientifically grounded demographic policy, creation of urban planning programs and development of housing and utilities sector ⁴⁵ ;

⁴⁴ ECG's powers in blue refer to partially implemented powers, i.e. in some fields; in green-powers exercised in the frame of the national legislation.

⁴⁵ For more information see Chapter 3.

11.	k) functioning and development of national languages and cultures on Gagauzia's territory.
12.	(2) Executive Committee is entitled to legislative initiative in the People's Assembly.

The majority points of the provisions regarding the management of the above-mentioned fields of the Executive Committee's activity comply with the norms concerning powers of the second-level local public authorities within the framework of the national legislation, which allows the state delegating in some areas and other powers under the law.⁴⁶

Art. 17 h) of the Law on the Executive Committee of Gagauzia stipulates a power regarding the development of programs in the field of education. However, under Art. 141 Code of Education no. 152 of 17.07.2014⁴⁷ which provides the list of powers in the field of education, there is no any provision indicating that the Executive Committee of Gagauzia also is entitled to develop and implement its own educational programmes. Therefore in this field the autonomy's power can be classified as non-devolved by the central authorities.

In the field of culture, deriving from the Law no. 413 of 27.05.1999 On Culture, *"The Government shall develop and fund within the established procedure state programmes aiming to preserve and develop culture in compliance with the state's cultural policy, it shall identify the channels, forms and ways of their implementation"*⁴⁸. Even if the law does not include regulations on the local authorities' right to develop local programmes, the state manages this area based *«on the principle of its de-monopolization»* and it *«provides free access to cultural values and activity»*. Powers on protecting cultural monuments that are part of the national cultural heritage are enforced by the state. In the case of separate areas of culture, such as museum activity, the state delegates its powers to local authorities to develop normative acts governing the activity of museums and to control their enforcement⁴⁹. Thus, the provision on the right to claim local significance of a program targeting the development of culture does not contradict the legislation and is regulated by the autonomy.

In terms of Gagauz culture development and promotion, it is important to highlight the activity of the Research Centre of Gagauzia named after "M.V. Marunevich", now a structural division of the ECG. Its field of work determines areas of researches on theoretical and scientific-applied matters the Gagauz people, its language, literature, folklore, history, archaeology, ethnology, Gagauz art and the entire population of ATU Gagauzia⁵⁰. By securing the functioning of the Gagauz language in the region they increase the role of this institution, inter alia, thanks to the organisation of Gagauz language courses for the autonomy's residents.

Regarding healthcare, under Art. 6 e) of the Law no. 411 of 28.03.1995 on Healthcare⁵¹, local public administration authorities can approve and ensure the implementation of local strategic plans regarding the development of healthcare services, as well as local healthcare programmes, in compliance with the local needs and in execution of the national programs adopted by the Government of the Republic of Moldova.

Thus, under Art. 17 p. (1) a) of the Law no. 344/1994 and other RM organic laws, the Executive Committee of Gagauzia can only develop programmes within the framework of the national legislation and the existing state programmes. The study of the activity programmes of the Executive Committee's Directorates confirms that the enforcement of powers devolved to

⁴⁶ Law no.435-XVI of 28.12.2006 on Administrative Decentralisation. Published in *Official Gazette* no. 29-31/91 of 02.03.2007.

⁴⁷ Code no. 152 of 17.07.2014 on education. Published in *Official Gazette* no.319-324 article No.: 634.

⁴⁸ Law no. 413 on Culture of 27.05.1999. Published in *Official Gazette* no.83-86 article No.: 401.

⁴⁹ Law no. 1596 of 27.12.2002 on Museums. Published in *Official Gazette* no.23-24, article No.: 81.

⁵⁰ Research Centre of Gagauzia named after "M.V. Marunevich" <http://www.gbm.md/>

⁵¹ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=312823&lang=2>

them was ensured based on national programs in the fields of economy, healthcare, education, ecology, social protection, rational use of natural resources etc., adapted to local specifics.

The power of the autonomy's executive authority, differing from the powers of other second-level public administration authorities, consists in its participation in the activities of the central sectoral public administration of the Republic of Moldova on issues concerning the interests of Gagauzia. Besides the representation of the Governor of Gagauzia in the Government, this power is enforced by means of including the ECG's Main Directorates' Heads in the boards of RM ministries upon the recommendation of the autonomy's Governor based on Art. 19 of the Law no. 344/1994 and on Art. 33 p. (4) of the Law on Central Sectoral Public Administration⁵², as well as through the possibility of appointing them as members of various permanent and special state commissions and working groups.

Currently the majority of heads of ECG's Main Directorates are represented in ministerial boards, which are the advisory bodies headed by the ministers. The boards' activity, in its turn, is organized by necessity⁵³, thus not allowing an efficient usage of this consultative mechanism for the promotion of the autonomy's interests.

Conclusions and recommendations

1. Examination of the issues on the competences transferred and executed by the People's Assembly, Head of Gagauzia and Executive Committee makes it possible to draw conclusions and propose recommendations according to the following sequence of problems to be resolved: Fulfilling the powers stipulated in the legislation is complicated by the ambiguity of the limitations, in which Gagauz authorities can operate and adopt legislative acts. The legislative activity of the autonomy's public authorities fairly often either crosses or juxtaposes itself on areas and subjects which, in their turn, are governed by organic laws, implemented and coordinated by the central public authorities via decentralised authorities and de-concentrated services. Under the national legislation, the adoption of local laws by the People's Assembly should be carried out in execution of laws and resolutions [adopted] by the central authorities, and they should not contradict them. Keeping in mind the current situation, many local laws cannot be fully implemented because of their contradiction with national legislation and they are often non-compliant with the modern requirements of the administration system, because there is only a poor correlation between the implemented reforms of the national legislation and the ones of the local legislation. In some fields, the adopted laws do not reflect Gagauzia's specific needs, which are limited by the provisions specified in the national legislation and are implemented by the central authorities

Recommendations:

- creation of special mechanisms for cooperation and procedures in national legislation allowing the autonomy to react to pending amendments in the course of implementation of national reforms;
- establishment of areas for exclusive, secondary, and reserved competences of the regional authorities of Gagauzia in the Law no. 344/1994 on the basis of negotiations within the special mechanism of cooperation (joint commission);
- increase the level the People's Assembly's and its apparatus' capacities to enforce powers in the legislative area in order to improve the quality of adopting local laws, reflecting the

⁵² Law on the Central Sectoral Public Administration no. 98 of 04.05.2012. Published in *Official Gazette* no. 160-164, Article no. 537.

⁵³ Sessions of Collegiums of Ministries can be organised monthly or less frequently under the decision of the Minister. Some Ministerial Collegiums have not held their sessions for more than two years.

specific needs of the region, and to react timely to pending amendments in the national legislation;

- coordination of local laws with national laws in the course of carrying out national reforms within the framework of cooperation between the central and regional authorities (joint commission) and established special procedures.
2. Existence of contradictions between the provisions of the Law No. 344/1994 with other organic laws. National legislation regulating all fields in the society do not comply with the provisions of the Law no. 344/1994, for example, powers regarding elections, education, the administrative-territorial system, the organisation and activity of Gagauzia's local public authorities. Following the logic of how powers are enforced in the decision-making process as defined by the national legislation for the second-level authorities, this circumstance does not allow the authorities of Gagauzia to go beyond the designated limits and provide full implementation of the Law on Special Status.

Recommendations:

- giving special status to Law No 344/1994 in the hierarchy of RM legislative acts with subsequent bringing of legislation in conformity with it;

coordination of the Laws on local public administration, on administrative decentralisation, on administrative-territorial system, the Law on Prosecution Service, the Code on education with the Law no. 344/1994.

3. Contradictions in the national legislation arise due to the lack of constitutional provisions ensuring execution by Gagauzia of the powers stipulated in Law No 344/1994. Amendments, entered in the Constitution in 2003, do not guarantee execution of the legislative competence by the People's Assembly; they do not specify the sphere of Gagauzia's competences (moreover exclusive powers); the basis for the Autonomy's regional authorities' activity is defined in conformity with the national legislation as a whole, which may change without Gagauzia's consent and undermine the execution of Law No 344/1994.

Recommendation: modification of the Constitution to ensure execution of provisions of Law No 344/1994 with account of identified spheres of exclusive and other competences of the Region.

4. Effective use of the right to defend the autonomy in the Constitutional Court depends on the development of the Assembly's capacities to prepare and register appeals.

Recommendation: increase the level the People's Assembly's capacities in terms of defending autonomy's power at the Constitutional Court.

5. Effective participation of the People's Assembly in the decision-making process at the national level depends on the development of its capacities to make proposals to draft laws.

Recommendation: increase the level the People's Assembly capacities to make proposals to draft laws.

6. Effective participation of executive power of Gagauzia in the decision-making process both at the national and the regional level depends on the capacities of elaboration, implementation of programmes, and promotion of autonomy's interests. In the majority of cases the Executive Committee's powers are reduced to the implementation of provisions under the national legislation and decisions of the central public administration authorities

rather than used as opportunities to pursue a regional policy on basis of its own programmes aiming to solve local problems.

Recommendations:

- increase the level of the Executive Committee's institutional capacities to develop and implement own programs for purpose of the autonomy's development;
- elaboration of medium-and-long-term regional development programmes of Gagauzia by Executive committee and the Bashkan, and their promotion in the Government.

Chapter 2. Managing non-devolved powers by the authorities of ATU Gagauzia, Vasile Cioaric

Introduction

Non-devolved competences (powers) are those fields of activity, competences and powers, which were not assigned to the public administration authorities by the law, not delegated to public authorities by central authorities, but the ones that - from the functioning point of view - are related to a certain extent with the implementation of competences by the public administration authorities of ATU Gagauzia. Prior to examining the powers of Gagauz public administration authorities, it is necessary to address the provisions of the basic laws governing the activity of authorities and, in particular, defining the relationship between local authorities of different level with the central authorities.

Law no. 435 dated 28.12.2006 *On Administrative Decentralisation*⁵⁴ stipulates that one of the principles for the administrative decentralisation is the principle of subsidiarity, providing for the *implementation of public functions by the authorities which are closest to citizens (Art.3 (b))*. An intervention by the highest-level authorities may take place only in the event if this is obviously more preferable, which should be deducted from the size and the nature of functions and need to ensure a public action's efficiency. At the same time, it should be mentioned that the subsidiarity principle does not cover only a mere political intent. Those fields of activity that it is preferable to devolve to the public authorities of higher level are stipulated in the legislation.

The same law mentions *the comprehensiveness of powers, stipulating that any powers conferred to public authorities should be complete and exclusive (Art.3(d))*, their implementation cannot be contested or limited by another public authority, except in the cases stipulated by the law. In such cases, it is advisable for the administrative or constitutional court to issue an opinion.

Gagauzia's right to independently solve issues of economic, political and cultural nature is generally exercised through the adoption of local laws governing various fields of activity, the management of which is devolved to the autonomy under *RM Law no. 344 "On Special Legal Status of Gagauzia (Gagauz Yeri)" of 23.12.1994*.⁵⁵

Thus, Art.12 of this Law specifies powers invested with Gagauzia's representative authority – the People's Assembly. These powers refer to such fields as science, culture, education, housing and utilities, amenities, healthcare, physical culture and sports, as well as local budgetary, finance and tax activity, economy and ecology, employment relations and social welfares.

The same Law specifies the powers of Gagauzia's People's Assembly concerning the territorial organisation, participating in the implementation of domestic and foreign policy of the Republic of Moldova in matters concerning the interests of Gagauzia, *defining the order of organisation and activity of local public administration authorities* and of citizens' associations, the appointment, organisation and holding of elections, holding a local referendum, etc.

At the same time, in managing these powers Gagauzia's local public authorities are often confronted with situations, in which it is necessary to regulate certain fields of activity (economic, social, administrative), but the regulations adopted for this purpose by the People's Assembly or by the Executive Committee of Gagauzia do not find a sufficiently accurate legal

⁵⁴ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=321387&lang=1>

⁵⁵ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=311656&lang=2>

rationale or [they] "cross" the provisions in other laws adopted by the Parliament of the Republic of Moldova.

This happens, because a number of powers specified in the Law on Special Legal Status of Gagauzia are not covered in other organic laws adopted by the Parliament of the Republic of Moldova. Not all regulatory acts adopted by the central authorities take into account the specifics of an autonomous-territorial unit (*Education Code*⁵⁶); in some cases, the Gagauz autonomy is merely associated with the second-level public administration authorities (*Law on Local Public Administration*⁵⁷).

It should be noted that the central authorities' reaction to normative acts adopted in ATU Gagauzia on matters referring to non-devolved powers is also ambiguous. In some cases Chisinau silently agrees with the fact of exercising such powers and it does not interfere with their implementation (*licensing of entrepreneurship*). In other cases, the center takes actions to suppress the management of powers that were not devolved to the autonomy (*permissions to relay, broadcasting licenses and permissions to relay program complexes*).

Examples reviewed below will concern the management by ATU Gagauzia's authorities of the powers not devolved under the national legislation. In most cases the publication of such regulatory acts was reasoned by the need to solve immediate issues referring to social-economic matters, cultural and administrative activity of Gagauzia's People's Assembly, Executive Committee and its Governor. The need to strengthen the autonomy's status by founding its own administrative and supervision bodies, to invest them with certain powers [and] to solve the issue of interrelation between various sectorial local authorities was the subject goal of a number of local laws.

In general, the question of managing of powers by ATU Gagauzia that were either or not devolved, or not fully covered in the legislation governing the organisation and the functioning of the autonomous-territorial education deserves further attention and research.

2.1 Non-devolved powers on the organisation and functioning of local and regional authorities

Taking into consideration the provisions of fundamental regulatory acts developed and adopted by the regional authorities of ATU Gagauzia, governing the organisation and functioning of the autonomy's public authorities, it is possible to find that Gagauzia's People's Assembly, the Executive Committee and Bashkan manage a number of powers that are not devolved to them under the legislation or which do not fully comply with the *basic principles of local public administration* specified in the Constitution of the Republic of Moldova.

2.1.1. Interrelation between the public administration authorities of Gagauzia and the first-level local public administration authorities

Under Art. 12 (3) of RM Law no. 344 "On Special Legal Status of Gagauzia (Gagauz Yeri)" the People's Assembly's competence includes: c) *defining the order of **organisation and activity of Gagauzia's local public administration authorities and citizens' associations, except for parties and other socio-political organisations.***

How should this competence be managed? What are the guiding principles for Gagauzia's People's Assembly, Executive Committee, and Governor when *determining the order of organisations and activity for local public administration authorities?*

⁵⁶ <http://lex.justice.md/ru/355156/>

⁵⁷ http://lex.justice.md/document_rus.php?id=0D9577C4:27DF0CCC

The Law says nothing about these, as well as it does not explain where these powers begin and how they are limited. The same refers to other provisions of this Article of Law No. 344.

This lack of certainty compelled the Gagauz regional authorities to consider this power in their own way, developing it for other local legislative acts.

In fact, the lack of clarity in the Law no. 344/1994 with regard to this issue allowed for the Gagauz regional authorities to extend the regional autonomy at the expense of local autonomy. Unfortunately, such developments occur also in other countries, when regional authorities tend to gain as wide an autonomy from the central government as possible, but later they deliberately abstain from sharing these powers within the autonomous district, particularly, with the local public authorities.

In the 20 years of ATU Gagauzia's existence the local legislation regulating the order of the organisations and the functioning of local authorities (The Regulation, the Law on local public authorities of Gagauzia, etc.) was developed according to the perceptions of local legislators.

Therefore, article 78 (2) of the Regulations on Gagauzia⁵⁸, specifies that the Executive Committee of Gagauzia, may:

1. cancel the decision of any local government body of Gagauzia if it contradicts the current legislation and interests of society;

1. make decisions to dismiss public authority officials from a position held.

In this case, at least 2 questions arise:

1. Who has the right to cancel the *decision of any local government body*?
2. Who can *dismiss officials from public administration authorities*?

1. The cancellation of the local public authorities' decisions by the Central public authorities or by the public administration authorities of a different level contradicts the principle of division of powers and the principle of local autonomy. The cancellation of local public authorities' decisions isn't incompatible just with the valid legislation (legal control), but it's incompatible also with the interests of the society. It contradicts, too, the principles of international law, such as: Art. 8 (2) of the European Charter of Local Self-Governance stipulates: "Any administrative supervision of the activities of the local authorities shall normally aim only at ensuring compliance with the law and with constitutional principles." At the same time, a judicial verification of the legality of the administrative acts issued by governing bodies related to organizing the application and the process of implementing the law, the management of public affairs and deciding to cancel them, represents a prerogative of the administrative court.

Under Art. 5 of the Law on the administrative court, No. 793 of 10.02.2000 the following entities may initiate the process of cancelling or revising decisions of local public authorities by addressing an administrative court:

- a) a person, including a public servant, a military serviceman, who consider any of their legal rights to be in any way violated through some sort of administrative paper or through the failure to satisfy a request in the terms established by law in the order established by article 14 of the present law;

- b) The government, the State Chancellery, the territorial bureau of the State chancellery, the chairman of the district and the mayor, under the Law on local public administration;

- c) the prosecutor protesting acts issued by public government bodies under article 5 of the Civil procedure Code;

⁵⁸ <http://www.gagauzia.md/pageview.php?l=ru&idc=389&id=240>

d) the Ombudsman appealing administrative acts pending the request of the person limited in their rights - in the order provided by the Law on the Ombudsman;

d1) the National anti-corruption commission – in the order provided by the Law on the National anti-corruption commission;

e) the judicial instances of the general jurisdiction and specialized judicial instances carrying out the request for legality of the administrative act - in the order provided by article 13 of the present law.

f) other persons according to the current legislation.

2. Who may *dismiss public administration officials from their positions*?

The right to make decisions to discharge officials of the public government bodies of Gagauzia from their positions is granted to both the Executive Committee by Art. 78(2) and the Gagauzia's People's Assembly (by Art. 79 (1) of the Regulations on Gagauzia).

What *officials* and what *public administration authorities* are mentioned in this normative act?

Art. 123 (1) of RM Criminal Code defines a public official as *the person the understood as the official the person invested, permanently or temporarily, by law, by assignment, by election or by a separate disposition with certain rights and responsibility to carry put functions of public authority or actions of administrative-managerial or organisational-economic character in a state enterprise, institution (and its subdivision) or in a local government body, institution, organisation (and its subdivision).*

1. As seen above, the officials of public government are: mayors, deputy mayors, local council secretaries, chief accountants, heads of municipal enterprises and other public institutions reporting to local authorities.
2. Elections and appointments to these positions, and also recalls or discharges of these persons from a position is either a prerogative of the population of this administrative and territorial unit (mayoral elections, referendums for the dismissal of the mayor), or the competence of a local council (appointment of deputy mayors, appointment of council secretaries), or the power of a mayor (appointment of the heads of municipal enterprises, mayoralty divisions, etc.).
3. This means that neither the Executive Committee, nor the People's Assembly can interfere with this process, otherwise the principle of local autonomy and separation of powers of the authorities would be violated. Nevertheless, Art. 78 (2) of the Regulations of Gagauzia says that the Executive Committee of Gagauzia is entitled to cancel a decision by any local public administration body of Gagauzia, if it contradicts to the existing legislations and to the interests of the society, and [is entitled] to make decisions with regard to a dismissal of officials from public administration authorities.
4. There was such a precedent in Gagauzia. In 2002, referring to this provision of the local law, 30 members of the Gagauzia People's Assembly voted to dismiss the mayor of Comrat, Constantin Tausanji from his position. The former mayor of Comrat appealed against the People's Assembly's decision in line with the established procedure, but he could not bring evidence in support of his position
5. Provisions that are beyond the principles of local autonomy and independence of local authorities can be found in the *Law on local public administration bodies of Gagauzia No. 42-XLI/I of 30.04.1999*. Art. 47.1 specified that *in the event of non-enforcement by the mayor of the resolutions and orders given by the Governor (Bashkan) of Gagauzia (Gagauz-Yeri), Gagauzia People's Assembly and Executive Committee of Gagauzia, as well as in the event of an inadequate enforcement by a mayor of the functions and violation of the labour discipline, the Governor (Bashkan) of Gagauzia (Gagauz-Yeri) and the Executive Committee of Gagauzia are entitled to subject him/her to a disciplinary sanction in the form of a warning, reprimand, strict reprimand.*

2.1.2. Organisation and functioning of local public authorities

Proceeding from the aforementioned provisions of the Constitution:

1. the autonomy in villages and the cities is carried out by the *elected local councils and mayors*;
2. councils and mayors *function as independent administrative authorities*;
3. relations between local public authorities of different levels are based on *the principles of autonomy, legality and cooperation*.

Art. 2 (1) of the Law on local government of Gagauzia stipulates that the LPA system of Gagauzia includes: district Chairmen (dolay bashi) of Gagauzia (Gagauz-Yeri), the administrations of dolays.

The following questions may arise from here:

1. Is the district (dolay) an administrative and territorial unit?
2. If the district (dolay) is an administrative and territorial unit, then should second-level public government bodies (district councils) be elected through direct elections and should the district chairman be appointed through indirect⁵⁹ elections.

