

Local Self Government and Decentralization in South - East Europe

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FOREWORD

In the context of the Stability Pact for South-East Europe and in cooperation with national institutions the Friedrich Ebert Stiftung (FES) has initiated a regional project concerning the situation and the reforms of self-government and decentralization in the countries of the region. In all of the countries in South-East Europe reform programs concerning the structures of self-government and decentralization either have been implemented or are under discussion. As all of them are societies in transition, we may presume similar problems and common interests in this field as well.

By the proposed project the following **objectives** are being pursued:

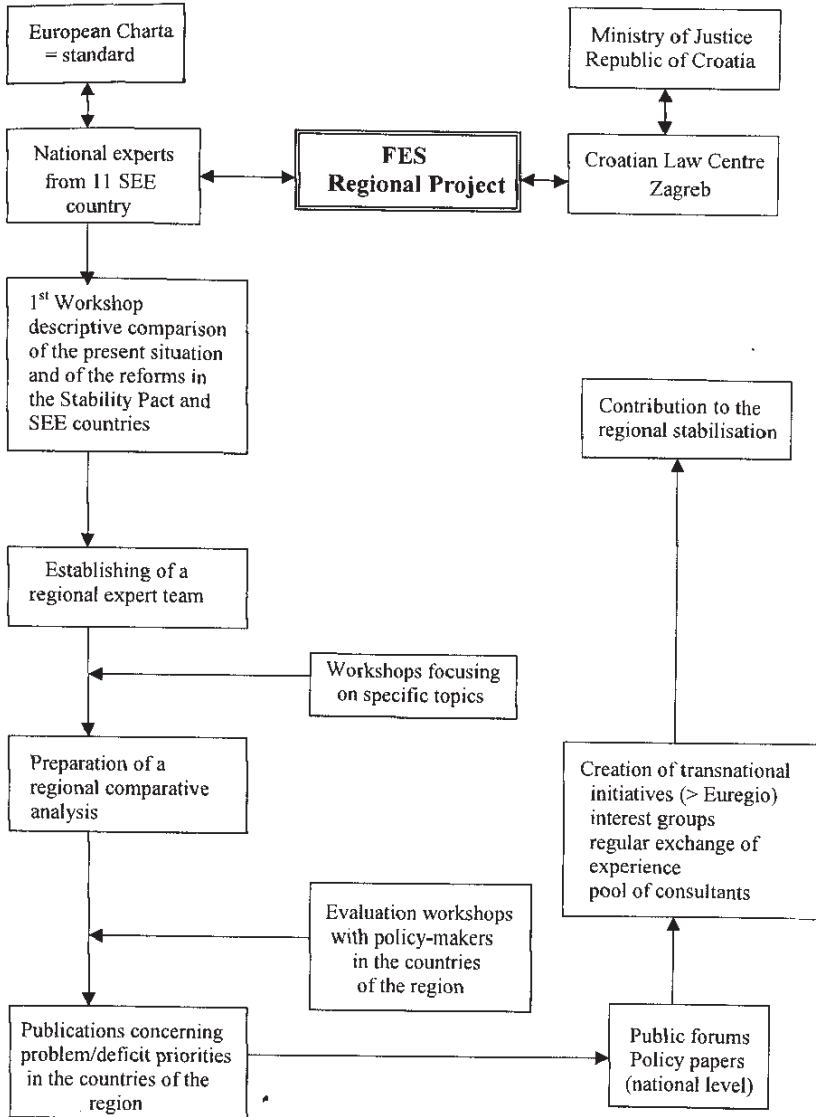
- Analysis of the present situation of local government (or self-government) and the reform programs in each country of the region.
- Comparison of the different national systems of local government and their reform projects regarding the improvement of democratization in the society.
- Exchange of experiences on the implementation of the reform programs in neighboring and West-European countries with respect to their positive and negative results or implications.
- Improvement of the structure of communication and relations between communities in the region, particularly concerning cross-border activities.
- Formulation of policy proposals for public discussion based on the results and recommendations of the project as contribution to the political debate.