This would correspond to the constitutional elective principle of local government authorities (Art. 109 (1)), Art. 113. (3) according to which *the district council is elected and it carries out its activity under the law, as well as in line with Art. 3 (2) of the European Charter, by which the local self-government is exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of universal suffrage*.

In the case of chairmen and the administration of districts (dolays), since it is specified in the Law on bodies of the local public authorities of Gagauzia, we are speaking of officials, appointed to their functions by other officials (the Bashkan of Gagauzia) in coordination with a public government body of another level - Gagauzia People's Assembly (Art. 6). This most likely concerns representatives of the autonomy's regional authorities in territories allocated with certain powers and provided with administrative facilities that may not be in any way called bodies of local public administration.

According to this local law, both district chairmen and their administrations are vested with powers typical for second-level local authorities, having the right to make decisions and give decrees which are obligatory for execution on the territories of the districts (dolays) subordinated to them.

Thus, Art. 9 of the Law on local public authorities of Gagauzia specifies that *upon fulfilling his/her functions, the district Chairman publishes decrees binding for all individuals and legal entities residing or acting on the dolay territory*.

The dolay administration also enjoys such powers. Under Art. 15 (5) (6) the dolay Administration *makes decisions* that are signed by the district chairman and the secretary of the administration.

Therefore, the district chairman and the dolay administration work as authorized local public authorities, making decisions which, eventually, become obligatory for execution by local first level public management bodies, although, as stated above, mayors and local councils operate *as independent administrative bodies* and the relations between the local public authorities of different levels *are based on the principles of autonomy, legality and cooperation* and not subordination.

⁵⁹ In the indirect election system, the voters elect electors or a special body, which, in turn appoints an official to a corresponding position.

At the same time, under RM Law *On the administrative-territorial division of the Republic of Moldova*⁶⁰ No. 764 of 27.12.2001, the Comrat, Ceadir-Lunga and Vulcanesti districts are not listed as second-level administrative territorial units.

The law on local public authorities of Gagauzia also changes the status of LPA officials.

Hence, Art. 11 of this local law invests the district chairman with social guarantees that are equal to the ones of persons, holding responsible state positions: *after the end of his/her office term, the chairman is offered his previous work (position) and in case that is not possible, an equivalent work (position) at the same or, with his consent, at another enterprise, institution, or organisation.*

Therefore the Gagauzia People's Assembly manages a power which is not delegated to it which would correspond to the *Law No. 199 of 16.07.2010 On the status of the persons activating in responsible positions of state.*⁶¹ In a list of over 50 responsible positions of state annexed to this law, only the supreme leading positions of the GPA and ATU Gagauzia EC are mentioned and not the chairmen of Gagauzia's districts (dolays).

Therefore:

In our opinion, the administration by the People's Assembly, by the Executive Committee of Gagauzia and by the Bashkan of powers that are not devolved to them in the field of organisation and functioning of local public authorities are complicated and result in certain discrepancies with the principles of local autonomy and division of powers.

This situation occurs due to the unclear formulation of pt.3 Art. 12 of RM Law no. 344 "On the special status of Gagauzia (Gagauz-Yeri)" which stipulates that it is in the People Assembly's competence People's Assembly to c) define an order of the organisation and operation of **local public administration authorities in Gagauzia**. The law, however, does not specified mention which LPA bodies it refers to: the first level (local councils and mayors) or those operating on the level of the autonomy (People's Assembly, Executive committee, Governor of Gagauzia).

In order to answer the questions arising when determining the relation between LPA bodies of these two levels it is necessary:

- a) to make an amendment to RM Law On local public administration No. 436 of 28.12.2006 specifying that the organisation and functioning of first-level local public administration bodies in ATU Gagauzia is regulated by local laws that do not contradict the Constitution of RM and the principles of local autonomy.
- b) to make appropriate changes in pt. 3 of Art. 12 under RM Law No. 344 of "on Special Legal Status of Gagauzia (Gagauz Yeri)", clarifying the meaning of local public administration bodies in Gagauzia;
- c) to bring the local legislation in ATU Gagauzia governing the organisation and functioning of local authorities in line with the principles of local autonomy and division of powers.

2.2 Non-devolved competences governing entrepreneurial activity.

Under pt. 2 (e) Art. 12 of RM Law No. 344 "On Special Legal Status of Gagauzia (Gagauz Yeri)", the People's Assembly adopts local laws in the field of economy. And this means that one sphere of economic activity that is the local business, also pertains to the competences of the Gagauzia public administration authorities.

Example 1. To exercise this competence Gagauzia's People's Assembly adopted, on July 7, 2000 local law No. 15-IX/II "On the licensing of separate kinds of activity in the territory of Gagauzia (Gagauz-Yeri)".

⁶⁰ <http://lex.justice.md/ru/312874/>

⁶¹ <http://lex.justice.md/ru/336193/>

The preamble of this law specifies that this law determines the legal, organisational and economic fundamentals of issuing licenses for the right to be engaged in certain kinds of activity on the territory of Gagauzia (Gagauz-Yeri) in order to protect state interests and the healthcare and life of citizens.

Art. 8. of this Law enumerates the bodies authorized to grant licenses. They are the government of Gagauzia (directorates of the EC and public administration authorities of ATU Gagauzia). Therefore, by order (decree) of the chief of the body authorized to grant licenses, a licensing commission is created, consisting of no less than 5 members (including the chairman and secretary) experts in this sphere.

The competence of the commission includes:

- analysis of applications, verification of documents submitted by applicants, and making decisions on granting or refusing a license;
- controlling the compliance of the activity of licence holders to the conditions specified in the license;
- making decisions on interrupting or cancelling the licence validity, etc.

The Main Directorate for construction, development of infrastructure and communication acquired the right to grant licenses on 25 kinds of activity, including in the field of television and broadcasting.

However, Under Art. 6. of the Republic of Moldova Law On regulating entrepreneurship by licensing⁶² No. 451-XV of 30.07.2001, the following are considered licensing bodies in the Republic of Moldova (1):

- a) Chamber of licenses;
- b) National Bank of Moldova;
- c) National Commission for the Financial Market;
- d) National Agency for Regulation in the field of Energy;
- e) National Agency for Regulation in the field of Electronic Communications and Information Technology;
- f) Coordinating Council for Television and Radio.

As seen from the afore quoted abstract from RM Law, the Gagauzia People's Assembly, the ECG and its Directorates are also not among the bodies with rights to carry out licensing activities. This competence is also not mentioned in RM Law No. 344 «On Special Legal Status of Gagauzia (Gagauz Yeri)» of 23.12.1994.), nor in the *Regulations on Gagauzia*.

It is notable that Annex 2 of the local law "On Licensing of Separate Kinds of Activity on the territory of Gagauzia (Gagauz-Yeri)" includes a list of 59 kinds of activity that are subject to licensing and 7 Directorates of ATU Gagauzia EC granting various types of licenses. The republican law only lists 44 kinds of activity which is subject to licensing and 6 with the right to grant licenses (see Annex 2, Table 2. Kinds of activity that are subject to licensing: comparative analysis).

A part of types of activity specified in ATU Gagauzia Law coincides with the list provided in Art. 8 of the republican Law. At the same time, 27 types kinds of activity that are subject to licensing and contained in the republican law were not reflected in the local ATU Gagauzia law. However, this local law lists 32 kinds of activity which, in the view of Gagauz legislators, are subject to licensing.

Simple math shows that for at least 28 (59 excluding 32) types of activity, the Executive committee of ATU Gagauzia administers competences that are not transferred to, and relating to the central specialized bodies, according to the list, specified by the Republic of Moldova Law "On regulation of entrepreneurship by licensing".

⁶² <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=313293&lang=1>

At the same time representatives of the autonomy's authorities consider that RM Law No. 451 of 30.07.2001, "On regulation of entrepreneurship by licensing" is adopted in infringement of Parliament Decision No. 345 of 23.12.1994⁶³, in which the Parliament ordered to bring normative and legislative acts of the Republic of Moldova into accord with RM Law "On Special Legal Status of Gagauzia (Gagauz Yeri)". This means that the CCTR assumed the right to licence, ignoring the rights held by competent authorities of Gagauzia Under RM Law RM No. 344-XIII of 23.12.1994 "On Special Legal Status of Gagauzia (Gagauz Yeri)" and RM Parliament Decision No. 345 of 23.12.1994.

Example 2. On 4.11.2014, Gagauz People's Assembly adopted a local law "On including amendments and additions to ATU Gagauzia Law on television and radio broadcasting of 10.07 2007".⁶⁴

Studying the legislation on which the formation and activity of ATU Gagauzia is based, it becomes clear that at the autonomy level, the GPA may adopt laws regulating the activity of mass media, however only regarding the broadcasting language, - to ensure the presence on the grid of all regional mass media of all official languages of ATU Gagauzia, and also to promote the culture of the Gagauz people.

Thus, Art. 11 (9) of the *Code of television and radio of the Republic of Moldova*⁶⁵ of 27.07.2006 indicates that "in districts where representatives of ethnic minorities make most of the population, the local and regional broadcasting organisations provide a broadcasting of some programs in the state language in a share of no less than 20 per cent of the total amount of a program complex broadcasting. The language aspect of the Gagauzia Teleradio Company is also regulated by the authorized bodies of ATU Gagauzia". This provision complies with the requirements under Art. 9 of the Framework Convention for the Protection of National Minorities as of 10 November 1994.

Other issues regarding the creation, functioning and licensing of mass media belong to the exclusive competence of the Republic of Moldova, and as RM Law No. 344 "On Special Legal Status of Gagauzia (Gagauz Yeri)" of 23.12.1994 implies, it was not delegated to autonomies.

Therefore, Article 40 of the Code of television and radio Broadcasting of the Republic of Moldova stipulates that *on* practicing its activity, the Coordination council determines the conditions, criteria and order of providing a license to broadcasting by television and radio; establishes the order of providing a relay permission; grants program complexes broadcasting licenses and relay permissions.

Nevertheless, ATU Gagauzia Law *on television and radio of 10.07.2007*⁶⁶ regulates all aspects connected with the activity of mass media, including the distribution of frequencies for TV and radio broadcasting.

Considering the amendments and additions to ATU Gagauzia Law of 10.07 2007 on television and radio that are carried out by the People's Assembly of Gagauzia, through the law of November 4, 2014 the provisions that are within the exclusive competence of the Republic of Moldova in the field of television and broadcasting "are transferred" to the "competent unit of the Executive Committee of Gagauzia". The broadcasting license, broadcasting and relay permit, permission to operate a network, etc. are transferred to this "competent authority".

Under ATU Gagauzia Law "On licensing Separate Kinds of Activity on the territory of Gagauzia (Gagauz-Yeri)"⁶⁷ handling TV and radio broadcasting licensing issues are the task of

⁶³ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=308860&lang=2>

⁶⁴ http://dimpo67.narod.ru/vesti_gagauzii/2014/Buletен_169-171.pdf

⁶⁵ http://lex.justice.md/document_rus.php?id=7C2C8A51:51D0B3BF

⁶⁶ <http://halktoplushu.md/index.php/zakonodatelstvo/zakony-ato-gagauziya/324-2011-06-28-11-32-07>

⁶⁷ <http://halktoplushu.md/index.php/zakonodatelstvo/zakony-ato-gagauziya/944-o-litsenzirovanii-otdelnykh-vidov-deyatelnosti-na-territorii-gagauzii-gagauz-eri>

Gagauzia's Main Directorate for construction, development of infrastructure and communication (see Annex 2. Table 1. Differences on changes and additions accepted by ATU Gagauzia Law of 04.11.2014 to ATU Gagauzia Law on television and radio of 10.07.2007).

Example 3. In 2008, Gagauz People's Assembly adopted a local law *On Investments and Investment Activity in ATU Gagauzia*.⁶⁸ The announced purpose of this normative act was to determine legal, economic and social conditions for developing investment activity on the territory of ATU Gagauzia, for effective functioning of ATU Gagauzia's economy, as well as to ensure equal protection of rights, interests and assets of subjects of such investment activity, regardless of the types of ownership and trends in economic activity.

Chapter IV of the current law establishes a number of facilities for potential investors, including, for some of them, the exemption from all types of local fares and part of the state taxes. Art. 13 specifies that (1) *On the territory of Gagauzia, all subjects of investment activity, including foreign investors, enjoy benefits stipulated under the legislation of Republic of Moldova, as well as under the laws adopted by the Gagauz People's Assembly.*

(2) *Economic agents that carry out the investment activity...are exempt from the payment of all types of local taxes and duties, income tax from legal entities, VAT, except for the duty raised for the usage of local symbols in the production process, payments to the Social Fund, the Pension fund, income tax from individuals, medical insurance contributions.*

It is known that all types of local taxes settle in the budgets of municipalities, cities and villages. In this case, by exempting economic agents from the payment of local taxes, the People's Assembly causes losses to local communities, because the sums of such unpaid taxes are not compensated from Gagauzia's central budget. In this context it is also possible to refer to a case of expanding the regional autonomy – financial matters – at the expense of the autonomy of local authorities.

The same happens with state taxes. Exemption from the payment of the state taxes, and also granting privileges at the expense of the state taxes is a prerogative of the Parliament. Article 7 of Section I of RM Tax Code⁶⁸ states that (1) *State and local taxes (fares) and collections are established, changed or cancelled only by amendments and additions to the present code.*

The Tax Code, as a special law, specifies the powers of local public authorities in this field and defines that representative bodies of local public administration can be exempt from the real estate tax for only 1 year and only in cases specified under Art. 284, along with introducing the corresponding changes into the budget of a administrative-territorial unit.

There are no other powers regarding the exemption of economic agents from paying taxes that would be devolved to the local public administration bodies.

At the same time, in Art. 13 of the Law "On Investments and Investment Activity in ATU Gagauzia" potential investors benefit from tax holidays for a period from one to seven years! (See Art. 13 d) *regardless of the area of an investment the investor that implements the priority investment project uses the preferential taxation mode for a 7 year period*).

Upon adopting the local Law "On Investments and the Investment Activity of ATU Gagauzia" the People's Assembly of Gagauzia assumed upon itself the non-devolved powers that are invested in the the central authorities (Parliament of the Republic of Moldova), which has the power to establish, change or cancel nation-wide taxes and the first-level local authorities (local councils) with the right to manage local taxes and duties on their territory.

⁶⁸ <http://www.lex.md/fisc/codfiscaltxtru.htm>

Therefore:

Upon managing competences in the sphere of entrepreneurship that were neither transferred nor delegated, the People's Assembly confronts the absence, in the national legislation, of provisions that allow the local authorities of various levels and especially autonomous territorial units to manage powers stipulated by Law No. 435 of 28.12.2006 on administrative decentralisation⁶⁹ and RM Law No. 344 "On Special Legal Status of Gagauzia (Gagauz Yeri)" in the sphere of social and economic development of territories, managements of taxes and fees.

Representatives of ATU Gagauzia have the right to consider that, as a result of cancelling the local law "On Licensing Separate Kinds of Activity in the territory of Gagauzia (Gagauz-Yeri)" they may be deprived of a source of income for the autonomy's central budget which may lead to the limitation of the autonomy's economic independence, while, the Republic of Moldova obliged itself to be the full and unconditional guarantor for the exercise of Gagauzia's powers.

The cancellation of that part of the Law "*On Investments and Investment Activity in ATU Gagauzia*," which refers to granting tax benefits to economic agents, may have, too, a negative impact on the implementation of powers by local public authorities in their powers' entirety.

To ensure increased efficiency in fulfilling the delegated and not delegated powers in the field of social and economic development of the territories we consider necessary to:

a) revise provisions of RM Law No. 451 of 30.07.2001 "On regulating the entrepreneurship through licensing" to expanding the circle of local public authorities with the right to licence in territories administered by them, based on principles of decentralisation and aiming at ensuring the completeness of the powers defined for local authorities of all levels.

b) bring ATU Gagauzia Law of 10.07 2007 "On television and radio" in accordance with international agreements in telecommunication signed by the Republic of Moldova.

c) expand, within the decentralisation of local public finance of the granted autonomy powers for the establishment and management of local taxes (duties) and collecting them, without violating the principle of uniform action of tax legislation across the country.

2.3 Non-devolved competences governing human rights in labour, social protection and family law

The law "On Special Legal Status of Gagauzia (Gagauz Yeri)" stipulates that the People's Assembly adopts local laws in the field of labour relations and social security. Thus, the local legislation regulating this field of activity should not contradict provisions of the Labour and Family Codes as well as the laws on the social protection and social security of the population adopted in the Republic of Moldova.

If in terms of social protection of the population the public authorities of Gagauzia enjoy a wide field of activity, then in terms of labour regulations its possibilities are limited.

At the same time, under the Law "*On Local Public Administration of Gagauzia*" the local administration has the right to establish a ***necessary number of workplaces for citizens in need of social security*** (persons under the age of 18, disabled persons, retirees, mothers with many children, etc.) ***provide*** for all the enterprises, institutions and organisations on its territory regardless of the type of ownership ***benefits in payments in the local budget for offering employment to this categories of citizens.***

First-level local authorities are also invested with the competence to develop and ***implement programs ensuring employment of the population, to design funds meant to assist***

⁶⁹ <http://lex.justice.md/viewdoc.php?action=view&view=doc&id=333142&lang=2>

the unemployed population in line with the legislation. All these powers are voluntarily managed by local authorities of Gagauzia and they are not included in the list of powers delegated to local public administration authorities.

Example 1. On 30 April 2013, the People's Assembly of Gagauzia adopted the Law *On guaranteeing the principles of equality, fairness and objectivity*.⁵³ The preamble of the Law notes that it aims to minimise the possible negative implications for the Gagauz people in fulfilling the provisions of the Republic of Moldova Law No. 121 *On guaranteeing equality*, adopted by the Parliament of the Republic of Moldova on 25 May 2012.

In particular, Art. 11 of this local law forbids registration of same-sex marriages:

(4) *The ban of same-sex marriages on the territory of Gagauzia which is carried out in order to protect the originality, national foundations, traditions, customs, culture, moral, health, the rights and legitimate interests of the Gagauz people, and also the bases of constitutional order in the area of their accommodation does not constitute an act of discrimination.*

(5) In the territory of Gagauzia, same-sex marriages, and also the adoption of children by homosexual couples is forbidden for the protection of the moral and spiritual development of minor children and taking into account the fact that the adoption of children is made in the interest of minors, and not the interests of persons wishing to adopt them.

Article 7 of the same law suggests to not consider the refusal in employment, in case of the display of a nonconventional sexual orientation as an act of discrimination. These provisions basically propose the legalization of discrimination based on sexual orientation that contradicts the Constitution of RM which guarantees the right for employment to all RM citizens and Art. 8 of the Republic of Moldova on the banning of discrimination in the field of employment.

Therefore:

The management of non-devolved powers in labour and social protection by the local public authorities is interfaced with certain difficulties, since it isn't always the case that these powers correspond with the normative acts adopted by the Parliament of the Republic of Moldova.

If assisting persons seeking employment, designing programs to ensure population's employment and the encouragement of economic agents that provide workplaces does not trigger any negative reactions, then the discrimination of people in terms of employment based on their sense of belonging to certain groups of people may be considered as an abuse of powers and as an infringement of citizens' constitutional rights and freedoms.

The same refers to the regulation of the family law field. It should be noted that regulating the field of family law, including the registration of marriages, is an exclusive competence of the central authorities.

To overcome disagreements in this sphere it is expedient to undertake the following:

a) bring the Law "On Ensuring the Principles of Equality, Justice and Objectivity" in accordance with the international obligations of Republic of Moldova fully providing for the rights and freedoms of citizens.

b) upon the review and adoption, by the Republic of Moldova Parliament of "sensitive" normative acts, that may cause an ambiguous reaction to the population of certain regions, it is necessary to hold extensive consultations with the respective populations with the aim of informing, explaining and educating.

Conclusions and recommendations

Gagauzia local public authorities have, under the law complete rights to regulate and management any local affairs that are not excluded from the sphere of their powers and do not

pertain to powers of another public administration body.

Other powers may only be conferred to local public authorities of Gagauzia based on the law.

At the same time, in their daily activity, public administration of Gagauzia encounter situations when it is necessary to regulate certain spheres, however, the regulations adopted for this purpose by the People's Assembly or Executive Committee of Gagauzia do not find a sufficiently clear legal justification or "are crossed" with the provisions of other laws adopted by the Parliament of the Republic of Moldova.

This may suggest the following possibilities regarding ATU Gagauzia:

- Either the principle of subsidiarity, stipulating the exercise of public functions by authorities which are closer to citizens is not fully respected
- Either the completeness of powers, providing that any powers conferred to local public administration bodies have to be full and exclusive is not fully functional.
- To reduce the number of cases when the autonomy's authorities are compelled to assume powers which are not delegated to them under the law, it is necessary to accurately define the principles on which the process of law making in the autonomy has to be based, and establish them in the law On Special Legal Status of Gagauzia (Gagauz Yeri).
- Development and adoption of the local ATU Gagauzia laws has to be based on the following principles:
 - Compliance of the local laws with RM Constitution;
 - Compliance of local laws with ATU Gagauzia's powers;
 - Compliance of local laws with the international obligations and international treaties to which RM is part;
 - Compliance of local laws to the basic principles of social and economic reforms in the country.

Recommendations

1. To introduce in the *RM Law on local public administration No. 436 of 28.12.2006* an addition establishing that in ATU Gagauzia the organisation and functioning of first-level LPA bodies is governed by local laws that do not contradict the Constitution of RM and the principles of local autonomy.
2. To make appropriate changes in pt. 3 Art. 12 of RM Law No. 344 of "*On Special Legal Status of Gagauzia (Gagauz Yeri)*," clarifying the meaning invested in the definition of *local public administration bodies of Gagauzia*;
3. To bring the local legislation of ATU Gagauzia governing the organisation and functioning of local public administration bodies in line with the principles of local autonomy and division of powers;
4. To revise provisions of RM Law No. 451 of 30.07.2001 "*On the regulation of entrepreneurship by licensing*" towards expanding the circle of LPA bodies invested with the right to carry out licensing activity on the territories proceeding from the principles of decentralisation and pursuing the aim to ensure the entirety of powers delegated to the local public authorities of all levels.
5. To bring ATU Gagauzia Law of 10.07 2007 on *TV and Radio Broadcasting* in line with the international agreements in the field of telecommunication, to which the Republic of Moldova is party.
6. As part of the effort to decentralize local public finances, to expand the power granted to the autonomy on establishing and managing local taxes (duties) and collection thereof, without concomitantly violating the principle of uniform action of the tax legislation across the whole territory of the country;

7. Bring the ATU Gagauzia Law *On guaranteeing the principles of equality, fairness and objectivity* in line with the international obligations of Republic of Moldova that provide full respect for citizens' rights and freedoms.
8. Upon considering and adopting by the Parliament of the Republic of Moldova, of "sensitive" normative acts that may cause an ambiguous reaction among the populations of certain regions, extensive consultations in informational, explanatory and educational purposes must be held with these populations.

Chapter 3. Envisaged competences but not devolved to the ATU Gagauzia for administration, *Veaceslav Berbeca*

Introduction

One of the main problems in relations between the central authorities and the autonomy is the issue of differentiating between competences. While the powers held by Gagauzia have not been clearly formulated in the Law on Special Legal Status and, subsequently, the necessary decisions about the differentiation of competences between the central authorities and the autonomy of Gagauzia have not been made, there are cyclic conflicts between Chisinau and Comrat. This mainly concerns the powers that were stipulated by the Law on Special Legal Status, but are not managed by the regional authorities because of discrepancies between these powers and the Constitution and legislative acts of the Republic of Moldova.

Political leaders of the autonomy accuse the central authorities of not respecting Special Legal Status of the autonomy of Gagauzia. There are a number of powers, which, from the standpoint of the regional authorities, the Chisinau government has unreasonably appropriated, without observing the competences initially stated in the 1994 Law on Special Legal Status. On the other hand, the central authorities in Chisinau see the process of harmonizing the legislation, which provides a differentiation of competences through the harmonization of the Law on Special Legal Status of Gagauzia with the constitutional norms of the legislation of the Republic of Moldova.

The existence of a number of discrepancies between the Constitution of the Republic of Moldova and the formulated competences in the Law on Special Legal Status represents one of the principal complications in the relations between the central authorities and the autonomy of Gagauzia. The actions of Chisinau are focused on ensuring the functioning of the autonomy under the Constitution and the national legislation whereas Comrat insists on the inviolability of the Law on Special Legal Status and indicates at the need to implement constitutional changes. Neither position is key to solving this problem and may lead to the emergence of new contradictions between Chisinau and Comrat.

Coming out of the aforesaid, we will pay attention in this chapter to non-devolved competences that are not managed by regional authorities. Non-devolved competences represent those powers that, despite being designated by the Law on Special Legal Status, are not coordinated with the Constitution and other organic laws of the Republic of Moldova. Accordingly two types of competences which are non-devolved and non-managed by Gagauzia will be considered in this chapter. In the first case they concern competences that do not correspond to the Constitution of the Republic of Moldova. The second category includes competences that are conflicting with other organic laws of the Republic of Moldova, therefore preventing the authorities of the autonomy to regulate the corresponding fields of their activity.

3.1 Defining competences of the autonomy as specified by the Law on Special Legal Status but not reflected in other national laws

Competences of autonomous education stipulated by the Law on Special Legal Status of Gagauzia with standards of the constitution and organic laws of the Republic of Moldova constitute the basis for the analysis in the first paragraph. This analysis will enable us to reveal the competences of the autonomous territorial education in Gagauzia (GATU) which do not comply with constitutional standards and other organic laws of the state. Namely, this part of

the work, will produce the analysis of competences specified by Law No. 344/1994 but not devolved by the state and not managed by bodies of the autonomy.

The main areas of competence belonging to ATU Gagauzia are detailed in point. (1) Art. 111 of the Constitution of the Republic of Moldova, point. (2) Art. 1 of the Law on Special Legal Status of Gagauzia, which establishes that Gagauzia within the limits of its competences independently resolves issues of a political, economic and cultural character in the interests of the entire population.

Further, in Art. 12 of the Law on Special Legal Status of Gagauzia the competences of the People's Assembly are listed. Also, in Art. 17 of this law, the competences of the Gagauzia Executive committee are postulated. This chapter will also include the analysis of competences that were non-devolved and are held under the Law of the Republic of Moldova "On the special status of Gagauzia" by the Chief of the Police Department of ATU Gagauzia.

Of all competences of the People's Assembly and the Governor as set by the Law of the Republic of Moldova "On Special Legal Status of Gagauzia", the following powers which were not devolved and are not managed by regional authorities may be identified:

- Art. 11. - (1) As part of its competences the People's Assembly of Gagauzia adopts local laws with a majority of its elected members' votes;
- Art. 12. – (2) The People's Assembly adopts local laws in the fields of:
 - a) education;
 - Art. 12. – (3) The competence of the People's Assembly includes:
 - a) decisions in a certain legal way on issues of Gagauzia's territorial organisation, establishing and changing the category of localities, borders of districts, cities and villages, naming and renaming them;
 - Art. 12. – (3) The competence of the People's Assembly includes:
 - d) appointing elections to the bodies of local public administration of Gagauzia;
 - Art. 12. – (3) The competence of the People's Assembly includes:
 - e) holding a local referendum on questions referring to competences of Gagauzia;
 - Art. 14. - (1) All bodies of public authority of Gagauzia submit to Him/Her (the Governor);
 - Art. 24. – (3) Commissioners of Gagauzia police commissariats are appointed and dismissed by the Chief of the Internal Affairs Directorate of Gagauzia in the name of the Minister of Internal Affairs of the Republic of Moldova;
 - Art. 24. – (5) The commander of the Carabinieri troops (internal troops) division is appointed and dismissed by the Minister of Internal Affairs of the Republic of Moldova upon proposal by the Governor (Bashkan) of Gagauzia.

3.2 Analysing discrepancies between competences stipulated by the Law on Special Legal Status and the Constitution and other laws

While analysing the discrepancies between the Constitution and the designated competences of the Law on Special Legal Status, it should be noted that the conflict on the implementation of powers was initially present in the form and content of the formulation of the law as accepted in 1994. In other words, the Members of the Republic of Moldova Parliament adopted a law specifying the competences of the autonomy of Gagauzia many/some of which did, from the start, not correspond/had contradicted the Constitution. Subsequently, a number of laws were adopted which do not include competences formulated in the Law on Special Legal Status.

Example 1. Art. 11. - (1) As part of its competences the People's Assembly of Gagauzia adopts local laws with a majority of its elected members' votes;

In the present category we have also included one of the main powers specified by the law. This regards point (1) Art. 11 of the Law on Special Legal Status of Gagauzia, which

grants the People's Assembly the right to adopt local laws. We should note that this situation does not correspond to the Constitution of the Republic of Moldova which stipulates in pt. (1) Art. 60 that "*The parliament is the supreme representative body of the people of the Republic of Moldova and the only legislature of the state*". Referring to provisions of Art. 11 of the Law, which establishes that the People's Assembly adopts local laws, we find that such situations are directly in conflict to some articles of the Constitution (Art. 60, 72, 74, 75 and 109) which define the Parliament of the Republic of Moldova as its supreme representative body and the only legislator of the state. Further, Art. 72 of the Constitution does not recognize local laws as being part of the law category. Therefore, the constitutional norms do not grant the GATU the right to practice an activity of legislative character regulating the political, economic or cultural areas. It is necessary to specify that this discrepancy does not interfere with the decision-making process of the People's Assembly. The problem is that these decisions do not hold legislative force and are equated to decisions taken by local bodies of second level public authorities. The same logic may be observed in the **Law on Legal Acts (2002)**⁷⁰, which lacks the concept of «local law». Laws are subdivided into three types: constitutional, organic and ordinary. The Gagauz side insists on the recognition, by the legislation of the «local law» type. This initiative also stipulates the position of its place in the hierarchy of legislative acts.⁷¹

The provision regarding the right to adopt local laws was, from the start in conflict with Art. 60 of the Constitution, according to which the only body possessing legislative competence is the Parliament of the Republic of Moldova and with Art. 72, which does not specify the place of local laws in the hierarchy of acts. There is, consequently a problem in the interpretation of the status of local laws by the central and regional authorities. Further, through the adopted **Law on Normative Acts of the Government and other bodies of the central and local public authorities (2003)**⁷², the occurring conflict was solved by equalling the local laws passed by the Assembly to decisions issued by the representative bodies of the second level public authorities, which pertain to acts of the highest order and include laws, resolutions, decisions of the Government and other central governing bodies.

Example 2. Art. 12. – (2) *The People's Assembly adopts local laws in the fields of:*

a) education

The principle of including some provisions in the category of the ones not devolved and not managed are based on the unclear formulation of competences held by the People's Assembly. It concerns a number of competences postulated by pt. (2), article 12 of the Law on Special Legal Status of Gagauzia. It belongs to fields such as education. Enacting these powers requires a clear differentiation of competences between the central authorities and the autonomy of Gagauzia. In this case, we mean the need for an accurate definition in the law that enumerates the prerogatives in areas such as education. In other words, it is necessary to define, what decisions the regional authorities in these fields can make.

Sub-point (K) pt. (3) Art. 72 of the Constitution of the Republic of Moldova specifies that the Parliament adopts organic laws in the issue of "the general organisation of education". Article 1 of the **Code of education (2014)**⁷³ establishes the "legal bases of the relations

⁷⁰ Law on Legal Acts Nr. 780 of 27.12.2001, Published in the Official Gazette no. 36-38 article no.: 210 article no.: 116, 14.03.2002

⁷¹ The draft Law on Normative Acts does not take the legislative and regulatory competences of Gagauzia into account, <http://gagauzinfo.md/index.php?newsid=13258>

⁷² **Law on Normative Acts of the Government and Other Bodies of the Central and Local Public Authorities** Nr. 317 of 18.07.2003, Published in the Official Gazette no. 208-210 article no.: 783, 03.10.2003

⁷³ Code of education No. 152 of 17.07.2014, Published in the Official Gazette no. 319-324 article no.: 634, 24.10.2014

connected with the planning, organisation, functioning and development of an educational system in the Republic of Moldova". Art. 1 of **Annex No. 1 to Government Decision on the adoption of the regulations, structure and limits to staffing the Ministry of Education**⁷⁴ (2009) states that the Ministry of Education" is the central specialised body of public administration which puts the state policy in the field of education into practice, developing and introducing the strategy of development and ensuring the quality in the field of education". These documents thus define that education is a prerogative of the state. The Ministry of Public Education is the body that introduces policy in education.

In this context, it is necessary to mention an issue which occurred between the central authorities and the autonomy of Gagauzia after an examination for the Baccalaureate degree in Romanian language and literature was carried out. The problem arose because 47 pupils did not pass this examination in June 2011. The Governor of ATU Gagauzia Executive Committee at the time, Mihail Formuzal stated that local authorities are ready to issue their own certificates on the graduation of the lyceum to pupils who did not pass the examination for Romanian language and literature.⁷⁵ This is, again, an issue of determining the respective competence. We consider that the current issue of non-compliance in the field of education may be solved by investing the authorities of the autonomy with the right to work on the concept of developing and teaching the Gagauz language as a school subject.

It is worth reminding that following an unsatisfactory situation in passing the Baccalaureate degree examination for the "Romanian language and literature" subject, the People's Assembly adopted a resolution demanding that the Executive Committee develops and approves a Baccalaureate Diploma template which would be issued to graduates who received unsatisfactory marks on the "Romanian language and literature" subject.⁷⁶ Furthermore, the People's Assembly obliged the State University in Comrat to admit the documents necessary for admission to a higher education institution from graduates of Gagauz schools who received unsatisfactory results at the Moldovan language examinations, with the subsequent resitting of the examination in 2012. The executive committee of the autonomy of Gagauzia approved a Baccalaureate degree diploma template for graduates of Gagauz schools who did not pass the "Romanian language and literature" baccalaureate examination.⁷⁷ The Ministry of Education did not recognize the diplomas issued by the authorities of the autonomy, thus the State University in Comrat did not admit graduates of Gagauz schools who did not pass baccalaureate degree examinations.

Example 3. Art. 12. – (3) *The competence of the People's Assembly includes:*

a) decisions in a certain legal way on issues of Gagauzia's territorial organisation, establishing and changing the category of localities, borders of districts, cities and villages, naming and renaming them;

Another competence that is not compliant to the standards of the Constitution, is the regulation of place names (sub-point (A) of pt. (3) Art. 12 of the law). Thus, the solution of questions regarding the establishment and change of the category of localities, borders of districts, cities and villages, naming and renaming them is a competence in conflict with the provisions of sub point (F) of pt. (3) of Art. 72 of the Constitution. Under the constitutional norms, "the organisation of the local management of territory, and also a general regime of a local autonomy" is accepted by organic law. Further, the Law on the Administrative-Territorial Division of the Republic of Moldova (2001) provides that "establishment, abolition and change

⁷⁴ Government Decision on the adoption of the Regulations, structure and limits to staffing the Ministry of Education no. 653 of 6.11. 2009, Published in the Official Gazette no. 162 article no.: 721, 10.11.2009

⁷⁵ Cornel Ciurea, Ion Tăbârță. Politicile lingvistice ale Chișinăului în raport cu UTA Găgăuzia (Linguistic Policies of Chisinau regarding ATU Gagauzia), Policy Brief, IDIS "Viitorul", p. 7

⁷⁶ <http://gagauzinfo.md/g1/1242-nsn-poruchilo-ispolkomu-razrabotat.html>

⁷⁷ <http://gagauzinfo.md/index.php?newsid=1266>

of the status of an administrative and territorial unit are carried out by Parliament pending consultations with the citizens".⁷⁸

It is necessary to mention ATU Gagauzia Law "On changing the status of the Congaz village, Comrat district" of 21 September, 2007. According to the decision of People's Assembly, the status of the administrative and territorial unit of the Congaz village, Comrat district was changed to the status of the town of Congaz with a district level submission. This decision was ignored by the central authorities and was not reflected in the administrative-territorial organisation scheme of the Republic of Moldova.

Example 4. Art. 12. – (3) *The competence of the People's Assembly includes:*

o d) appointing elections to the bodies of local public administration of Gagauzia;

The provision of subparagraph (D) of pt. (3) Art. 12 of the law on the legal status presents a special interest in view of the practice which accompanied the achievement of this competence. In this case, we mean the second part of this provision which states that the People's Assembly possesses the competence to appoint election to the local public authority bodies of Gagauzia.

This article is in conflict to Art. 122 of the **Electoral code (1997)**⁷⁹, which states that the date of local or early elections is determined by Parliament while the Central Election Commission (CEC) appoints the date of repeated vote, in new and partial elections. According to the established practice, the CEC addressed with a petition to the People's Assembly regarding the appointment of the elections on the date established by the Parliament. In other words, the decision of People's Assembly duplicated the decision of legislative body of the Republic of Moldova.

The problem arose for the first time this year when the People's Assembly adopted, on April 9, 2015, a resolution on appointing the date of elections to local public administration authorities of Gagauzia.⁸⁰ This issue is part of the disagreement between Chisinau and Comrat in the question of competences of the autonomy of Gagauzia. The fact that the People's Assembly will also take such decisions in the future, thus attempting pressure on central authorities by political blackmail is not out of the question.

In this case, judicial instances ruled the Gagauzia PA Resolution No. 364-SZ/V of 09.04.2015 "On appointing the date of elections to local public administration authorities of Gagauzia"⁸¹ to be illegal in essence and issued in infringement of the law and with violation of competences.

Example 5. Art. 12. – *The competence of the People's Assembly includes:*

e) holding a local referendum on questions referring to competences of Gagauzia;

Holding a local referendum on questions pertaining to Gagauzia's competence is postulated by sub-point (E) of pt. (3) Art. 12 of the law on Special Legal Status of Gagauzia. However this situation is in incoordination with pt. (1) Art. 188 of the electoral Code which states that district level electoral councils are created by the Central Election Commission (CEC) upon proposal by representative bodies of the authorities of the administrative-territorial units with a special status in case of organising a local referendum in the autonomy of Gagauzia. In general, the provision on holding local referenda won't be agreed with the Code in which it is specified that only the Central Election Commission appoints the date and creates district electoral councils on holding a local referendum "following the proposal from a representative body of the public authority of the administrative-territorial unit with a special

⁷⁸ Law on the Administrative-Territorial Organisation of the Republic of Moldova Nr. 764 of 27.12.2001, Published in the Official Gazette no. 16 article no.: 53, 29.01.2002.

⁷⁹ Electoral code Nr. 1381 of 21.11.1997, In: the Official Gazette no. 81, article no.: 667, 08.12.1997.

⁸⁰ <http://halktoplushu.md/index.php/novosti/1077-ochen-aktualno>

⁸¹ Elena Cuijuclu, Mihail Sirkeli. Reciprocal control between the center and autonomy: experience of implementing the Gagauz status, June 2015, p. 29.

status"⁸². Under Art. 179 and 180 of the electoral code, the competence of the Assembly is reduced to making the decision on carrying out and participating in the creation of district electoral councils and bureau and also in the formation of constituencies. In pt. (i) Art. 178 of the Electoral Code there is only one reference to Law No. 344/1994. It concerns the questions submitted for a local referendum on the change of the administrative-territorial subordination of the localities stipulated by Law No. 344/1994. This most likely, refers to pt. (2 and 4) and Art. 5 which mention the opportunity of the localities that are part of Gagauzia to reserve themselves the right to exit from its structure through a local referendum held at the initiative of not less than one third of voters, but no earlier than one year from the moment of entry into the structure of Gagauzia structure.

We can therefore note that the competence to hold local referenda was not devolved to the autonomy and cannot be regulated by the People's Assembly, keeping in mind the provisions of the electoral Code and the subsequent decision by the administrative court on cancelling the resolutions of the People's Assembly on holding referenda in 2014 by ruling that they are illegal.

On February 2 two referenda were held on the territory of the Autonomous Territorial Unit Gagauzia – one of advisory character, and the second one of a "legislative" character. In the first case - the people of the region came to express the position on the foreign policy vector of the Republic of Moldova, namely: whether they approve the accession of the country to the European Union or to the Russia – Belarus – Kazakhstan Customs Union. In the second case, the referendum concerned the question of whether Gagauzia should exit the structure of RM in case of a change in the country's statute of independence. The resolutions of the People's Assembly were cancelled as being beyond legality.

➤ **Example 6. Art. 14. - (1)** *All bodies of public authority of Gagauzia submit to Him (the Governor);*

Another competence which is included into this group concerns the provisions of point 1 of article 14 of the law on Special Legal Status of Gagauzia. This situation ignores the basic principles of local government (Art. 109-113 of the Constitution), which states that "the highest official of Gagauzia is its Governor (the Bashkan). All bodies of public management of Gagauzia report to him". Local councils and mayors are, as bodies of local authorities, autonomous and do not submit to the central or regional authorities. They base their relations with bodies of other levels according to the principles of an autonomy, legitimacy and cooperation for the resolution of common issues.

In this context the provisions of article 14 subordinate local authorities to the power of the Governor of Gagauzia. This norm specifies the creation of institutes which are highest on the hierarchy for local authorities, which are not in conformity with the constitutional provisions and the European charter of local government. This norm is also in conflict with the **Law on Local Public Administration (2006)**, which provides, under provisions of Art. 3 that "*public authority in administrative and territorial units is based on the principles of local autonomy*"⁸³ In other words, the Governor has no right to subordinate to himself all the bodies of public management in Gagauzia, for example the mayor or local councilmen. The application of Art. 14 refers, most likely, to the officials of Gagauzia's Executive Committee and cannot be interpreted as referring to all bodies of public administration of Gagauzia.

⁸² Art.179 and Art.188 Of the electoral code Nr. 1381 of 21.11.1997, In: the Official Gazette no. 81, article no.: 667, 08.12.1997.