Trying to attain these intended objectives the project is designed as a **process of different work steps** as shown in the schematic presentation of the project design below. In detail the following activities are envisaged:

- Elaboration of papers by researchers or experts analyzing the present situation and reform programs in the single countries.
- Presentation of the studies in a first common workshop with the authors and experts in the field of local-self government. Discussion of the results of the national papers and elaboration of a comparative analysis. Identification of specific problems of common interest and priority.
- Establishing of a stable regional expert group.
- Invitation of experts on specialized questions, where further information and discussions by the expert group or decision makers are needed.
- Preparation and distribution of publications of the results for public discussion with policy makers, researchers, and experts at national and local level.

Local Self-Government and Decentralization

Schematic presentation of the project design



In order to reach an optimum of comparability between the country papers we proposed for the first workshop in April to follow a common pattern in the elaboration and presentation of the papers. In addition to the given pattern we asked the experts not only to include problem areas in their countries, but also to report on positive examples in the sense of "best practice" models within local self-government and to explain as well, how and because of what the positive development was attained.

For this purpose we identified the following six dimensions as structure of the papers, but at the same time inviting the participants to add or modify this structure if required:

- Local government elections
- Local government territorial organization
- Legal competence of local self-government
- Local public services
- Local government finances and economic resources
- Local situation of minorities

Later on two more dimensions were added:

- Participation of citizens in local self-government and activities of local lobby-groups
- Communication and cross-border cooperation between the municipalities of the region

The **first regional expert workshop** on local self-government and decentralization has been successfully launched in Zagreb on April 6, 2001. In preparation of the workshop 10 country studies on the system of local self-government in South Eastern Europe (SEE), which are presented in this publication, had been collected and together with brief problem oriented summaries distributed to the workshop participants. Based on explicit interest of all participating experts in further cooperation, a regional expert team was established composed of the invited workshop participants. The team will work together with the FES Project coordinator in preparing follow-up workshops and other forms of future collaboration. The general response to the workshop input and discussion was positive and encouraging for the continuation of the project. The discussion has identified most important problem areas of local self-government in the respective countries. Several proposals concerning future workshops and other forms of cooperation have been formulated. The identified problem areas are described in the following agenda.

According to the presented country reports on local self-government (LSG) the main problem areas among the SEE countries are shown in the following **summarized problem agenda**:

- 1) **Fiscal resources and financing of LSG.** How to design a balanced distribution of fiscal resources between national government, regions and municipalities? How should fiscal services be technically organized? How to balance regional and local disparities of public services due to different levels of development and the size of LSG units?
- 2) **Legal competences of LSG.** How to design a balanced system of legal prerogatives between national government, regions and municipalities? How to overcome a high degree of centralization typical for post-socialist countries?
- 3) **Territorial organization.** How to determine the right size of LSG units? How to deal with extreme differences in size between big cities and small rural units? Should there be and what might be the design of a regional level of territorial organization?
- 4) **Politization of LSG elections and administration.** How to prevent internal party politics and interventions of national ideological conflicts into local/regional politics?
- 5) **Development of management and administrative skills.** How can the administrative and managerial capacities of policy makers and the administrative staff at local and regional level be improved? How to organize adequate training and continuous education of LSG public servants?
- 6) **Organization of public services.** What should be the status of companies providing communal services (water, energy, transportation)? At what level of territorial organization should service companies be established?
- 7) **Protection of minorities.** How to secure a satisfactory level of ethnic minorities protection at local/regional level? How to escape the dangers of either minority segregation or assimilation?
- 8) **Participation of citizens.** What kind of relationship exists between local authorities and citizens? How can effective participation of citizens in local politics be promoted?

As a result of this first workshop the majority of the participants has identified financing of local self-government as topic of the next workshop. In the same way the project is supposed to be developed by similar interactive procedures between the expert group, researchers, policy makers and the Friedrich Ebert Stiftung in the future.