⁸³ **Law** on Local Public Administration, Nr.436 of 28.12.2006, Published in the Official Gazette no. 32-35 article no.: 116, 09.03.2007

Example 7. Art. 24. – (3) *Commissioners of Gagauzia police commissariats are appointed and dismissed by the Chief of the Internal Affairs Directorate of Gagauzia in the name of the Minister of Internal Affairs of the Republic of Moldova.*

Art. 24. – (4) The chief of the municipal police of the Internal Affairs Directorate of Gagauzia is appointed and dismissed by the Governor of Gagauzia following a proposal by the Chief of the Internal Affairs Directorate of Gagauzia and is under his operative level supervision.

One of the main disagreements of the later years is pt. (3) Art. 24 of the Law on Special Legal Status of Gagauzia. It regards the issue of appointing and releasing the chief of the municipal police and the commissioners of police commissariats in the autonomy of Gagauzia. According to the provisions of this law, they are appointed and dismissed by the Chief of the Internal Affairs Directorate of Gagauzia in the name of the Minister of Internal Affairs of the Republic of Moldova. The issue reflects that, under sub-point (G) of pt. (1) Art. 13 of the **Law on the Activity of the Police and the Status of the Police Officer (2012)**, the chief of the General inspectorate of police appoints and dismisses the staff of the General inspectorate of police, its chiefs and the staff of its subdivisions.⁸⁴

To specify, in the course of the law-enforcement bodies reform, the General inspectorate of police, which is among the fundamental elements of police administration and management, was created. The entry into force in 2013 of the law on the activity of police and the status of the police officer abolishes the concept of the position of commissioner and introduces the concept of the *police inspectorate chief*.⁸⁵ Further, this law introduces the position of Chief of ATU Gagauzia Police Department. These innovations were not reflected in the law "On Special Legal Status of Gagauzia" and is one of the main arguments held by Gagauz politicians against the central authorities in the issue of infringing the rights of the autonomy of Gagauzia. In 2014, the members of the People's Assembly have written and sent to the Parliament of the Republic of Moldova a draft bill that stipulated that "The chief of the Internal Affairs Directorate of Gagauzia appoints and dismisses the chiefs of regional police inspectorates".⁸⁶

Example 8. Art. 24. – (5) *The commander of the Carabinier troops (internal troops) division is appointed and dismissed by the Minister of Internal Affairs of the Republic of Moldova upon proposal by the Governor (Bashkan) of Gagauzia.*

This example is in many respects similar to the situation described above. In this case, we consider the competence specified by pt. (5) Art. 24 which states as follows:

"the commander of the carabinier troops (internal troops) division is appointed and dismissed by the Minister of Internal Affairs of the Republic of Moldova upon a proposal by the Governor of Gagauzia".

Note that this provision of the Law on Special Legal Status does not conform with the Law on Carabinier Troops (Internal Troops) of the Ministry of Internal Affairs (1991).⁸⁷ Here we refer to the provisions of Art. 9, which specify the procedure, to appoint and dismiss the commander of the carabinier troops division. Under pt. (G) of Art. 9, the Minister of Internal Affairs "appoints upon presentation by the commander of the carabinier troops, the deputy commanders of carabinier troops, commanders of crews (regiments), of separate battalions and of training centres".

This competence specified in the Law on Special Legal Status did not from the very beginning correspond with the Law on Troops of Carabinier (Internal Troops) of the Ministry of

⁸⁴ Law on the Activity of the Police and the Status of the Police Officer, Nr. 320 of 27.12.2012, Published in the Official Gazette no. 42-47 article no.: 14, 01.03.2013

⁸⁵ Art. 12 and 13 of the Law on the Activity of the Police and the Status of the Police Officer

⁸⁶ We remind that this project was not debated by the Parliament of the Republic of Moldova

⁸⁷ Law on Carabinieri Troops (Internal Troops) of the Ministry of Internal Affairs, Nr. 806 of 12.12.1991

Internal Affairs which was adopted in 1991. We have to emphasize the fact that, being a component of the organisational structure of the Ministry of Internal Affairs, the carabinieri troops are a component of the Armed forces. The field of armed forces constitutes an exclusive function of the state and therefore cannot be delegated to regional authorities. To specify, the competence provided by pt. (5) Art. 24 of the Law on Special Legal Status, is conflicting with the provisions of the **law on the statute of military personnel (2005)**.⁸⁸ Sub-point (D), pt. (2) Art. 31 of this law which enumerates the order of appointment and the transfer of the commander of the carabinieri troops division, states that "deputy chiefs of a military structure are appointed by the Government upon presentation by the commander of the military structure".

The issue of appointing of the commander of the carabinieri troops division is among the main disagreements between representatives of the regional authorities and representatives of central authorities. This issue was repetitively discussed and has been the subject of a legislative initiative made by representatives of People's Assembly in 2014.

The existing conflicts between a number of laws which have a direct bearing on competences and functioning of the autonomy's education, triggers problems that are difficult to solve and which are faced by representatives of the autonomy of Gagauzia and the bodies of the central authorities. Discrepancy between competences provided in the Law on Special Legal Status and the national legislation is explained by a vagueness of formulations, lack of differentiation of competences and the wrong formulation of the provisions we have studied. It sometimes means the acceptance by regional authorities of decisions contradicting the national legislation. Such situation generates misunderstanding and mistrust between the centre and the region.

Conclusions and recommendations

We note the existence of a number of discrepancies between the Constitution and the legislation of the Republic of Moldova with the designated competences of the Law on Special Legal Status. The process of delaying the clear formulation and differentiation of competences held by the autonomy of Gagauzia is one of the main problems in the relations between the central authorities and the region. In the course of developing the Law on Special Legal Status a number of mistakes that impede the application of the law were identified.

A number of competences do not meet the norms of the Constitution and are in conflict with other laws of the Republic of Moldova. The actions of Chisinau are directed towards reducing the law on Special Legal Status of Gagauziya according to the national legislation while Comrat insists on the inviolability of the Law on Special Legal Status and indicates the need to implement constitutional changes. Neither position is a key to solve this problem and can lead to the emergence of serious contradictions between Chisinau and Comrat.

It should also be noted that the Law on Special Legal Status became out-dated and needs completion. However, representatives of the autonomy of Gagauzia disagree with it since they are afraid that such a process can mean the reduction of powers of Gagauzia.

We consider it necessary to take the following actions:

- The clarification of powers between the central authorities and the autonomy of Gagauzia, as well as the detailed specification of the power of authorities in the autonomous region. In this case, we mean the special and joint powers, which will be held by the authorities of the autonomy of Gagauzia and the central authorities.
- There needs to be a format for the interaction between Chisinau and Comrat.

⁸⁸ Law on the Status of Military Personnel, Nr. 162 of 22.07.2005, Published in the Official Gazette no. 129-131 article no.: 618, 30.09.2005

- Central authorities may create a permanent “anti-crisis cell” which would report to the president and would be tasked with approaching the issues of the autonomy
- It is essential for the workgroup created by Parliament to have a stable structure and permanent mandate for the regulation of all problems existing between Chisinau and Comrat.
- Decisions taken in the frames workgroup cannot bear a unilateral character.
- Developing a list of laws that require amendment, including the Law on Special Legal Status of Gagauzia represents a priority for the “anti-crisis cell” and the parliamentary workgroup.

Part II. Financial and economic framework of the autonomy of Gagauzia

Chapter 1. Financial guarantees in the implementation of ATU Gagauzia's competences, *Alla Levitskaia*

1.1 Legal and regulatory framework governing budgetary relations of ATU Gagauzia

The differentiation of powers between levels of government within the country will inevitably be followed by the resolution of the issues concerning the decision-making process in the field of dividing the attributes of the financial autonomy of the territory. This approach is established by the European charter on local self-government and imposes the recognition of the presence of a wide autonomy on competences and the provision of their realization through appropriate means. Besides an organisational and administrative independence, the effective management of the tasks assigned to local authorities has to be made possible by financial autonomy.

The scales of a financial autonomy are characterized by the following criteria:

- the right to independently develop, approve and execute the local budget,
- the right to a tax initiative and the introduction of financial sanctions and penalties,
- the right to establish the prices and tariffs for the production and services of enterprises which are managed by the local government
- the right to act as the guarantor during the crediting and creation of off-budget, insurance and other trust funds,
- the right to create financial credit institutions.

Under part (5), Art. 111 of the Constitution of RM, the budget of the Autonomous Territorial Unit of Gagauzia is formed according to the norms established by the organic law regulating the special status of Gagauzia. According to these constitutional norms for assuring local autonomy, the bodies of Gagauzia's local public administration have the right to develop, claim and independently manage the budget of the Autonomous Territorial Unit with Special Legal Status.

The law "*On Special Legal Status of Gagauzia (Gagauz Yeri)*" adopted by the Parliament of RM on December 23, 1994 was aimed at the consecutive implementation of reforms in the field of budgetary relations, human rights, restructuration of the budgetary sector institutions, improving the inter-budget relations mechanism and ensuring its control. Transition to the new mechanism was conditioned by the reform of the budgetary process and introduction of independent budgeting focused on result.

The first mention of budgetary regulations in ATU Gagauzia may be found in the Law "*On Special Legal Status of Gagauzia (Gagauz Yeri)*". Consequently, Art. 17 pt. 1 states that the development of ATU Gagauzia budget, with the subsequent presentation for approval by the GPA, and also ensuring its regulation in conformity with the law is assigned to the ECG. Besides, Art. 18 establishes the procedure for the formation of the budget of Gagauzia and the relationship of the budget of Gagauzia with the state budget of the Republic of Moldova, in particular:

(1) The budget of Gagauzia is formed from all types of payments established by the legislation of RM and the People's Assembly.

(2) *The interactions between the budget of Gagauzia and the state budget are established under the laws of RM on the budgetary mechanism and the state budget for the corresponding year in the form of fixed payments from all types of taxes and payments*

The following are part of the nation-wide taxes (duties) system of the Republic of Moldova: a) income tax; b) value added tax; c) excises; d) private tax; e) customs duty; f) road tax. Prior to the adoption of the Law "On Special Legal Status of Gagauzia (Gagauz Yeri)", there were disagreements in interpretation of this article between central authorities of RM and ATU Gagauzia.

In particular, the Law specifies that the budget of the ATU is formed of all types of the payments established by the legislation of RM and the PA of the ATU. After a number of discussions and coordination efforts to strengthen the autonomy of Gagauzia, the Parliament of RM has amended the Constitution of RM (articles: 73, 110, 111) which led to the unambiguous understanding of article 18 of the law "On Special Legal Status of Gagauzia".

The right of the PAG to establish taxes and fees which have to form the income of the Gagauzia budget is derived from this law. At the same time, Art. 58 of the Constitution provides that "any taxes except for those established by the law, are forbidden", while Art. 132 stipulates that "tax, collections and any other income of the state budget, the budget of the state social insurance and the budgets of districts, cities and villages are established under the law by the appropriate representative bodies. Any other type of taxation is forbidden".

According to the *Law of the Republic of Moldova № 397-XV «About local public finance»*, the central budget revenues of Gagauzia consist of the following types of deductions from state taxes and fees:

a) Income tax on individuals - 100% of the total collected in the territory of ATO (in the regional budgets of Moldova - 25% of the total volume)

b) Income tax on legal entities - 100% of the total collected in the territory of ATO (in the regional budgets PM - 0% of the total volume)

c) Value added tax (VAT) on goods and services produced and provided in the territory of ATO - 100% of the total collected in the territory of ATO (in the regional budgets PM - 0% of the total)

d) Excise taxes on excisable goods produced on the territory of ATO - 100% of the total collected in the territory of ATO (in the regional budgets PM - 0% of the total)

Also, the central budget incomes consist of transfers provided by Article 11 of this Law (in the regional budgets of the Republic of Moldova - transfers provided by Articles 10 and 11). That is, the budgets for the local areas receive from the state budget additional general purpose transfers directly, which are calculated on the basis of the area and population relevant area directly. Mayor's of Gagauzia local areas received through additional structure - the central budget autonomy.

The adoption of the **Regulations on Gagauzia (Gagauz Yeri) (14.05.1998)** allowed for the establishment of the main principles for the functioning of institutions of power, and also defined the place of the ATU within the state system of RM. Upon developing the Regulations, controlling of the budgetary system, developing and implementing the budget was assigned to the Executive Committee of Gagauzia by article 77. Art. 80 specifies the procedure to form and implement the budget, and also establishes the relations between the budget of ATU Gagauzia and the one of RM.

At the same time experience shows that the Regulations may not always serve as an accurate reference point for the resolution of specific issues. The legal gaps, indistinct formulations allowing various interpretations quite often became the reason for serious disputes during the forming and implementation of the budget.

ATU Gagauzia Law "*On the Budgetary System and Budgetary Process*" was accepted only on October 3, 2000. It was the first independent statutory act, from the moment of the

creation of the autonomy, that regulated the budget mechanism. It describes all the bases and the procedures involved by the direct budgetary mechanism of ATU Gagauzia.

The law "On Public Finance" (26.03.2013) characterizes the budgetary regulation of ATU Gagauzia and examines aspects such as: the object of the law, basic concepts, budgetary process, fiscal year, budgetary classification, internal revenue service, financial control and external public audit, budgetary principles and restrictions.

In the sphere of tax regulation the main achievement belongs to the Law "On the Fundamentals of the Tax System in Gagauzia" (10.10.2000) which specifies: the procedure of payment, types of taxes, their division on regional and local.

ATU Gagauzia Law "**On Local Taxes and Fees**" (22.08.1997), contains information on local taxes and fees, and also regulates the order of calculation and payment of collections.

ATU Gagauzia Law "**On the Fixed Tax**" (17.07.2001), grants the right to businessmen to pay a monthly fixed tax which congregates the following: the income tax for entrepreneurship; the land tax; the real estate tax; water payments; collections for the improvement of the territory; the fee for objects of trade and/or for the provision of social services.

ATU Gagauzia Law "**On the Enterprise Patent**" (29.09.2006) presents a wider list of activity types and a monthly payment for the enterprise patent which is smaller than the one stipulated by the similar law of RM.

At the same time, in the whole course of the autonomy's existence, the following laws were adopted: "On licensing separate kinds of activity on the territory of Gagauzia", "On writing-off fines and penalties" and some other normative acts regulating the tax system of ATU Gagauzia, which indirectly and ambiguously influence the budget regulation.

Our study of ATU Gagauzia legislation allows to draw a conclusion on the existing omissions:

- Under the Law "On legislative acts" of July 28, 2005, Legislative acts are the ones adopted on the basis of the Regulations of Gagauzia (Gagauz Yeri) according to the procedure established by Regulations of the Gagauzia People's Assembly without reference to the Law "On Special Legal Status of Gagauzia (Gagauz Yeri)" and the Constitution of RM.
- In section IV, Art. 48 of the same Law, titled "Responsibility and Control for the implementation of Budgets", numerates the persons responsible for the implementation of various level budgets. However measures applied to violators of the budgetary legislation, and also the basis and the concrete order to apply these measures are not listed.
- A number of defects may be found in the Law "On the Enterprise Patent". For example, the question of issuing the patent for services of transportation of passengers does not imply an annual medical examination of drivers, which influences the decrease in the safety of passenger transportation.
- Article 6 of the law "On Customs Control in Gagauzia" (23.01.2001) defines the legal, economic and organisational fundamentals of customs affairs in Gagauzia and is directed towards the protection of the economic independence of Gagauzia. However, the customs authorities operating in the territory of the autonomy are only guiding themselves by the legislation of RM in their activity. Furthermore, many employees are not aware about the existence of this law.
- Under the law "On writing-off fines and penalties of Economic Agents of Gagauzia" (15.12.2000) upon extinguishment, by the economic agent of his debts, until September 1st of the current year, fines and penalties are 100% deducted. However, local authorities had no powers to write off penalties according to the Fiscal Code of RM.

Only the Law "On freezing a debt and writing off of the sums of a Penalty Fee" managed to regulate discrepancies in the legislation of RM and ATU Gagauzia in this matter.

1.2 Evaluation of ATU Gagauzia Budget indicators

1.2.1 Analysis of the dynamics and structure of budget revenues

The main sign of a financial autonomy is the existence of regional sources of the income. In this regard, the governing bodies of the ATU have, first of all the roles of:

- subjects of fiscal processes and gain incomes in the form of tax revenues and payments;
- subjects of entrepreneurship in the sphere of providing paid public services;
- subjects of the property relations that may gain income from the sale and leasing of property
- subjects of financial-credit relations authorities can act as creditors.

The analysis carried out in the frames of the presented classification allows to draw the following conclusions: in 2014 the specific weight of personal income amounts to 43% (the maximum volume was established in 2013 – 46%). In the income structure for the analysed period, the specific share of receipts on land tax from lands of agricultural and non-agricultural purpose, the tax on real estate of legal entities, VAT, excises, water payments, market collections, etc. has decreased. At the same time the specific share of income tax from individuals, road tax, the rent for land use, etc. has increased.

It is also necessary to note that the share of attracted funds for the analysed period decreases. If in 2010 the share of transfers amounted to 57% of the state budget, in 2014 their share equalled to 51%. The specific weighting of receipts from funds in the form of grants constantly grows in structure of the income. The leading positions belong to receipts from the payment of the income tax by individuals and legal entities and the VAT (fig. 1). The smallest share belongs to the rent of state property which added up to 0,1%.

By 2012 the specific weight of income tax on individuals continued to be in the lead with 11,66%, and an almost identical specific weighting is the one of income tax collections from legal entities and the VAT which amounted to 8,36% and 8,8% respectively. The smallest share belongs to payments of water bills and the land tax for non-agricultural purpose terrains (0,06%). In 2013 an approximately identical share belonged to the collection of VAT and income taxes from individuals (about 8%), which were leading the charts throughout the analysed period. On the second place there is the income tax from legal entities which sharply increased in 2012, while the smallest specific weight is the one of the land tax on non-agricultural lands.

Of the total amount of ATU Gagauzia budget incomes:

- Direct taxes in 2014 summed up to 22,2%. These included: the collection of income tax from entrepreneurship with 37 168,9 thousand lei, income tax from salaries – 51 572,8 thousand lei, the land tax – 9 795,3 thousand lei, the real estate tax – 2 736,3 thousand lei.
- Indirect taxes amounted to 8,3% or 37 928,0 thousand lei from the total amount of ATU Gagauzia budget incomes. There is an obvious decline in the incomes from VAT and excises in 2014 compared to 2013 (fig. 1)

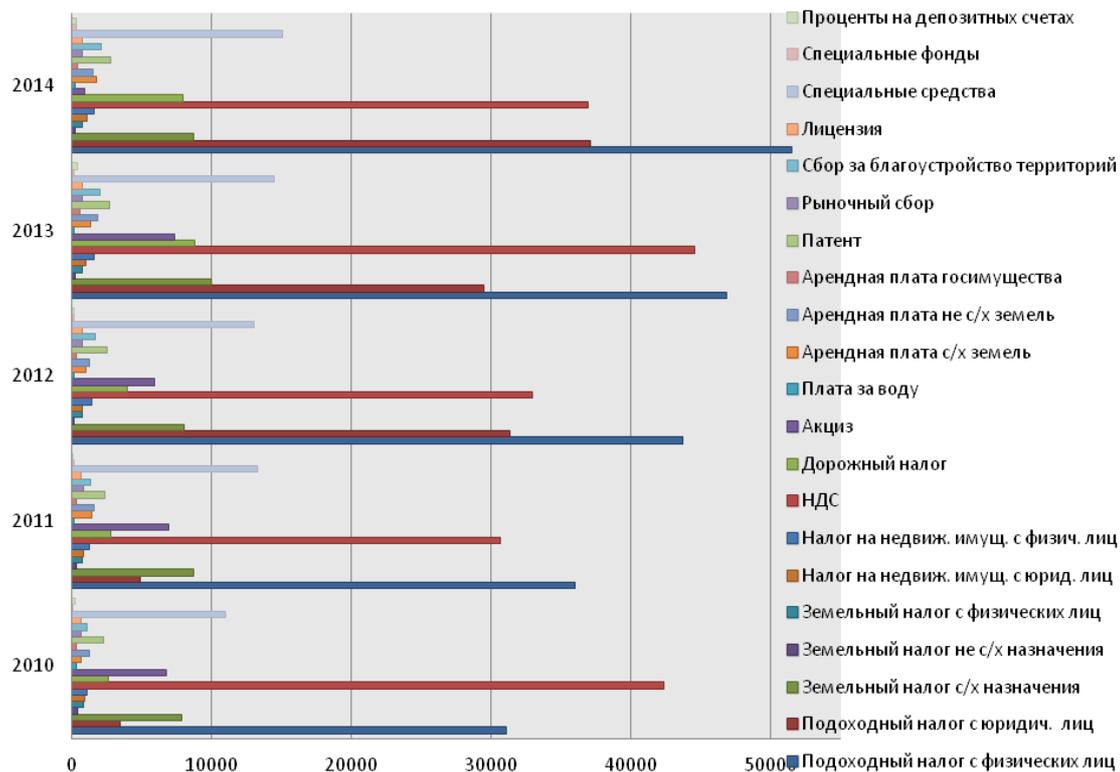


Figure 1. Structure of own income of ATU Gagauzia budget for the 2010 - 2014 period, %
 Source: calculated based on the data Table 1, Annex 4.