Zagreb, June 2001

Rüdiger Pintar
Head of the Regional Office Zagreb
Friedrich Ebert Stiftung

LOCAL GOVERNMENT IN SLOVENIA

INTRODUCTION

Slovenia is a small country in size (covering about 20.000 km²) and population (2 million inhabitants), located at a major crossroads in Central Europe, where Roman, German and Slavic culture meet. The richness of cultural and historical experiences is an important asset in Slovenia's potential for future economic and social development, and the variety of climate and landscape provides ideal preconditions for a wide range of different economic activities and lifestyles. Local self-government should help Slovenian citizens to release these potentials through the democratic practices, which they can best experience at the local level.

In Slovenia, citizens enjoy the constitutionally guaranteed right to self-government. According to the Constitution, municipalities are the basic socio-economic, political and administrative units, immediately below the level of central government, responsible for the development of local economy and social services in their territories. Slovenia has thus introduced a single-level system of local self-government¹, differing greatly from the former local government organisation under the previous Yugoslav administrative hierarchy, where the commune (as the basic local government unit) performed both state and local functions. Slovenia also adopted (1996) and ratified (1997) the European Charter of Local Self-government. Currently, municipalities perform only their own functions, since the state has not yet transferred any of its responsibilities to the municipalities. The position of the municipality vis-a-vis the state is protected by the fact that the Constitutional Court sees to it that the regulation of each local community is administered in accordance with the Constitution and law, and resolves the disputes between the state and the municipal authorities.

¹ It was introduced according to the Law on Local Self-government (passed in 1993, and later amended six times) and the Law on the Establishment of Municipalities and on the Determining of Their Territory (1994).

MUNICIPAL LEVEL

Local government elections

Local government elections² are held every four years; therefore, all representatives are elected for a four-year term of office. The number of council members is defined by the municipality itself but must be within a legal framework of 7 to 45 members, depending on the population of the municipality. They are elected by proportional or majority system from party lists, political coalitions and independent candidates. The majority system is used for the election of small council (up to 12 members), while the proportional system is used for the councils with more than 12 members. If a municipality is ethnically mixed, the members of the Italian or Hungarian minority elect their own representatives according to the majority system. The members of Slovenian minorities have two votes (for national elections): one they cast for general elections and one for their own community representative(s).

Mayors are also elected for four years by direct suffrage. They can be candidates of political parties or independent candidates with enough support from voters (by petition or voters assemblies). If none of the candidates win the majority at the first round, the two candidates with the best results go on to the second round.

The council appoints the municipal election commission, which is responsible for all the tasks related to elections (approving candidates, polling stations, election boards, election results, legality, etc.). The cost of elections is covered by municipalities.

Local situation of minorities

Slovenia has two minorities: Hungarian and Italian. They are small, representing only 0.4 and 0.2 percent of the total Slovenian population respectively. However, they enjoy full protection. In compliance with the Constitution of Slovenia and other laws, the Italian and Hungarian communities are guaranteed the right to elect at least one member into the Slovenian Parliament and into the local councils in ethnically mixed territories as well as to all bodies that make decisions that in any way could affect the life of a minority and its problems. All such decisions have to be made in cooperation with the representatives of the minorities. Slovenia is an ethnically

² They are regulated by the Law on local elections, passed in 1993.

mixed territory, but the Italian and the Hungarian languages are equal with Slovenian, and used in toponomastics and in public inscriptions as well as in all authorities and bodies of the society. The law on ethnic communities goes even further: the members of the minorities have the right to found their self-governing communities at the municipal level and form wider minority associations. In Slovenia the latter are recognised as the basic interest bodies of minority community, they represent their interests at the governmental and international level. Along with these, the Italian and Hungarian communities are active in individual municipalities, organised in associations in the fields of culture, sports and others. They are funded by the self-governed municipal minority communities of the Italian and Hungarian minority, which are also responsible for designing programmes of activities that can be submitted to the competent authorities. The contacts and exchange with various institutions on the Italian and Hungarian side are frequent, especially with different schools, universities, but also with other cultural associations and organisations and with other minority organisations throughout Europe.

Slovenia regulates its ethnic and language policies through the Constitution and the legal provisions, which implement the language and cultural equality of its citizens according to the territorial (autochthonous) principles. In this way it tries to implement the rights of Italian and Hungarian ethnic communities to existence and development and to prevent the linguistic and cultural assimilation of ethnic communities into the majority nation. The self-governed communities of Italians and Hungarians have (together with the municipalities) the status of co-founders of the kindergartens, primary schools and secondary schools, with Italian and Hungarian as the languages of instruction. In Slovenia there are two models of school systems, which through contents and organisation of education warrant the rights of minorities: the Prekmurje bi-directional model of bilingual education and the combined model at the Coast, which includes the regulation of the school system for the Italian minority and teaching the second language in mainstream schools; it also includes adaptations of national curriculum on all levels. The Coast model of school system is carried out in pre-school, primary and secondary education of the municipality of Koper and in the communes of Izola and Piran.

The Italian and Hungarian minority in Slovenia can maintain close contacts with the parent country in the use of text-books, teacher training in different courses and visits and trips for school-leavers on the primary and the secondary level.

In the last elections, more candidates of the minority communities were elected in Slovenia, together with the 'institutional' representative at the local and national level; these candidates also got votes from the majority voters, which also testifies about a high degree of social integration of the ethnic communities in Slovenia.

Local government territorial organization

As a result of the reform of the local government system, the number of municipalities has tripled since 1991, from the previous 62 communes to 147 municipalities in 1994, and to 192 in 1998, with an average size of 137 km² (ranging from about 25km² for the smallest one to over 500 km² for the biggest) and 10,000 inhabitants. Eleven of them, representing a little more than one third of the total Slovenian population (36%), have the status of urban municipalities with some additional responsibilities. An urban municipality is an employment centre for the wider area, performing at the same time the role of economic, cultural, educational and social centre. The number of municipalities is expected to increase further, since some 20 new proposals for the formation of new municipalities are already waiting for the parliamentary decision³.

Table 1: Urban municipalities by population, 1999

Urban municipality	Population
Celje	49,572
Koper	47,905
Kranj	51,920
Ljubljana	270,986
Maribor	115,532
Murska Sobota	20,286
Nova Gorica	36,515
Novo mesto	41,106
Ptuj	24,087
Slovenj Gradec	16,914
Velenje	34,186
Total	709,009

³ In 1996, the Law on the Procedure of the Establishment of Municipalities and on the Determining of Their Territory was enacted to regulate the establishment of new municipalities.

Slovenian municipalities range from 400 to 270,000 inhabitants. According to the law, the municipality should have more than 5,000 inhabitants, although the law allows for certain exceptions. However, half of the municipalities do not fulfil this criterion. Due to their smallness, municipalities often lack the financial resources and administrative capacity to perform their functions successfully. The biggest municipalities are Ljubljana, the capital of Slovenia, with the population of 270,986 and Maribor with 115,532; other urban municipalities are much smaller.

Table 2: Municipalities by size, 1999

Population	Number of Municipalities	% of total municipalities	% of total Slovenian population
0 - 1,000	6	3.1	0.2
1,000 - 2,000	18	9.4	1.4
2,000 - 5,000	71	37.0	12.4
5,000 - 10,000	43	22.4	14.6
10,000 - 20,000	36	18.8	26.4
20,000 - 30,000	10	5.2	12.4
30,000 - 40,000	2	1.0	3.6
40,000 - 50,000	3	1.6	7.0
50,000 - 100,000	1	0.5	2.6
100,000 +	2	1.0	19.4
Total	192	100.0	100.0

Local government organisation

The municipalities are run by a mayor who is the legal representative of the municipality. Mayors are responsible for city administration, for proposing the annual budget and for the preparation of other acts within the council's jurisdiction.