Major factors of this recession are:

- The changes in RM Tax Code, stipulating a decrease to 8% instead of 20% of the VAT rate for agricultural production, in force until 01.01.2014
- The use by economic agents of the special conditions specified by the provisions of the current legislation on deliveries to the free economic zone.
- The interruption of the entrepreneurship of the main payers of excises and other contributions.

It should be noted that throughout the studied period the budget revenues have grown constantly. The greatest gain of the cumulative income has been observed in 2012 (11,43%) and in 2014 (14,83%). In 2012 the income growth was influenced by the increase of the aggregated income (28,7%).

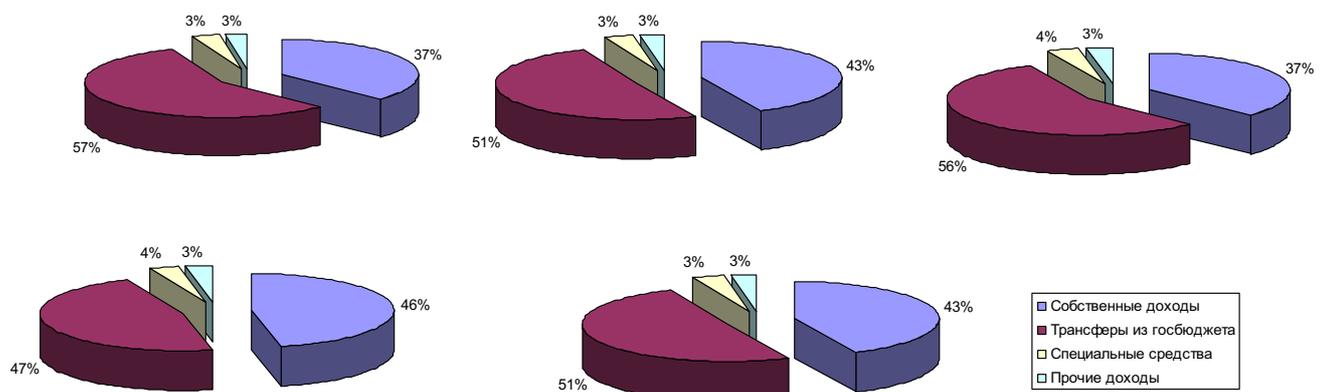


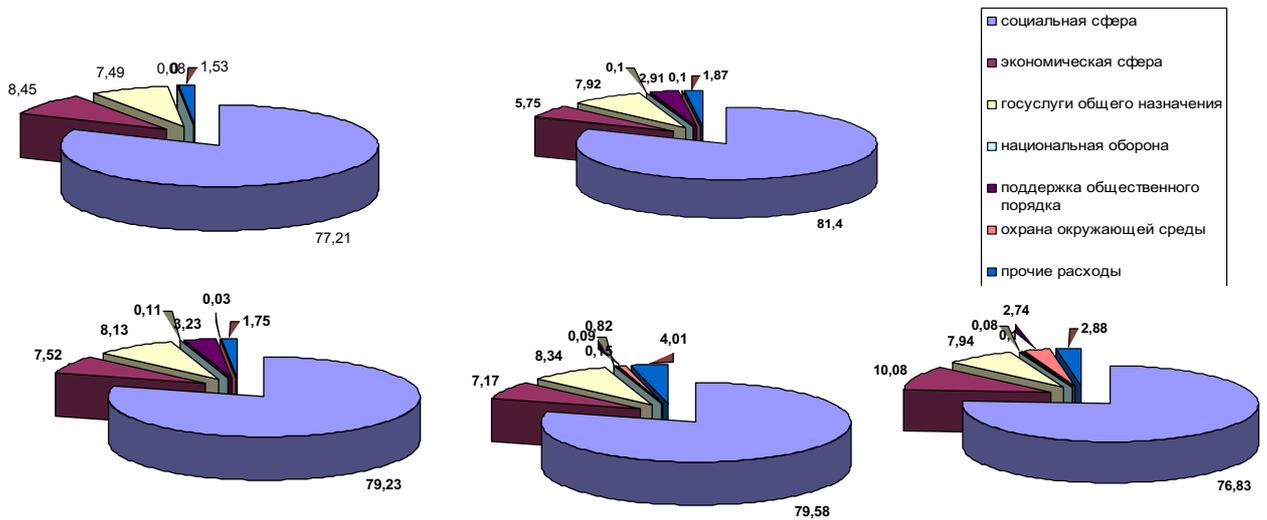
Figure 2. Structure of ATU Gagauzia budget income for the 2010 - 2014 period, %
Source: calculated based on the data Table 1, Annex 4.

In 2014 the increase of the income section of the budget was conditioned by the increase in transfers from the state budget by 15,06%, while own incomes decreased by 1,36%. The decrease in own incomes occurred due to the sharp decline in receipts from the payment of excises (by 6454,9 thousand lei). The specific weight of own incomes has generally declined in 2014 compared to indicators of 2013 (46%), reaching the values of 2012 (43%).

1.2.2 Analysis of the dynamic and structure of budget expenses

In the process of developing market relations, an extensive part of the tasks, which earlier used to be solved at the national level, went under the management of the region's authorities. First of all, this concerns funds allocated for the functioning and development of the social sphere of the region and the corresponding infrastructure in the field of healthcare, education, employment (about 80% of the ATU budget's expense structure). As part of social expenses the greatest share belongs to expenses in education - 60,32% in 2014. *The smallest share belongs to expenses on scientific research.*

The budget revenues size which finances the social sphere depends on the level of economic development. Expenses for the development of the market infrastructure, support of perspective branches in the development plan - in other words the sphere which provides economic growth and inflow of means to the budget revenues, illustrates a slow growth and reaches 10% (fig. 3).



The directions that are not directly connected to the social sphere: general-purpose state services, national defence, protecting the public order and other expenses. All the other directions of budgetary financing are in one way or the other aimed at developing and ensuring the funding of the social sphere specifically.

Figure 3. Structure of ATU Gagauzia budget expenses in the 2010 - 2014 period, %
Source: calculated based on the data Table 2, Annex 4.

The social orientation of the budget - it is one of the most important areas of the budget. Speaking about the priority of financing the social sphere it should be noted that this priority does not mean spending all the funds received by the budget for its maintenance. Budget classification provides for expenditure in such areas as financial support for the development of economy, science, etc. These areas also can't be separated from the social sphere.

Figure 4 presents the trend for the orientation of the social development of the budgetary funds expenditure, by presenting the expenses of ATU Gagauzia budget

- expenses directly aimed at the autonomy's social development;
- expenses which are not directly aimed at the autonomy's social development.

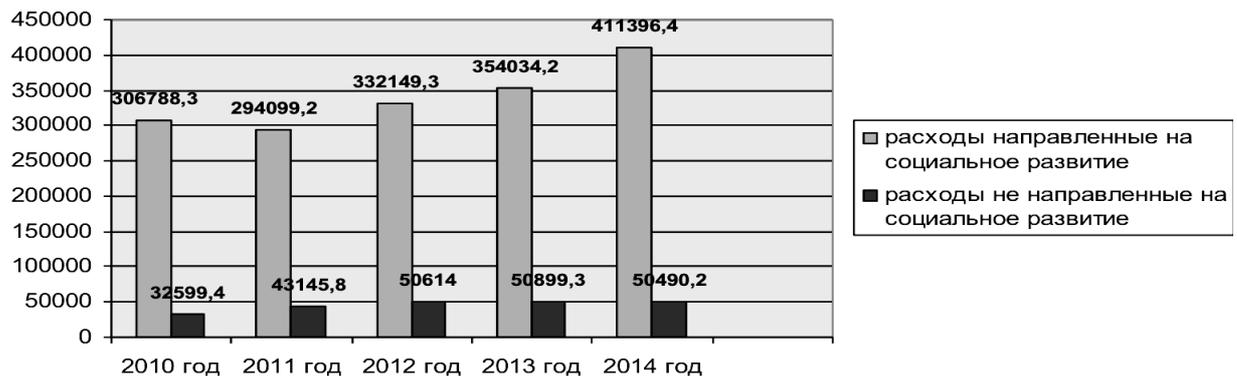


Figure 4. Dynamics of the budgetary expenses of ATU Gagauzia for 2010-2014, according to their belonging to social development, thou. lei.

Source: calculated based on the data Table 2, Annex 4.

Data shows that the general dynamics of the expenses aimed at the social development of the autonomy for the period studied was positive and has a tendency to grow. The 2010-2014 period may be considered optimum since in this period a continuous growth of the socially directed expenses is observed, while the amount of expenses not directly connected with the social development of the autonomy remained unchanged.

The 2016 budget of the ATU was developed and accepted through Decision No. 6/1 of 11 May 2015 "On the Executive Committee of Gagauzia (Gagauz Yeri) Program of Activity for 2015-2019. The program contains very summarized information on each direction of development. The plan of measures on implementing the program of activity of the Executive Committee of ATU Gagauzia (Gagauz Yeri) for 2015 - 2019 contains specific projects and actions for the development of the ATU, however the mechanism of monitoring and concrete indicators on their execution is not specified. In the "Economic activity" (pt.12) section the development and deployment of Strategy of social and economic development of ATU Gagauzia (Gagauz Yeri) on 2016 - 2019 is planned. In other words the Strategy will be developed and introduced already on the basis of the available budget that may put the separate actions included in strategy later than the presented budget, under the threat to remain without financing.

The dynamics of cumulative state revenues and expenses of ATU Gagauzia during 2010 - 2014 may be examined in figure 5.

Data show both the growth of public expenditures, as well as the growth of the income part of the autonomy's budget, which is estimated positively. A decrease in the income part is observed only during the 2010-2011 period.

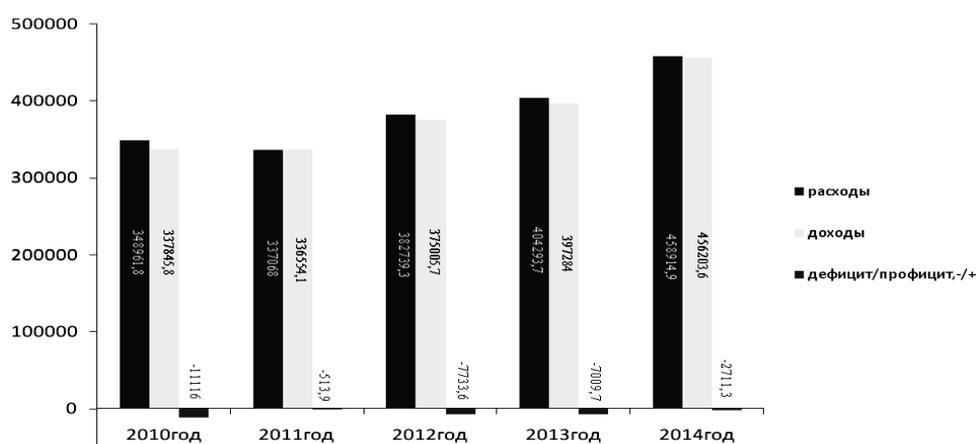


Figure 5. Dynamics of the cumulative income and expenses of the budget of ATU Gagauzia in the 2010-2014 period, thou. lei.

Source: calculated based on the data Table 1,2, Annex 4.

The budget deficit may be singled out as the main negative aspect throughout the analysed period upon comparing the income and expense parts of the ATU budget. A growth of this indicator may be observed in 2012 from 513,9 thousand lei to 7733,6 thousand lei, while by the end of 2014 - the deficit totalled 2711,3 lei.

1.2.3 Efficiency of productive budgeting implementation

To determine the level of efficiency in the implementation of productive budgeting, indicators used in the financial management to assess the activity of a commercial enterprise may be applied. The analysis of the budget efficiency of the autonomy's budget will also help define:

- 1) the level of financial sufficiency of the autonomy, the state of its own income base;
- 2) level of budget stability;
- 3) the factors influencing a financial position of the territory and the extent to which these factors influence on the territorial budget.

The correlation between "own income" and "total incomes", has shown that the budget of the autonomy for the entire period belongs to a normal type of financial stability. During the 2010-2013 period, the share of own incomes has increased from 37,39% to 47,7%, however in 2014 their share has decreased to the level of 40,97% which is a negative trend.

The correlation of transfers from the state budget and "total incomes" also proves the strengthening of financial stability during the 2010-2013 period (where their share decreases compared to the increase in the own income share). Analysing this indicator for 2014 it is possible to note that it remained almost at the level of 2013 thus that the share of own means for this period considerably decreases.

This phenomenon allows to conclude that the share of the additional sources affecting financial stability in 2014 increases. The results of an assessment of the relative indicators of the financial stability of ATU Gagauzia's budget for 2010-2014 are presented in tables 1,2 of Annex 1.

The affordability coefficient for minimum expenses from own income increases from 42% to 53% till 2013, which shows a strengthening of the financial autonomy of ATU Gagauzia budget, however in 2014 this indicator has decreased and amounted to 46%. Thus, own incomes in 2014 cannot even cover half of the most necessary expenses. Affordability of minimum expenses on account of transfers from the state budget is characterized by a decrease from 64% in 2010 to 53% in 2013, their share being 55% in 2014.

The coefficient of budgetary coverage throughout the studied period is quite low, since the coverage of minimum expenses from all the incomes slightly exceeds 100%.

Very important indicators characterizing financial stability are the coefficient of tax coverage and the coefficient of a non-tax coverage that show the share of the minimum expenses covered by taxes coming to the budget of ATU Gagauzia and non-tax revenues respectively. The coefficient of a tax coverage tends to increase from 34% in 2011 to 38% in 2014. However, at the same time, the coefficient of a non-tax coverage is very high, reaching the level of 75-76%.

Considering these coefficients in a set, it should be noted that throughout the studied period, the coefficient of a non-tax coverage considerably exceeds the coefficient of a tax coverage, i.e. the big share of the minimum expenses is financed by non-tax receipts. The coefficient of the budget sufficiency showing the volume of the means per one inhabitant of the region increased from 2,155 lei in 2010 to 2,835 lei in 2014.

1.3 Directions to improve budgeting in ATU Gagauzia

The main task of reforming the budgetary process is to create conditions and prerequisites for the most effective management of public finance according to state policy priorities, and, therefore, the increase in the efficiency of budget planning.

Although the forecast for own income in Gagauzia in 2016 is focused on a sum equal to 192,853 million lei (a 10% growth is predicted), the assessment of the budgetary indicators proves a great dependence of the autonomy's budget on state transfers (317,522 million lei or 61,6% in contributions from the central budget are planned for 2016).

Improving budgeting in ATU Gagauzia can be realised in two main directions:

1. Income growth in conditions of an unchangeable profitable potential of the ATU

To optimize the budgetary indicators in ATU Gagauzia it is necessary to find reserves on the increase of own incomes in ATU Gagauzia budget that will allow for an increase of its financial stability. In this regard the main efforts should be directed on improving the investment climate in the region, allowing to develop production, expand the taxable base and to increase the income to the budget.

❖ Develop a tax base, under the current legislation

- Expand use of local taxes and fees. In Art. 289 of RM Tax Code 14 types of local collections are provided. However, in reality only 3 – 4 types of local collections are used. The general receipt in the budget of ATU Gagauzia of local collections in 2013 totalled 10 700,1 thousand lei, which is 2,6% of the total amount.
- Enforce pt. 5.10 of RM Ministry of Finance Decree "On the procedure to transfer and account for Payments in the National Public Budget through the Treasury System of the Ministry of Finance in 2016" No. 180 of 12.10.2015 According to the Decree, the transfer of fines into the central ATU Gagauzia budget in case of their establishment by means of audio-, photo-, and video surveillance equipment acquired and maintained "on the expense of the own means of the second-level budgets or with the participation of public and private partnership".
- To collect fares for the use of RM highways by automobiles not registered in RM (section 115 pt.4⁸⁹), collected by customs officers at the state border crossing points.
- Collect vignette taxes (section 115 pt.58⁹⁰) – fare collected by customs officers in state border crossing points.
- Reduce the periods of licence validity. In the Law "On Licensing Separate Kinds of Activity on the territory of Gagauzia" it is specified that the minimum period of licence validity is 3 years. From an economic point of view, this represents a missed benefit since many economic entities are ready to buy licenses for a smaller term that will lead to the growth of contributions to the budget.

❖ The reduction and optimisation of expenses on general purpose state services.

- Within this purpose there is the need for an inventory of budgetary organisations, to optimize the number of workers, to reorganize the budgetary establishments by merging them as well as a cut in maintenance expenditure.
- A decrease in the credit debt of budgetary institutions (a cash gap, the growth of which had amounted in the last five years from 29 975 thousand lei to 47 347,7 thousand lei. This refers to goods and services mastered by the budgetary establishments, but not financed in the corresponding periods.

2 Search of new sources of increase in the budgetary income.

While analysing potential sources of growth of the budgetary income from a legislative field standpoint it is necessary to pay attention to the following opportunities.

❖ Development of the VAT payment mechanism by branches and representations of the enterprises located on Gagauzia's the territory.

- A growth in the number of branches and representations of the enterprises functioning on the territory of the ATU may be observed annually. The emergence on the market of competitive economic agents has had a number of positive influences for the ATU. However, under the current legislation, VAT and excise taxes are paid to the Central budget of Gagauzia only by the legal entities and individuals registered as VAT payers on the territory of Gagauzia.
- In the context of the abovementioned facts, there is a proposal to jointly develop a mechanism for VAT payment by the branches and representations of natural monopolies located in the autonomy to the central budget of Gagauzia.

❖ Development of a mechanism for the accumulation on the territory of the ATU of contributions from state and customs taxes and collections in the ATU budget.

- One of the main goals of National Strategy for Decentralisation approved by RM Law No. 68 of 05.04.2012 in the field of financial decentralisation is to provide a financial

⁸⁹ RM Ministry of Finance Decree «On the order of transferring and accounting for payments in the national public budget by means of the Ministry of Finance treasury system in 2016» nr. 180 of 12.10.2015

⁹⁰ *ibid*

- autonomy of local public management bodies with the preservation of the financial discipline and the improvement of the own income base.
- In this context the possibility to accumulate, on the territory of ATU of the state taxes currently going into the Republican budget (whose share amounted to nearly 8% in 2014) should be considered. The state taxes could constitute a sufficiently powerful share of own tax resources in revenues to the budget of the ATU (under article 6 of ATU Gagauzia Law "On the Budgetary System")
 - Considering the indicators for import to ATU Gagauzia, it is possible to note that they tend to growth, in 2013 this indicator amounted to 855379 thousand lei, in 2014 – 1 030 million lei. Only due to the receipt of import taxes (their size adds up to at least 20% of the VAT and 5% of the customs duty - amounting to approx. 250 million lei) is the coverage of half of the annual ATU budget possible.
 - ❖ **and fairness during the receipt, distribution and repayment of funds.**
 - ❖ **Consolidating the principle of transparency and fairness during the receipt, distribution and repayment of funds.**
 - The need to observe the transparency principle for the foreign credit financial policy pursued by the central authorities of RM. ATU Gagauzia does not participate in the distribution of money received from external financial sources, however the return of obtained credits is carried out from the general state budget.
 - Considering the proportions of the autonomy compared to the entire republic on such indicators as demography – 5,5%, the area – 5,4%, the extent of local roads – 5,1%, it is proposed for about 5%, from the total amount of the fund distributed by the contents of repair and reconstruction of public local highways and streets to be allocated to the ATU. However, in 2015 from the total amount of the Road fund means approved in the Law "On the State Budget for 2015", of 450,0 million lei, only 3,0 million (0,67%) were dispensed to ATU Gagauzia.
 - Transparency and equity in the distribution of allocations on capital investments. Today, the legislation does not have a sufficiently transparent and fair mechanism reflecting the methodology to define and subsequently approve projects of the state capital investments for local authorities worth up to 5 million lei. As a result ATU Gagauzia has, for many years now, been receiving less financial means in a proportional ratio. The average percentage of investment for Gagauzia in the period 2009-2014 year amounted to 2.7% of the total amount of allocated funds from the budget of RM. In 2015 there were no funds allocated.
 - At the same time, the legislation of RM in the field of other public investments from the state to local authorities, has an accurate and clear character. For example, the mechanism to allocate of transfers of general purpose for the alignment of the budgets of both first and second-level administrative and territorial units (RM Law "On Local Public Finance" N 397-XV of 16.10.2003) which has, as its cornerstone, the principle of direct dependence of the amounts of funds allocated from the state budget to local budgets, from the size of their population and territory.
 - ❖ **Growth of non-tax receipts when forming revenues of the region's budget.**
 - Creation of a "window" for the free registration of public property. Non-tax receipts for the use of public property (employment, rent) constitute an important and so far not fully used source of budget revenues of the budget. This situation is fostered by the lack, on the part of local public administration authorities and public institutions, of financial opportunities to register public property. Often, exactly for this reason, legal suits regarding the repayment of debts to the budget are lost. There are also substantial debts to the local budgets for the rent of public property.