Municipal councils, as representative bodies, make the basic decisions within the jurisdiction of the municipality. They pass general acts, approve municipal budgets and supervise mayors and municipal administration to ensure the implementation of councils' decisions. Municipal councils can form committees which are their executive bodies elected from among the members of the councils and the municipality's citizens. Based on mayors' proposal, the councils appoint deputy mayor(s), the secretary of the municipal administration (chief administrator) and senior administrative staff.

1991



1994



1998



In the past, there were many tensions between mayors and councils, especially if the mayor was from an alternative political party different from that of the majority of the council. In some extreme cases, normal functioning of a municipality would be frozen with no co-operation between the two parties. To resolve the tensions and provide for a better co-operation in these circumstances, the law on local self-government has been changed. Now, mayors chair council meetings, but they are not members of the councils.

As the mayor is also the head of the administration with the right to employ and appoint municipal administrative staff (higher levels with the consent of the council, lower level by himself), there are many possibilities for patronage and political appointments, which may frustrate the establishment of an unbiased professional local administration. On the other hand, many smaller municipalities cannot employ the necessary number of professionals because they lack sufficient financial resources.

Due to a strict separation of councils and mayors, none can recall the other. However, the parliament can dissolve the municipal council in some extreme cases and call for early elections (if it fails to enact the municipal budget for two consecutive years, or does not achieve a quorum after being called at least three times within half a year period, or if it violates the law and fails to correct the violations when brought to its attention).

The municipal council has to appoint a supervisory board whose members may not be members of the council, municipal administration or management boards of organizations financed through the municipal budget. The supervisory board oversees the efficient implementation of the budget and all other financial operations within the municipality. Audits can be carried out also by the Court of the Audit of the Republic of Slovenia or by an independent licensed auditor acting on the initiative of municipal bodies.

The organization and structure of municipal administration is left to the municipalities themselves. The size and the organization of the administration are heavily dependent upon a municipality's size. In small municipalities, with few employees, there is some functional division, but they have to perform all the tasks. Larger municipalities and all urban municipalities are organized according to the departmental principle (finance, town planning and environment, public services, etc.). Municipalities can decide by statute or decree that the secretary, who is responsible for professional guidance of the municipal administration, also heads the municipal administration.

Direct forms of citizen participation in the decision making of the municipality have been facilitated: these can be people's initiatives, or "assemblies" (obligatory and consultative) of the citizens. An "assembly" of a municipality's citizens can be called by the mayor at his own initiative, at the initiative of the municipal council or at the request of a minimum five percent of the municipality's registered voters. Municipalities also have at their disposal various types of referendums (preliminary, advisory), which can be called at the request of citizens or councils. Citizens also participate in consumer protection councils, which submit their proposals and comments to municipal councils when dealing with public services.

If councils agree and citizens accept it through a referendum or a town meeting, a municipality can be divided into smaller communities (local, village or ward communities), which are offspring of the municipality.

Local government responsibilities

At present, the development of local government is still under way. However, in accordance with current legislation, municipalities are responsible for three sets of tasks:

- their own local public affairs (which can differ from one community to another),
- local public matters defined as such by central government through sectors national laws;
- tasks that have been transferred to them from the state (until now none).

More accurately, this can mean that municipalities are responsible for:

- provision or development of all kinds of social services and activities:
 - preschool, kindergartens and nursery (all children have the right to a place in public programs),
 - social care and family support services (provision of services for socially underprivileged, the disabled and the elderly)
- provision of social housing ,
- regulation and maintenance of water and power supply facilities,
- protection of air, soil, and water resources,
- protection against noise,
- provision of waste collection and waste disposal in urban municipalities,
- preservation of natural and cultural monuments of local interest,

- provision of public transportation (where feasible),
- construction and maintenance of local roads and public spaces,
- management of community assets,
- provision of favourable conditions for economic development, etc.

Urban municipalities have some additional responsibilities:

- regulation of local public transportation,
- provision of public health service and administration of hospitals,
- administration of a network of primary, secondary, vocational and higher education
- support of cultural activities (theatres, museums, archives),
- administration of public libraries,
- performing regional administrative functions (in agreement with other municipalities), etc.