- Creation of a department for the attraction of extra budgetary funds. It is supposed that this department will be engaged in the consultation of local public administration authorities, heads of public institutions in the process of filling in and collecting all necessary documentation for the submission of grant projects.

Conclusions and recommendations

1. Data shows that the general dynamics of expenses aimed at the social development of the autonomy for the considered period was positive and has a tendency for growth. The 2012-2014 interval may be considered the optimum period since in this period the continuous growth of the socially directed expenses may be observed, in the context of almost invariable expenses, which are not directly connected to the social development of the autonomy.
2. After amendments to the Constitution, Gagauzia acquired the right (unlike other administrative and territorial units of Moldova) to receive 100% of allocation from such vast types of nation-wide income, such as the VAT and excises. However, in the last years a decline in the receipts of such income may be noticed.
3. Local finance reform for decentralization of Gagauzia is successful, but there is still a constant threat to the political allocation of public investment in relation to Gagauzia. Proof- that the fact that over the period 2010-2015, the government has implemented 72 infrastructure projects in the amount more than 1.0 mlrd.leev (for projects of regional development of the country), in Gagauzia was not implemented any project. UTA doesn't receive funds from the state budget for capital investments, the renovation of the road infrastructure, the rehabilitation of public social institutions. According to the proportion in the country-wide figures for the period 2009-2015, this amounted to 116.0 million lei.
4. The autonomy's budget is unbalanced, with a high level of dependence on the State budget. Financial stability is provided only through complex financing with own means and transfers from the state budget, following the increase in the share of other raised funds. There is an insufficient volume of own means, proven by the assessment of the absolute and relative indicators for the achievement of productive budgeting.
5. The level of the region's dependence on subsidies grew twice (2,2 times) in ten years - the share of own incomes in the budget decreased from 81,4% in 2006 to 47,6% in 2013 (the planned indicator of a share of own income in 2016 is equal to 37,4%). There are a number of the expenses necessary for the development of territory, however there is a small share of the budgetary income on their account.

Recommendations

1. In the present order of forming the ATU budget, Gagauzia's financial steadiness of Autonomy is impossible. Under article 18 of RM Law "On Special Legal Status of Gagauzia (Gagauz-Yeri)", the budget of Gagauzia is formed from all types of payments established by the legislation of the Republic of Moldova and the ATU People's Assembly. Gagauzia received, following changes in the Constitution (unlike other administrative and territorial units of RM) the right to receive 100% of the contributions of such ample types of the nation-wide income, as VAT and excises. For example, only the transfer in the budget of the ATU of state duties and incomes administered by Customs service will lead to an increase of at least 250 million lei (25% of the sum of annual import to ATU) in the share of the own income.

2. It would be appropriate to direct efforts to the expansion of ATU tax base, creating conditions for economic growth in the region, in particular, for the attraction of enterprises functioning in the ATU, but registered in the Chisinau municipality and, respectively, paying taxes in their place of registration (about 165 enterprises).
3. The enhancement of accumulation of the economic capacity of the territory by local governing bodies to a minimum admissible level of 5% of the allocation for the financing of capital expenses (1,8% in 2016) would be necessary. The sources of income of the autonomy's budget autonomy have to be thoroughly defined regarding the following: a) local taxes and fees which are completely left at the autonomy's disposal; b) assignments (VAT, excises, customs payments) from the nation-wide profitable sources left at the disposal of the region; c) state taxes
4. Flexible use of transfers from the state budget as the source for the balancing of the income and expense parts of the autonomy's budget. To be specific, using them in conditions when expenses of the budget are not covered by own sources. Otherwise the size of the share from nation-wide profitable sources and the fixed sum of transfers from the state budget (61,6% in 2016) that would be directed to the income of the autonomy's budget, does not stimulate the initiative of local governing bodies to accumulate economic potential, increase the efficiency of its use, and the improvement, based on this of the social security and material welfare of the population.

Chapter 2. Institutional potential of ATU Gagauzia's governing bodies – economics, *Alla Levitskaya*

2.1 Analysing the institutional potential of the Executive Committee.

In economic theory, the term «potential» is defined as sources, possibilities and reserves that may be used in reaching set goals of social-economic development of a territory⁹¹. «The aggregated potential of the territory»⁹² means the maximum possibility of governing bodies of the territory to influence on the increase in the production of goods and services according to internal and external requirements in relation to the markets region. The capacity of the region will depend not only on the volumes of existing resources (natural, financial, material technical, human, etc.) and on the production capabilities, but also on the efficiency of the system for the management of institutional potential.

In this context, *institutional potential* signifies the ability of the region's authorities to carry out their functions, the degree of legitimacy and the level of market economy institutions development. For purposes of designating a continuity of the developed management structure under part (2) article 18 of ATU Gagauzia Law "On the Executive Committee of Gagauzia" No. 31-XXXII/I of 09.07.1998, with the subsequent amendments and additions, the Resolution "On the approval of the Staff number limit and the Structure of the Gagauzia (Gagauz Yeri) Executive Committee subdivisions" was adopted on June 4, 2015. Based on this Resolution the organisational structure of management was analysed allowing to reveal a number of shortcomings, namely:

1. Each Main directorate of the ATU Executive committee includes a "Technical maintenance service". The ten Main directorates have 33 employees of this service, which equals to about 7% of the total number of the ECG employees.
2. The structure of the personnel of each Main Directorate includes the position of accountant (10 people in total), which is inefficient in the context of the integrated budget of the Executive Committee.
3. Absence of an HR department in the Executive Committee implies a low-quality management of the public authority body's human resources and a poor development of its potential.
4. In 2012 the Main Directorate for External Relations (MDER) was separated from structure of the Main Directorate for Economic Development (MDED), however the "Directorate of foreign economic relations and attraction of investment" (with a staff of 5 people) which doubles the MDER functions remained in the MDED structure.
5. From the analysis of Regulation "7/12 On the adoption of the Regulations on the Main directorate for external relations of Gagauzia" 3 Units were found for cooperation with: CIS countries with a 4 people staff, Russia – 4 people staff, Turkey and EU countries – 4 people staff.
6. Absence of a division in the Executive Committee that would be responsible for the attraction of additional financial means from non-budget sources.

Due to these findings, figure 1 presents the modified structure of the Executive Committee, allowing us to propose the following:

⁹¹ Агаларова Е. Г. (Agalarova E.G.) Потенциал территории и его роль в развитии экономики региона: теоретический аспект (Potensial territorii i ego rol' v razvitii ekonomiki regiona: teoreticheskii aspekt-Potential of the territory and its role in the development of the region's territorial development)[Текст] / Е. Г. Агаларова, Л. А. Банникова // Молодой ученый. — 2013. — no.12. — С. 211-213.

⁹² Булатов, А.С. (Bulatov A.S.) Национальная экономика (Natsionalnaya Ekonomika-National Economy)/ А.С. Булатов. - М.: Инфра-М, 2011. - 304 с.

1. Analyse the possibility to reduce the staff numbers of the Service for technical maintenance buildings and subdivisions as well as its location on the linear structure with elements of staff divisions of the structure serving the ATU Executive committee.
2. Consider the possibility to place the accounting unit in the structure of the staff (service) subdivision with the subsequent optimisation of the personnel.
3. Insure the creation and functioning of the Executive Committee HR department by allocating a necessary number of employees from the regular structure of the Main Directorate for the affairs of the Governor and the Executive Committee.
4. Carry out the audit of the "Directorate for foreign economic relations and attraction of investment" and the staff of the Directorate of External Relations (MDER) for the purpose of eliminating the duplication functions and reducing the number of the respective divisions.
5. Optimize the numerical structure of the departments working with CIS countries, Russia (as a CIS member state), with Turkey and EU member states.
6. Allocation, as a part of the MDER, of the structure responsible for the attraction of extra budgetary funds whose main activity would be participating in solving the issues of the region by providing assistance in the writing and lobbying of projects, focuses on the created Catalogue of regional problems.

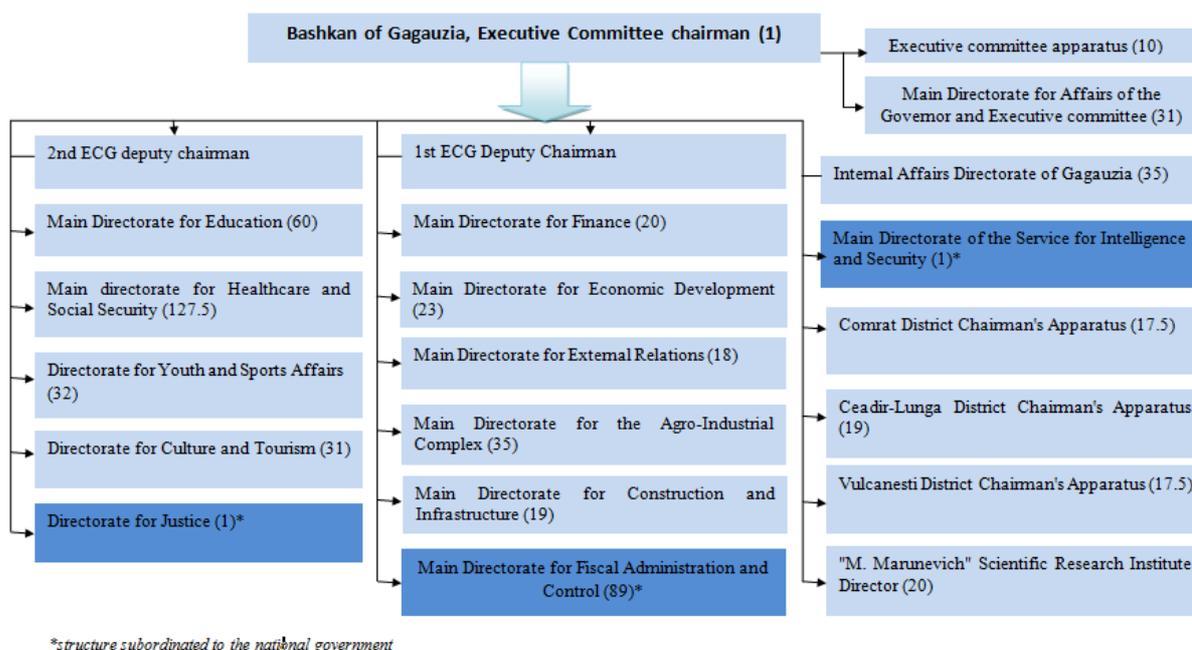


Figure 1. Modified Structure of ATU Gagauzia Executive Committee.

Source: Designed based on Resolution 7/6 "On approving the staff number limits and structure" PROTOCOL No. 7 of June 4, 2015 of the Executive Committee of Gagauzia (Gagauz Yeri) Meeting.

*structures recommended for creation are in colour

Note: Directorates representing separate services of the republican ministries are listed vertically: Directorate of Fiscal Administration and Control, Directorate of the Service for Intelligence and Security, Directorate of Internal Affairs, Directorate for Justice.

The analysis of the number of the ATU Executive Committee Divisions allowed to elicit the following facts:

1. the staff number limits to the ECG apparatus have a planned increase of 22 people for 2016 compared to 2015.
2. the administrative apparatus of regions without the districts amounted to 180 staff units in 2006, while in 2014 this number reached 329 people, and 409.5 people in 2015.
3. the apparatus of the Governor and the Main Directorate for the Affairs of the Governor counted 23 staff in 2006 and 44 in 2016. Here the increase is almost double, while the costs rose almost 10 times, from 7,762 million lei to 76,328 million lei.

Coming out of the data, indicating a continuous growth of the Directorate staff number, it is recommended to carry out an audit of the duties of the ATU Executive Committee subdivisions in order to identify the cases when the duplication of functions by employees takes place and to define the reserves for the optimisation of the staff number.

The activity and assessment of the Executive committee employees is regulated by RM Law "On Positions in State Institutions and the Status of the Public Servant" No. 158-XVI of 4.07.2008, "The regulations for the assessment of professional achievements of public servants" (under the Resolution Nr.94 of 01.02.2013 "On the adoption of the Regulations to estimate the collective achievements of the internal Resolutions by the Gagauzia Executive Committee), ATU Gagauzia Law "On the Executive Committee of Gagauzia" (amended on 30.04.2015), Resolution No. 7/6 "On the approval of the staff number limits and the structure of ATU Gagauzia Executive Committee Subdivisions" No. 31 - XXXII/I of 09.07.1998).

The analysis of the execution of these legal documents allowed to reveal a number of shortcomings in the following aspects:

- *Staff service*

Under part (2), article 12 of the "Law on Positions in state institutions and the status of the public servant" managing a position in a state institution and public servants is organized and carried out by the head of the public authority body through the HR department. However in the operating organisational structure of Executive committee this division is absent. Functions of the HR department are carried out by a number of employees of the Main Directorate for Affairs of the Governor and the ECG. These findings affect the quality of the personnel management process, since it involves:

- ✓ Lack of a number of documents regulating the activity of ECG employees, namely regarding: duty regulations, professional development plans, as well as documents regulating the activity of the disciplinary commission.
- ✓ Absence of these documents influences, in turn, the low-quality formulation of professional tasks whose development requires the application of activity priorities as defined for each of the Main directorates and by the duty regulations corresponding to each position.

- *Appointment to the state institution position*

Appointment to the state institution position is carried out under Article 30 of the Law "On Positions in State Institutions and the Status of the Public Servant" which specifies the necessity to provide the public servant with the Administrative act of appointment including an annex featuring the duty regulations of the position, the acknowledgement of which requires signed proof of approval from the public servant. At the moment, ECG employees have a clear delimitation of the individual tasks and responsibilities pertaining to their occupation, however, the official instructions for some employees still require development and adjustment.

- *Assessment of professional achievements*

Carrying out the assessment of the public servant's professional achievements is regulated by the "Regulations on the assessment of professional achievements of public servants" which is developed based on part (9) Art. 34 of Law No. 158-XVI of 04.07.2008 "On Positions in state institutions and the status of the public servant".

The annual assessment of professional achievements is a formalized procedure which identifies the level of performing individual tasks pertaining to the activity and responsibilities assigned to the public servant during a certain period of time, and also the level of achieving the proposed criteria. The annual assessment as a type of continuous monitoring of the results achieved by public servants, has to reveal the needs for professional development aiming at reaching optimum individual results.

- *System of labour remuneration*

Based on the individual professional achievements assessment, and also under parts (11,12) of Article 6 of RM Law "On the Public Servants remuneration system" of March 22, 2012, No.48, the levels and steps of remuneration are registered, through an administrative act issued of by the head of the public authority, into in the staff register of the respective institution and the personal records of public servants with the subsequent transfer of public servants to the following step of remuneration.

However due to the ab-initio incorrectly defined professional tasks, it is impossible to ensure the quality of this process, and, therefore, to respect the principle of motivation (article 2, point (d) of the Law "On the Public Servants remuneration system") according to which "the remuneration system promotes the development of the public servants career according to the law, recognition and remuneration of individual professional achievements".

- *Professional development of the public servant*

Under Part 3, "Professional development of the public servant" of Chapter V, "The career of public servants" (Law "On Positions in State Institutions and the Status of the Public Servant") each public administration institution insures the organisation of a "systematic and planned process of continuous professional development of the public servant". Upon carrying out the realization of this process it is necessary to provide the realization of a number of the actions that are not carried out at the moment namely:

- provide each public servant with equal opportunities of training, both in the country, and abroad;
- provide each public servant with various forms of continuous professional development for at least 40 hours a year, and an introductory course of at least 80 hours to each beginner level public servant;
- provide, in the annual budget, the means for the financing of the process for the continuous professional development of public servants in the size of no less than 2% of the payroll fund.

Coming out of points 1-3 of article 38 of the same Law, it is necessary to fulfil the requirements of organizing the continuous professional development concerning the remuneration of the public servant and compensation of the expenses incurred by it. It is necessary to trace the performance of the conditions reflected in point (3) regarding the obligations of testing the skills of public service employees proportionally to the number of days spent by them in professional development (between 2 to 5 years) upon the completion of training.

In order to implement the provisions of Law "On Positions in State Institutions and the Status of the Public Servant", and also to strengthen the administrative potential of ATU Gagauzia, it is recommended:

- to create a separate HR service department in an organisation's structure,
- to improve the duty regulations structural divisions staff,
- to observe the principle of motivating the work of public servants, proceeding from a correct assessment of professional achievements,
- respect the principle of motivating the labour of public servants, proceeding from a correct assessment of professional achievements,

- provide the organisation of a systematic and planned process of continuous professional development and simultaneous monitoring of results achieved,
- optimize the number of employees of Executive committee based on achieving aforementioned points.

2.2 ATU Gagauzia economic potential.

Economic potential of the territory as an object of study, assumes the analysis of the development level of all the cash resources in the region in order to create conditions for the further development of economy and the fullest satisfaction of region population's social necessities. There is no uniform classification of the structural elements forming the economic capacity of the region. However, researchers most often list the following factors: geopolitical, natural, production (including material technical, innovative and infrastructural), labour (including the intellectual and spiritual potential), financial, administrative and the capacity of the social sphere. We will study the most topical "means" to strengthen the potential of ATU Gagauzia.

• Labour potential

Labour potential stands out as the most topical element of ATU Gagauzia's economic potential in the current conditions. According to the 2014 population census, the population of the ATU amounts to 161.7 thousand people or 5,5% of the entire population of RM. The average age of Gagauzia's population is 34,6 years. The working age population is of 106 thousand people or 65,5% of the total. However only 32,4 thousand people or 30% of the entire working-age population are employed in all branches of Gagauzia's economy, the unemployment rate exceeding 50%. The active population continues to leave the region, and by some estimates over 50% of the work age inhabitants left the autonomy. The share of young emigrants aged of 15-24 of the total number of emigrants originating from ATU Gagauzia is much higher than the country average and constitutes of over 37% of the total number of emigrants.

In connection with the current situation, associated with high levels of population migration, the following recommendations may be considered: increasing the level of compensation, ensuring mobility of labour from the neighbouring districts when opening new enterprises; stimulation of enterprise activity and simplification of administrative barriers at the creation of the new companies by returning migrants.

• Enterprise potential

For this purpose Gagauzia's Leadership adopted ATU Gagauzia Laws "On the Development of Small and Medium Businesses in ATU Gagauzia" No. 30-XVIII/IV, "On facilities for small businesses occupied with production activities on the territory of Gagauzia (Gagauz Yeri)". In order to provide a legal and regulatory legislative base that would foster the development of small and medium enterprises, the following normative acts were prepared in the course: ATU Gagauzia Draft Law on amendments and additions to ATU Gagauzia Law on enterprise patent; ATU Gagauzia Draft Law on the amendment of ATU Gagauzia Law on the development of small and medium business in ATU Gagauzia; ATU Gagauzia draft law on the single tax on an imputed tax.

Among the prevailing forms of small business functioning on the autonomy's territory is the activity based on the enterprise patent. For 2014, the sum of the means that came to the budget of Gagauzia from the issuance and extension of patents amounted to 2,72 million lei and increased by 1.8% compared to 2013. 808 economic agents (compared to 789 by January 1, 2014) were activating based on the simplified system of the fixed tax, under ATU Gagauzia

Law "On the Fixed Tax". 3494,3 thousand lei came to the budget of Gagauzia from their activity in 2014, or 31,9% more, than for 2013.

The total number of economic agents activating on the territory of the autonomy on 1.01.2015 increased by 2.9 times compared to 1995 and amounted to 7385 units. However more than 2/3 of the total number of registered businesses - are individuals (without creation of a legal entity) which may be considered as self-employment. This kind of activity that does not usually require any specific professional knowledge, a great sum of initial capital, the knowledge of the market laws, contributes, on the one hand, to the adaptation of the population to conditions of an uninsured existence and crises declines and on the other hand, to de-professionalization and growth of vulnerability.

• *Production potential*

Following the adoption of ATU Gagauzia Law " On ATU Gagauzia's Industrial Policy" Comrat, No. 36-XVIII/IV of December 01, 2009 within the last 20 years new branches of production were created in Gagauzia, such as: canned goods, oil processing, perfumery, woodwork, furniture, pharmaceuticals. When developing the Program for the innovative development SMEs in the region it is important, along with traditional productions, to pay attention to the development of these branches that are of perspective for the region.

The "Valkanesh Production Park" Free Enterprise Area (functioning under the Law "On Free Enterprise Areas" Nr.1527-XIII of 19.02.98) was to play an important role in developing the industrial potential of ATU. Ideal conditions for potential investors were created: residents that invested capital of no less than one million dollars in fixed assets of the enterprises and/or in the development of the free zone infrastructure are exempted from the payment of income taxes for the next three years. If the volume of such investments exceeds five million dollars, the period of tax privileges is of five years. However this Area is among the last ones in the Republic of Moldova's FEA rating⁹³.

The volume of investment into the "Valkanesh" FEA has totalled 15.3 million US Dollars since the beginning of its activity, 28 residents are registered and are carrying out there activity on the FEA territory, this being one of the lowest indicators. This situation is caused by the poorly developed infrastructure: lack of water supply, bad condition of roads.

• *Export potential*

In 2014, the export of goods from Gagauzia was carried out to 46 countries. According to the Customs service of RM, the total amount of sales of goods originating from Gagauzia that were sold abroad the country made in Gagauzia earned 1,33 billion which makes up to 5% of the country's total export structure. The volume of the export of goods from Gagauzia increases annually and in 2014 it exceeded the indicator for 2005 by 1.3 times.

A share of 26,4% of the total sales of products originating in ATU Gagauzia was sold to CIS countries, 53.3% to EU member states while 20.3% were purchased by other countries. Indicators on the export of the products belonging to the wine-making branch, which is the most important in the strategic plan of ATU Gagauzia (accounting for 1/3 of the entire export volume) summed up to approx. 400 million in 2014 which is 3.9% less than for 2013. Generally, however, the export of wine from ATU Gagauzia, as well as from the entire RM, show a positive trend. It is therefore necessary to concentrate the attention on developing a strategically important branch for the region – winemaking and the branches adjacent to it.

• *Scientific research and innovative potential*

⁹³ According to data from the Ministry of Economy of Moldova, the biggest common volume of investment on April 1st, 2015 belonged to three FEA (Ungheni- Business – 63,5 mln. lei; Expo-Business- Chisinau- 54,4, Balti- 45,7).

The innovative activity in Gagauzia is carried out based on the Constitution of RM, "The code on science and innovations of RM", the ATU Laws: "On the state policy in the field of innovations and transfers of technologies", "On scientific and technological parks and innovative incubators, "On innovative activity in Gagauzia". In 2015 a new Directorate responsible for the research work has been created as a part of the Gagauzia executive committee, also, there are plans for the creation of a budgetary Program for the development of science and innovations in Gagauzia (protocol No. 6 of May 15, 2015 of the Meeting of the Executive Committee of Gagauzia (Gagauz Yeri).

According to research conducted regarding the innovative potential of the ATU SME, the enterprise make extremely low investments in the development of organisational, marketing and technological innovations⁹⁴. A totalising evaluation of the region's innovative capacity allows for the delimitation of the main weaknesses and threats: a weak level of integration into the national (global) science system, a fragmentary innovation infrastructure, lack of support for the innovative activity of enterprises on a regional and, generally, on national levels, the low level of congregation between regional businessmen for the implementation of joint innovative projects, lack of a coordinated national and regional innovation policy that would coordinate common actions in the activity of business, science and education.

By making a generalised analysis of the data provided on external factors that constrain the innovative activity of FEA subjects, it is necessary to note the prevalence of financial factors that bring the role of developing tax instruments in the stimulation of the region's innovative activity back into topicality. For the purpose of the financial security of projects and programs for the support of innovative activity it would be appropriate to create a Regional venture fund. However it is impossible to underestimate importance of other, non-financial forms of support whose role, has to, in our opinion, be significantly raised.

- ***Infrastructure potential***

An important factor in development of the autonomy is the geographical position of ATU Gagauzia and its communication with the Ukrainian ports (Odessa, Ilyichevsk and Reni) and the Romanian port of Galati. The beginning of the Giurgiulesti terminal activity and its proximity to the ATU promotes the expansion of the exports of products manufactured by the enterprises of the autonomy.

The state of the road-transport system of the region also causes burning issues as do the provision of the population with drinking water, high tariffs for natural gas, fuels and electricity. 98% of the Republic's energetic complex functions at the expense of imported fuel and energy resources, which places the entire populational-economic complex and the social sphere of the region in direct dependence from the energy price dynamics on the world market.

2.3 Capacity in strategic planning and the attraction of investment.

The activity of the Executive Committee of Gagauzia and its structural subdivisions are carried out in the frames of the approved program of the ECG activity for 2015-2019⁹⁵ and quarterly work plans approved by the corresponding Decisions, «The Strategy for Gagauzia's social-economic development for 2009-2015», The Regional Program «The Development of Gagauzia's localities» for 2005-2015, as well as the achievement of activities established in the

⁹⁴ Левитская А. (Levitskaya A.) Оценка инновационного потенциала МСП ATU Gagauzia (Otsenka innovatsionnogo potentsiala MSP ATU Gagauzia-Evaluation of the innovative potential of ATU Gagauzia FEA). Academia de Studii Econ. a Moldovei. Analele Academiei de Studii Economice a Moldovei: Ed. a 11-a / Acad. de Studii Econ. a Moldovei; col. red.: Grigore Belostecinic (preşedinte) [et al.]. – Chisinau: ASEM, 2013. –p. 120-132.

⁹⁵ Protocol No. 6 of 15 may 2015 of the Meeting of the Gagauzia (Gagauz-Yeri) Executive Committee

national and regional strategies and programs, as well as in the targeted programs for the development of the ATU.

This document was developed with participation of the region's main stakeholders which were interested in developing the ATU, in partnership with the Open Society Institute (Budapest, Hungary), LGI (Budapest, Hungary), Soros Foundation Moldova and "IDIS Viitorul". This strategy included: methodological and methodical aspects; fundamental and economic information characterizing ATU Gagauzia: directions of Gagauzia's strategic development; matrixes of the strategic projects and programs priorities and purposes. The analysis of achieving this Strategy assuming the implementation of 115 projects has revealed the following:

- Fifty-two projects were implemented by 1.01.2015, for the total amount of 218,3 million lei (from the planned amount of 428,9 million lei).

- Taking into account the planned achievement of 38 projects by the end of 2015, the Strategy was only achieved for 83%. The failure to implement 17% of all the projects dictates the need to identify the projects that lost relevance and also point to the projects whose inclusion into the new Draft Strategy is necessary.

Continuing the analysis in the field of strategic planning of the ATU Executive Committee it should be noted that, according to Appendix 2 of the Law "On the Budget of Gagauzia for 2015" about 16 million lei were allocated for the development and management of the following policies: in the budgetary sphere, in the field of international cooperation, in the field of scientific research, in the field of macroeconomic and economic development, in the field of agriculture, in the field of construction and regional development, in the field of culture, youth and sport, education and social protection.

The financing of development programs from the budget of ATU Gagauzia has to be carried out according to the ATU Gagauzia Law on the budget for the next fiscal year. Thus, it is necessary for the adoption of the 2016 budget to be preceded by the development of policies in the field of competences belonging to the Main directorates of the Executive committee assembled in single programs and the ATU strategy of development for 2016-2020. However at the moment, the program data are not approved and only some documents are at the development level, particularly: The "Support and Development of Small Business in ATU Gagauzia" program, Strategy of social and economic development of ATU Gagauzia for 2016-2019

In the field of agriculture the approval of the following programs is planned: "The program for the development of animal breeding industry in ATU Gagauzia (Gagauz Yeri) in the 2016-2020 period", "The program for the uprooting of poorly productive perennial plants in ATU Gagauzia (Gagauz Yeri) for 2016-2020", "Programs for the post-harvest processing of crops in ATU Gagauzia (Gagauz Yeri) in the 2016-2020 period", however the Main Directorate for the agrarian and industrial complex will not be involved as the entity responsible for the development of these programs. The Main Directorate will however participate in the development of the "Program for the consolidation of lands on the territory of ATU Gagauzia (Gagauz Yeri)", "The regional Program for subsidizing agricultural producers". At the same time, the Main Directorate is responsible for the development of the "Strategy for the development of tourism in ATU Gagauzia in the 2016-2019 period"⁹⁶

The main responsibility for the development of plans and actions of strategic character is assigned to the ATU Main Directorate for Economic Development, the other Main directorates of the ECG (6 Directorates) only being involved into process of developing the concept of the Strategy. At the same time, ATU Gagauzia Law "On Strategic Planning of the Social and Economic Development of Gagauzia" No. 20-XIII/IV establishes the terms for the

⁹⁶ Plan of actions for the implementation of the program of actions by the Executive committee for the 2016-2019 period.

preliminary publication of the Draft Strategy for public debates – not less than in 3 months prior to the presentation of the draft in the People's assembly of Gagauzia. It means that this Strategy will be approved with a delay - not earlier than April, 2016.

Being guided by Art. 12 of the Law "On Special Legal Status ", The PAG has the right to adopt local laws (in the fields of economy, finance, employment, culture, etc.). Under Art. 12 point (2) of ATU Gagauzia Law "On the Strategic Planning of Gagauzia's Social and Economic Development", No. 20-XIII/IV, the "Concept of Gagauzia's development" which is developed for the legislative consolidation of priority objectives and issues related to the activity of the ATU public authority institutions in solving social and economic development problems identified in the forecast of Gagauzia's development.

The law "On designing and implementing Target Programs for the Development of ATU Gagauzia and Programs for the Development of Local Government", No. 65-XXVII/III of May 11, 2007 establishes the legal bases for the policy in the sphere of regulation and management of the Strategy for the social-economic, ecological, innovative and scientific-technical development of Gagauzia (Art. 2), and establishes the general order together with the rules to design and implement target programs for the development of Gagauzia as well as programs for the development of local government.

The Development of Programs is to be preceded by the preparation of the draft catalogue of regional problems (Art. 4 p. (1). Further, based on the Catalogue of regional problems one it is necessary to develop "The concept of Gagauzia's development" which will derive into the formation of the Policy in the spheres of competences pertaining to the Main Directorates, the ECG, assembled into single Programs forming the "Strategy for the social and economic development of Gagauzia in the 2016-2020 period" with a breakdown on the Programs for the "Development of Gagauzia's localities in 2015-2020".

Investment processes in ATU Gagauzia are regulated by the Constitution of RM, Regulations on Gagauzia, the current RM Law "On Investments into Entrepreneurship", ATU Gagauzia Law "On Investments and Investment Activity", and also the Law "On the Most Favoured Treatment of Investors in Gagauzia" No. 17-X/IV. These Laws establish forms and conditions for granting the most favourable conditions to investors carrying investment projects in the territory of the autonomy, and at the same the forms of direct participation of public authorities in investment activity.

To achieve these conditions, a number of actions were carried out in ATU Gagauzia: The Creation of ATU Gagauzia investment council for the examination of investors' application; The law "On investments and investment activity in ATU Gagauzia" was amended; Annual economic forums are carried, the ECG website features information on the investment projects of (however the provided information was last updated in 2008)⁹⁷.

ATU Gagauzia cooperates with 13 funds, international programs, NGOs granting financial support to the development of civil society, the infrastructure of localities, the solution of environmental and social problems. There is permanent work being conducted with potential investors from Turkey, Poland, Russia, the USA, Germany, Austria, Bulgaria, Azerbaijan and other countries (fig. 2).

⁹⁷ Source: www.gagauzia.md

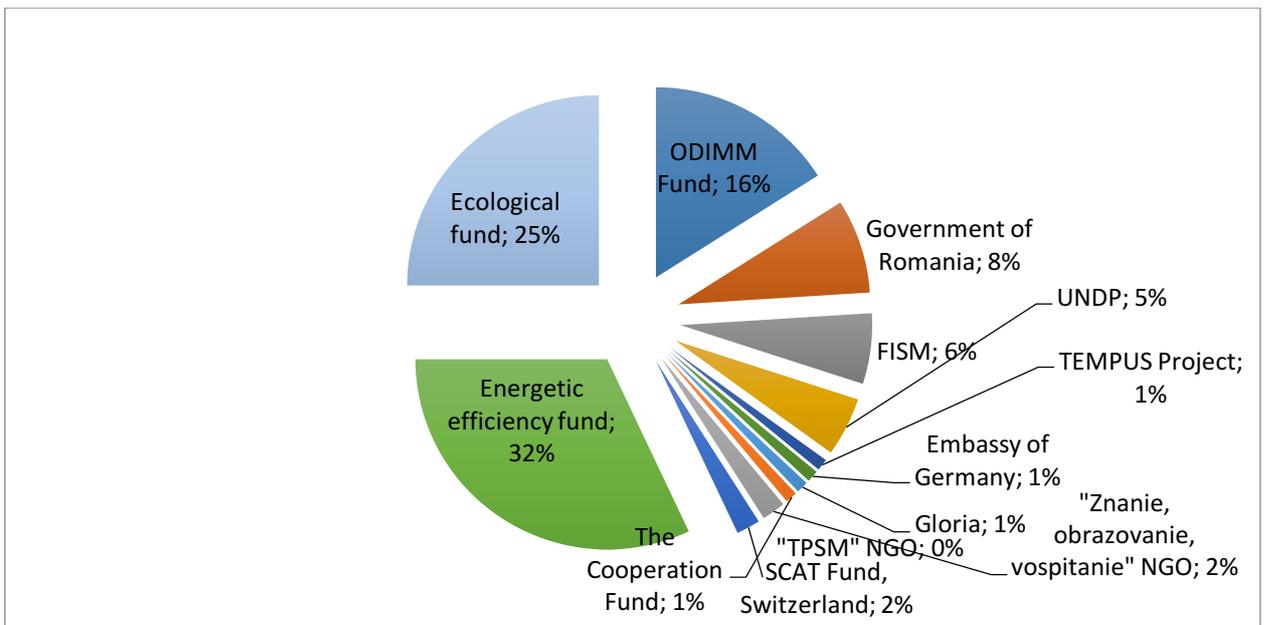


Figure 2. The structure of attracted means divided by investment sources.

In 2014, the Gagauzia LPA has, with the use of means from non-budgetary sources, implemented 50 projects for the development of local public administration authorities involving the attraction of financial resources from funds, grants, international programs with a total of budget of 101,8 million lei. During the 1995-2014 period, 3.6 billion lei were attracted for the development of Gagauzia's economy of which 267.9 million in 2014. The volume of investment for 2014 was 1.5 times bigger than the average annual indicator for 1995-2014. In a calculation of the sum by resident, the 2014 investments amounted to 1.7 thousand lei per capita. At the same time the share of Gagauzia was of only 1.3% of the total investments allocated for regional development in RM, which is a low indicator keeping in mind the principle of the proportionality of the funds allocated for the development of the territory.

Upon examining the attraction of additional resources for the regions of Gagauzia it should be noted that for 15 projects were implemented in 2014 in the Ceadir-Lunga with a total budget of 21990,9 thousand lei in absorbed means or 49,9% of extra budgetary funds, in the Comrat area there were 20 projects amounting to 14155,7 thousand lei (43,5%), in the Vulcanesti area – 4 projects adding up to 2149 thousand lei (6,6%).

The analysis of the LPA sum of allocations for the financing of capital expenses from the state budget in 2014 and their distribution between 32 regions of the country, and also ATU Gagauzia, the municipalities of Chisinau and Balti showed that per 1 inhabitant of the republic the expenses on capital investments are of 177,5 lei, while for the inhabitants of ATU Gagauzia the sum is 66,6 lei which is 2.6 times less than *the analysed level*.

2.4 International cooperation and interregional relations.

Guided by the Law "On the Agreements for the Implementation by ATU Gagauzia of the International and Foreign Economic Relations" No. 16-X/IV of February 27, 2009 ATU Gagauzia systematically builds the foreign policy and external economic relations with partner regions in other countries. Analysing this kind of activity positive dynamics of interregional cooperation development may be noticed.

By January 1, 2015 all 17 Cooperation agreements, 8 Protocols on intention, 7 Plans of measures were signed. Work on adjusting the communications with regions of other states and the accession to Euro-regions is continued - since January 1, 2015 ATU Gagauzia became the full member of the "Siret-Prut-Nistru" Euro-region.

To promote European norms, and also in the frames of the cooperation with the international organisations of the European Union the "Memorandum of understanding and Cooperation agreement between ATU Gagauzia and the European Centre for Minority Issues" has been prepared and signed. For the purpose of continuing the practice of establishing representations of Gagauzia abroad and implementing a set of measures for the recognition of their status, being guided by "By the regulation on representations of Gagauzia on territories of other states and regions", the interests of Gagauzia in regions of foreign countries are represented by 20 representatives of Gagauzia: in the Russian Federation, in the Republic of Turkey, in Northern Cyprus, in Greece, in Canada, in Ukraine, in Belarus, in Bulgaria, in Austria.

Thus, the international cooperation and interregional relations promotes the purposeful improvement and promotion of the image of ATU. The priority areas of promotion of the image of Gagauzia are countries - CIS members (countries of linguistic proximity), the members of EU and East Asia (China, Japan). However one cannot note the same activeness in the advance of ATU interests at the national level. In this sense, there is the possibility to prepare programs for the interregional cooperation in the fields of culture, scientific research and economy under the title "Centre - North - South - Transnistria" which will promote the strengthening of mutual understanding and the growth of the ATU status within the country.

Common recommendations for the enhancement of the following for the Main Department of Economic Development and Department of Financial Management

• *Economic potential*

- ✓ Develop the export potential with emphasis on a preferential regime (release from the customs duties) in trade relations with the EU member states and also on the legislation of Gagauzia specifying a preferential tax regime for investors on a period from 1 to 5 years.
- ✓ Create a department for the attraction of extra budgetary funds as well as for the consultation of bodies of local public management, heads of public institutions in preparing the documentation necessary for the attraction of extra budgetary funds.
- ✓ Increase of the size of the fund of contributions⁹⁸, offered to mayoralities and public institutions of the region in order to insure the contribution of the respective structure in developing projects for the resolution of the region's problems.
- ✓ Expand the sources for the growth of the autonomy's budget income in the limits of the law. Abidance to the fairness principle through the distribution of budgetary funds among regional government bodies of RM territorial units.
- ✓ It's necessary to implement a mechanism for tracking the way investors respect conditions the fulfilment of which would enable to receive facilities. For this purpose, facilitations for investors are provided by the Law "On Investments and Investment Activity", however this action should not be in conflict with the policy to expand the tax base for replenishment of the local budget.

• *Administrative potential*

- ✓ Development of the organisational structure of the Executive Committee leadership towards the attraction and effective application of funds from non-budgetary sources, as well as creating the subdivisions proposed for fundraising purposes.

⁹⁸ Decision «On the regulation regarding the order of refunding by ATU Gagauzia's budget of the contributions to region's mayoralities and public institutions participating in grant projects » no.400-XLVII/IV of 13.04.2012),

- ✓ Optimisation of the number of administrative personnel through growth instruments of a material interest from the actual productivity.
- ✓ Creation of an effective system for the preparation of administrative staff, and also the organisation of the continuous professional development of public servants.
- ✓ Shift of the accent towards innovation upon creating Development programs (policies) within competences of the ATU Executive Committee's Main Directorates. Development of Interregional Cooperation Programs in the field of increasing the administrative, cultural, scientific, research and economic potential.
- ✓ Creation of a unit for the attraction of extra budgetary funds as a part of the MDED, whose functions would include the consultation of local public authorities, heads of public establishments in developing the documents necessary for the submission of projects in order to receive grants. Or to provide the execution of these functions by the Agency for regional development (the Law no. 438 of 28.12.2006. "On the regional development of the Republic of Moldova"; Appendix No. 3 to the Government Decision No. 127 of February 8, 2008 "Standard provision on the agency of regional development")

- ***Innovative potential***

- ✓ Develop the activity of innovative infrastructure subjects, such as: Advisory council on the development of innovative activity of ATU Gagauzia SMEs; The Innovative "InnoTsentr"- incubator based on the innovative-educational cluster; the planned creation, together with the Mayoralty of the Comrat municipality of the "Bugeac" science and technology park.
- ✓ Ensuring integrative processes by means of developing subjects for the support of innovative infrastructure in the region with simultaneous entry into the innovative network space of Gagauzia's partner countries and regions.
- ✓ Active use of the intellectual potential of the State University of Comrat, an active participant of international programs, including joint development of projects within EU HORIZON 2020 financing program, carrying out the examination of Programs, Development strategies, drafts of laws on the regional level.

ANNEXES

Annex 1

Table 1. Number of laws adopted by the People's Assembly, by sector, during 1995-2015

<i>Culture</i>	<i>Housing and utilities, amenities</i>	<i>Physical culture and sports</i>	<i>Local budgetary and financial-tax activity</i>	<i>Economics</i>	<i>Employment relations and social security</i>	<i>Political system</i>
23	3	1	166	42	9	60

Source: Developed by: E. Cuijuclu, 2015.

Table 1. Discrepancies regarding amendments and additions made through ATU Gagauzia’s Law of 04.11.2014 to ATU Gagauzia’s Law on Television and Radio Broadcasting of 10.07.2007

RM Law, regulating the field of activity	ATU Gagauzia’s Law on TV and Radio Broadcasting of 10.07.2007	Amendments and additions made through ATU Gagauzia’s Law of 04.11.2014	Notes
<p>CODE Nr. 260 of 27.07.2006 of Television and Radio Broadcasting of the Republic of Moldova q) <i>license for broadcasting</i> – official document through which the Coordination Council for TV and Radio Broadcasting grants an organisation, found within the jurisdiction of the Republic of Moldova, the right to distribute a certain program complex in an established area</p>	<p>p) license for broadcasting - official document through which the <i>Coordination Council for Television and Radio Broadcasting of the Republic of Moldova</i> grants a broadcasting organisation in ATU Gagauzia the right to distribute a certain program complex in an established area</p>	<p>2. In Article 2: point p) should be formulated as follows: «p) license for broadcasting - official document through which the <i>competent authority of the Executive Committee of Gagauzia (or pertaining to the Executive Committee of Gagauzia)</i> grants the right to a broadcasting organisation in ATU Gagauzia to distribute a certain program complex in an established area»</p>	<p>Exceeded powers. Replacing CCTR with the Executive Committee CCTR Article 40. Functions of the Coordination Council for TV and Radio Broadcasting</p>
<p>r) <i>authorisation for relaying</i> - official document, through which the Coordination Council for TV and Radio Broadcasting grants the right to rebroadcast any program</p>	<p>c) authorisation for relaying - official document, through which <i>the Coordination Council for TV and Radio Broadcasting of the Republic of Moldova</i> grants the right to rebroadcast any program complex on the territory ATU Gagauzia</p>	<p>2. In article 2: point c) should be formulated as follows: “c) authorisation for broadcasting and relaying – official document, through which the <i>competent authority of the Executive Committee of Gagauzia (or pertaining to the Executive Committee of Gagauzia)</i> grants the right to a broadcasting</p>	<p>Exceeded powers. Replacing the CCTR with the Executive Committee</p>

complex on the territory of the Republic of Moldova		organisation of ATU Gagauzia to rebroadcast an approved program complex on the territory of Gagauzia”	
	τ) technical license - official document, through which <i>the central specialised public administration authority</i> legitimises the use of technical means of electrical communication on air and the cable network according to the established parameters and offers the holder of a license to broadcasting received on a contest basis, the right to use one or more radio frequencies on conditions determined by him/her during a determined period of time;	point τ) should be formulated as follows: “τ) authorisation on operation of a network – official document, through which <i>competent authority of the Executive Committee of Gagauzia (or pertaining to the Executive Committee of Gagauzia)</i> grants the right to start using the means of telecommunication on air and in a cable network based on certificates of conformity of the equipment and presence of an engineering plan”;	Exceeded powers. Replacing the CCTR with the Executive Committee.
	(3) Broadcast of a program complex by the broadcasting organisation can be carried out only on the basis of a broadcasting license and a technical license. Relaying of a program complex by program distributors can only be carried based on a permission to relay programs and a technical license.	Part (3) should be formulated as follows: (3) The broadcasting of a program complex by the broadcasting organisation can be carried out only on the basis of a broadcasting license and the permission for a network’s operation. Relaying of a program complex by the program distributors can be carried out only on the basis of permission for a relay of programs and the permission for a network’s operation from the <i>competent authority of the Executive Committee of Gagauzia (or pertaining to the Executive Committee of Gagauzia).</i> ”	Exceeded powers. Replacing the CCTR with the Executive Committee.
	(3) The following are qualified as important events: a) the Olympic Games; b) international music contests; B) Europe and World sports championships; r) other events stipulated by <i>international conventions and agreements in the field of television and radio broadcasting.</i>	Point τ) part (3) art. 11 after the words “television and radio”,) should be completed with the words: <i>“and also agreements and contracts, adopted or ratified by the People’s Assembly of Gagauzia.”</i>	PSG holds competences for the adoption or ratification of international agreements and contracts.
L A W	Article 21. Broadcasting license	In article 21:	The legislation of the RM is

<p>on the regulation of business activity through licensing no. 451-XV of 30.07.2001</p> <p><i>f) By the Coordination Council for Television and Radio Broadcasting:</i></p> <p>51) of the activity related to the broadcasting of program complexes through terrestrial radio-electronic means and/or through means of communication other than terrestrial radio-electronic ones.</p> <p>CODE Nr. 260 of 27.07.2006 of TV and Radio Broadcasting in the Republic of Moldova</p>	<p>The procedure and conditions for granting a broadcasting license, extending a validity period, contents, concessions and a broadcasting license's withdrawal is established <i>under the legislation of the Republic of Moldova.</i></p> <p>Article 22. The authorisation for relay. The relay of the program complex by program distributors is carried out based on the authorisation to relay, issued <i>in line with the legislation of the Republic of Moldova.</i></p> <p>Article 23. Conditions for the relay of program complexes</p> <p>Article 24. Technical license Procedure and conditions for granting and modifying a technical license, payment for its issuance, tariffs for the use of frequencies <i>established under the legislation of the Republic of Moldova.</i></p>	<p>The words "Republic of Moldova" should be replaced with the words <i>"ATU Gagauzia, regulating the field of licensing"</i>.</p> <p>In article 22: The words "Republic of Moldova" should be replaced with the words <i>"ATU Gagauzia, regulating the field of licensing"</i>.</p> <p>Complete Article 23 with parts (3) and (4) with the following contents: <i>"(3) The procedure and conditions for granting a broadcasting license, programs' distribution, including live broadcasting of the meetings of the People's Assembly and the Executive Committee of Gagauzia, as well as the authorisation for relay are published in the Official Gazette of Gagauzia, the "EKSPRES KANON" 30 days prior to the date the contest is held. For the broadcast, including by the editorial boards of internet portals and the relay of program complex, a broadcasting license is granted by a competent authority of ATU Gagauzia for a 7-year period"</i>.</p> <p>(4) According to the strategic coverage of ATU Gagauzia's territory with audio-visual complexes, ATU Gagauzia's competent authority decides to <i>carry out a contest for granting available frequencies and publishes a call</i>, with complete information on the venue, type of mass-media, requirements, technical parameters, the validity terms of the license, the size of the state tax, the request form in the <i>Official Gazette</i> of Gagauzia "EKSPRES KANON". <i>The procedure for developing, coordinating and announcing available frequencies proposed in the contest is part of the</i></p>	<p>replaced by the legislation of the ATU Gagauzia in the field of licensing.</p>
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		<i>functions of the competent authority of the Executive Committee of Gagauzia (Gagauz Yeri). Article 24 should be excluded.</i>	
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Source: Developed by: V. Cioaric, 2015.

Table 2. Types of activity subject to licensing: comparative analysis

Types of activity subject to licensing according to the local law of ATU Gagauzia , which were not covered in the republican legislation	Types of activity subject to licensing according to the republican legislation , which were not covered in the Gagauz legislation
<ol style="list-style-type: none"> 1. Selection, reproduction of agricultural crop seeds; 2. Production and sale of materials for reproduction and sowing of fruits, berries and vine; 3. Production and sale of seeds of vegetables, melon cultures, potatoes, field cultures; 4. Works related to the main register, including the land register, and the development of land planning projects, the assessment of land plots; 5. Production for the sale of the biological material of horses, cattle, pigs, sheep, birds and fishes; 6. Cultivation of breeding cattle for sale; 7. Implementing environmental control; 8. Flour and cereal production, bakery, export and import of baking products; 9. Organisation and functioning of non-state higher, middle, middle special, vocational, general education, school, preschool, childcare and teenage extra-school institutions; 10. Organisation and functioning of non-state healthcare and other types of child and teenage camps; 11. Publishing or importing of educational-methodical literature; 12. Film and video productions, sale and replication of films and programs on video-recording cassettes; 13. Activity of educational institutions of all levels, institutions and seminars for the improvement of qualifications and staff re-training. 14. Private activity in traditional and non-traditional medicine. 15. Non-state protection activity and security; 16. Training in various types and styles of hand-to-hand fight, including oriental martial arts; 	<ol style="list-style-type: none"> 1. audit activity; 2. activity for real estate evaluation; 3. activity of commodity exchanges; 4. activity with precious metals and precious stones; activity of pawnshops; 5. activity in the field of gambling: organisation and acting lotteries (excluding state monopoly enforced under the Law on Gambling no 285-XIV of 18 February 1999), ownership of a casino, maintenance of gambling machines with money winnings, setting stakes for sports competitions; 6. veterinary-pharmaceutical activity and/or granting veterinary help (except for the activity of the state veterinary service); 7. topographical-geodesic and/or cartographical activity 8. installing and/or adjustment, technical maintenance of automated systems for the detection and extinguishment of fire, and antismoke protection systems in buildings, as well as fire alarm notification; 9. production, import, export, re-export, trade, storage of explosive substances and/or carrying out works with explosive substances for civilian purposes; 10. production, gathering, import, export, re-export, storage, trade with pyrotechnical products and/or the granting of the service “Pyrotechnical shows and fireworks” with entertainment purpose professional grade pyrotechnic products; 11. import, export, processing, production and sale of cryptographic and technical means for the protection of information, special technical means, aimed at the unofficial purchase of information (data); services provision in the field of cryptographic and technical protection of information (except for the activity carried out by public authorities exercising these rights under the law); 12. tourism activity; 13. storage of grains with the issuance of grains storage certificates;

<ul style="list-style-type: none"> 17. Legal aid provision 18. Notary's activity 19. Creating a communication system, maintaining its technical means; 20. Building and maintenance of transmission channels (means) for TV and radio broadcasting; 21. Building, operating and technical maintenance of cable television and radio broadcasting networks; 22. International freight transportation by automobile; 23. Operating specialised automobile transportation; 24. Operating oil depots, gas storages, automobile petrol stations and gas-filling stations; 25. Creation of departmental fire services in companies, organisations and civil protection services; 26. Training and protection in the field of civil protection; 27. Radio broadcasting; 28. TV broadcasting; 29. Production of construction products and materials; 30. Production, distribution and provision of thermal energy; 31. Production of perfumery and cosmetic goods, household chemical goods. 32. Storage of fuel and combustive-lubricating materials. 	<ul style="list-style-type: none"> 14. duty free shops, including for the use by the diplomatic corps; 15. activity of customs brokers; 16. activity in training of staff in road transportation; 17. activity of banks; 18. activity of currency exchange points (separate from banks); 19. activities for the provision of payment services by payment service companies, companies issuing electronic money, suppliers of postal services; 20. activity of insurers (reinsurers), insurance and/or reinsurance brokers; 21. activity for the management of non-state pension funds asset management; 22. activity of loan-and-savings associations; 23. professional activity on the securities market; 24. activity of the credit story (records) bureau; 25. providing public services for water supply and/or sewage at the regional, district, municipality, city and depending on circumstance, village and community levels; 26. using radio frequencies or radio channels and/or numbering resources for the provision of networks and/or electronic communication services; 27. services for the creation, implementation and ensuring the functionality of automated state level information systems, including software products;
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Source: Developed by: V. Cioaric, 2015.

Table 1. Determining the type of ATU Gagauzia's budget stability for 2010-2014, in thousands lei

Period	In+Tr+Ed		In/T		Tr/T	
	Calculation	Type of financial stability	Calculation	Type of financial stability	Calculation	Type of financial stability
2010	303637,5 < 126317,8 + 193140,2 (-15820,5)	Bf < In+Tr Absolutely stable state	126317,8 /337845,8	(37,39%) Normal state	193140,2 /337845,8	(57,17%) Normal state
2011	311543,2 < 127330 + 191492,6 (-28479,4)	Bf < In+Tr Absolutely stable state	127330 /336554,1	(37,83%) Normal state	191492,6 /336554,1	(56,9%) Normal state
2012	347302 < 163876,5 + 194060 (-10634,5)	Bf < In+Tr Absolutely stable state	163876,5 /375005,7	(43,7%) Normal state	194060 /375005,7	(51,75%) Normal state
2013	359727,3 < 189499,2 + 191630,8 (-21402,7)	Bf < In+Tr Absolutely stable state	189499,2 /397284	(47,7%) Normal state	191630,8 /397284	(48,24%) Normal state
2014	402377,5 < 186915,6 + 220497,2 (-5035,3)	Bf < In+Tr Absolutely stable state	186915,6 /456203,6	(40,97%) Normal state	220497,2 /456203,6	(48,33%) Normal state

Bf – Budget Funds provided for funding of constitutionally-guaranteed measures on the livelihoods of people (minimum cost);

In - own income;

Tr - transfers from the state budget (redistributed);

Ed - additional sources, weakening fiscal strength;

T - total income

Source: Developed by: A. Levitskaya, 2015

Table 2. Results of ATU Gagauzia's financial budget stability relative indicators evaluation

Indicators	2010.	2011.	2012.	2013.	2014.
Coefficient of ensuring minimum expenses with transfers from the state budget	0,64	0,61	0,56	0,53	0,55
Coefficient of ensuring minimum expenses with own sources	0,42	0,41	0,47	0,53	0,46
Coefficient of budget coverage	1,11	1,08	1,08	1,10	1,13
Coefficient of tax coverage	0,34	0,32	0,39	0,44	0,38
Coefficient of non-tax coverage	0,78	0,76	0,69	0,67	0,75
Coefficient of budget deficiency	0,032	-0,002	-0,020	-0,017	-0,006
Coefficient of the population's budgetary security	2,155	2,082	2,364	2,497	2,835

Source: Developed by: A. Levitskaya , 2015

Table 1. Dynamics of carrying out the income part of Gagauzia's budget by sector during 2010 -2014 (in thousands lei)

Name of sector	2010			2011			2012			2013			2014		
	Spec. plan	Cash income	%												
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Income tax from individuals	29611,5	31147,3	105	35709,4	36024,4	101	42424,3	43729,1	103	47334,5	46853,1	99	50821	51572,8	101
Income tax from legal entities	3047,7	3476,7	114	5152,6	4906,6	95	29783	31361,6	105	27277,1	29550,6	108	36832,7	37168,9	101
Agricultural land tax	7875,9	7870,2	100	9962,2	8730,1	88	8840,4	8090,1	92	10613,8	10044,1	95	9363,5	8735,5	93
Non-agricultural land tax	515,5	450,1	87	390,9	396,7	101	279,1	234,7	84	400,1	291	73	296	289,5	98
Land tax from individuals	857,3	839,6	98	814,1	809,9	99	804,6	784	97	844,3	798,6	95	779,4	770,3	99
Real estate tax from legal entities	969	967,9	100	826,2	914,1	111	759,7	807,9	106	1053,8	1076,7	102	1063,3	1090,9	103
Real estate tax from individuals	1082,2	1149,6	106	1282,9	1320,5	103	1384,5	1468,1	106	1606,4	1657,1	103	1586,4	1645,4	104
VAT	44153,6	42356,3	96	29200	30738,4	105	33256,4	32991,3	99	42800	44609	104	37336	36952,7	99

Road tax	3030	2652,8	88	3000	2797,7	93	3438	4034,4	117	8085,6	8808,2	109	8043	8027,4	100
Excise	6047	6770,6	112	6880	7009,3	102	5407,9	5956,1	110	7427	7430,2	100	975	975,3	100
Payment for water	241	338,9	141	270	231,7	86	184	208	113	185	188	102	286	286,2	100
Rent of agricultural lands	538,8	734,3	136	1540,6	1482,7	96	1169,3	1001,3	86	1300,7	1346,3	104	1520,3	1787,2	118
Rent of non-agricultural lands	1266,1	1301	103	1492,6	1624,7	109	1357,5	1334,9	98	1815,7	1880,5	104	1467,6	1546,3	105
Rent of state property	290,7	333,5	115	368,9	366,3	99	387,1	405,5	105	506,3	578,2	114	363,5	410,9	113
Patent	2165,8	2319,9	107	2340,9	2428,7	104	2475,3	2553,8	103	2671,6	2713,9	102	2757,6	2832	103
Market dues	670,2	711,8	106	818,3	854,8	104	780	763	98	793,2	831,3	105	750,6	799,3	106
Fund collection for the improvement of territorial planning (amenities)	1190,2	1161,1	98	1369	1366	100	1935,6	1744,8	90	2050,4	2093,7	102	2136,9	2181,2	102
License	715,3	718,4	100	675	675,9	100	784	799,7	102	750	753	100	782	782	100
Special means	10315,3	11042,7	107	12879,6	13328,3	103	12430	13104,5	105	14329	14522,2	101	14893,8	15071,9	101
Special funds	181,2	153,6	85	182	176,6	97	206,7	203,7	99	203	232,5	115	341	371,7	109
Interest on deposit accounts	226,6	239,5	106	121,6	119,2	98	164	183,4	112	380,9	480,8	126	298,9	399,3	134
Administrative fines	671,6	694,6	103	647,6	723,5	112	892,6	940,7	105	581,2	613,2	106	457,6	469,6	103
Other	8106,1	8887,4	110	10117,5	10303,9	102	10839,4	11175,9	103	11220,7	12147	108	11477,3	12749,3	111
Total own income	12376	126317,	102	12604	127330	101	15998	163876,	102	18423	189499,	103	184629,	186915,	101

	8,7	8		1,9			3,4	5		0,3	2		4	6	
Transfers from state budget	19314 0,2	193140, 2	100	12377 3,8	126317, 8	102	19406 0	194060	100	19163 0,8	191630, 8	100	220497, 2	220497, 2	100
Capital investments (to be determined)	-	-	-	-	-	-	-	-	-	-	-	-	11000	10224,8	93
Funds received	9106,2	9106,0	100	9962	9961,4	100	8092	8092	100	2518,3	2512,9	100	7931,4	7931,4	100
Transfers to the social fund	7949	7949	100	5718,1	5718,1	100	6373,4	6373,4	100	10227	10227	100	17913,2	17913,2	100
Grants	1355,6	1332,8	98	2030,2	2052	101	2634,6	2603,8	99	3769	3414,1	91	12686,9	12721,4	100
Total incomes	33531 9,7	337845, 8	100, 8	33524 4,8	336554, 1	100, 4	37114 3,4	375005, 7	101	39237 5,4	397284	101	454658, 1	456203, 6	100
Income from operations with capital	4586,9	4722,2	103	584,8	285,9	49	511,2	2332,5	460	3987,2	250,6	6	4279,9	529,3	12
Income from sale of lands	3226,6	2022,8	63	3884,3	2537,6	65	4354,2	4939,2	113	5596,6	4492,5	80	7824,4	6505,1	83

Source: Developed by: A. Levitskaya , 2015r.

Table 2. Dynamics of executing Gagauzia's budget expense section in 2010-2014, by sector (in thousands lei)

Name of sector	2010			2011			2012			2013			2014		
	Spec. plan	Cash expenses	%	Spec. plan	Cash expenses	%	Spec. plan	Cash expenses	%	Spec. plan	Cash expenses	%	Spec. plan	Cash expenses	%
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
State services	27430,1	26832,9	97,8	27323,0	26680,5	97,6	32371,4	31134,6	96,2	34842,9	33705,6	96,7	36964,6	36442,1	98,6
National Defence	312,0	288,7	92,5	375,0	335,6	89,5	461,9	427,9	92,6	382,6	368,2	96,2	375,7	353,3	94,0
Police	9616,2		0,0	10013,4	9810,4	98,0	12406,0	12368,0	99,7	654,7	609,3	93,1	523,5	458,0	87,5
Education	221720,8	217141,2	97,9	227545,0	221227,5	97,2	248014,0	242284,8	97,7	264621,8	254854,5	96,3	286268,4	276836,3	96,7
Scientific investigations	-	-	-	-	-	-	443,0	429,3	96,9	1107,7	1042,6	94,1	1448,3	1447,4	99,9
Culture	28000,4	26401,7	94,3	27976,8	26839,8	95,9	33602,3	31750,8	94,5	40951,2	38747,3	94,6	44896,7	43197,8	96,2
Healthcare	13397,4	13274,6	99,1	6178,6	6157,3	99,7	5956,6	5951,6	99,9	3388,9	3378,4	99,7	2784,8	2784,6	100,0
Social security	20550,9	19698,4	95,9	21057,4	20158,8	95,7	23374,7	22824,1	97,6	24365,5	23725,3	97,4	29408,5	28297,1	96,2
Agriculture	3841,3	3698,7	96,3	1820,4	1733,8	95,2	2385,8	2276,5	95,4	2400,9	2280,1	95,0	2800,6	2799,8	100,0
Environmental protection				333,3	333,3	100,0	130,9	130,9	100,0	3296,1	3296,1	100,0	12570,9	12560,9	99,9
Industry	686,1	685,3	99,9	763,3	759,5	99,5	1551,2	1551,1	100,0	1904,6	1834,7	96,3	1446,7	1446,3	100,0
Road services	3423,3	3032,6	88,6	3000,0	2823,1	94,1	3462,8	3202,2	92,5	8128,0	6008,5	73,9	13521,6	12462,2	92,2
Municipal	21647,7	21282,2	98,3	14859,7	14064,5	94,6	20270,1	19703,5	97,2	20201,2	18759,8	92,9	25039,2	22545,6	90,0

services															
Fuel and energy complex	1617,0	1573,6	97,3	1821,6	1,6	0,1	2064,4	2044,5	99,0	-	-	-	7038,5	7018,4	99,7
Other expenses	5912,6	5477,8	92,6	6750,6	6319,3	93,6	7380,2	6683,5	90,6	10497,2	16373,1	156,0	11687,6	13236,8	113,3
Refund of unused funds		-8,8			-177,0			-24,0			-689,8			-2971,7	
Total expenses	358155,8	339378,9	94,8	349818,1	337068,0	96,4	393875,3	382739,3	97,2	416743,3	404293,7	97,0	476775,6	458914,9	96,3

Source: Developed by: A. Levitskaya , 2015

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