Local public services

Municipalities that have the responsibility for the provision of services in the area of social care, education, health care and housing, use different arrangements. Some services they provide by themselves, while others are provided by specialized public organizations, non-profit and private organizations. Municipalities provide funding for programs of nongovernmental organizations that compliment public programs.

Some functions are the sole responsibility of municipalities, while for others the responsibility is shared between the municipality and the state. When responsibility is shared, programs are very often developed in close cooperation between the responsible state and municipal institutions. Municipalities have to participate by co-financing programs (for example: adult education, public work programs, local development programs, etc.)

Division of functions:

- exclusive municipal functions:
 - education (preschool)
 - general administration (fire and civil protection)
 - social welfare (kindergarten and nursery, family welfare services)
 - environment, public sanitation (refuse collection and disposal, cemeteries and crematoria)

- urban and economic development (town planning, local economic development)
 - public utilities (district heating, water supply)
- shared functions with central government:
- education (primary, adult)
 - social welfare (social housing, social security)
 - health service (primary health care)
 - culture, sports (theatres, museums, libraries, parks and public spaces, sport facilities, other cultural facilities)
 - environment, public sanitation (sewage, environmental protection, consumer protection)
 - traffic, transport (roads, transport, urban road transport, ports)
 - urban and economic development (housing, spatial planning, regional planning, promotion of economic development)
 - public utilities (gas)

Local government finances

Municipalities have at their disposal three kinds of financial resources⁴:

- locally derived sources:
 - taxes: property tax, gift and inheritance tax, tax on gambling, tax on use of goods);
 - rates and fees: administrative fees, fees on gambling machines, local fees, communal fees, charges for the use of buildings and land, fees on farming land and forest, fines;
 - other: property sales, rental fees, leases;
- funds from national sources:
 - shared taxes: income tax (35 percent municipality, before 1998 municipality received 30 percent);
 - general grants: (monthly transfers from the Ministry of Finance based on the projections of guaranteed and, in the future, relevant spending⁵);
 - special grants (by individual ministries for specific projects, but maximum to 70 percent of total project costs);
- borrowing - limited to 10 percent of the municipal revenues in previous year, only for financing housing, water supply and waste disposal they can exceed the limit; the interest payments cannot exceed 3 percent of revenues.

In accordance with the valid legislature, local governments cannot implement any new taxes. Smaller municipalities are very much dependant on tax revenues and state grants, since they collect little non-tax revenues. It should

⁴ The Law on Financing of Local government was passed in 1994.

⁵ The Ministry of Finance determines the amount of relevant spending per capita in relation to municipal population, size of territory and length of local roads.

be mentioned that from the point of view of municipalities, other revenues (property sales, rental fees, leases and residential funds) are very important, since they are the only revenues municipalities can spend independently. However, the amount collected is rather small in most municipalities, primarily due to the lack of property and financial management expertise.

Municipalities should normally be financed from their own sources but it is rarely the case. Economically underdeveloped municipalities, which cannot ensure the implementation of their tasks with their own financial resources, receive additional finance from the state, which however has to be spent for specific purposes. These monthly instalments of the funds allocated to local governments are based on the projections of guaranteed spending and allocated for financing current expenditures and investments. This provision reduces the ability of local governments to spend their financial resources according to their own needs and priorities, but there are some signs that this will change a little in the near future.

Special grants from individual ministries are transferred for the different investments (demographically endangered regions, municipal services, construction of waterworks, municipal waste sites etc.). Currently, very often they have to co-finance projects that the state is willing to fund, even if these are not the most appropriate from the local point of view.

It should be mentioned that general government consumption as a percentage of GDP is around 46 per cent. However, the Slovenian public finances are very centralised. Municipal government expenditures only account for about 10% of total government expenditures, which is less than in other CEE countries (e.g. Poland being the nearest with 12,3%, Sycora, 1999). Also the central government determines almost all local revenues, except property taxes, which most municipalities have not been able to collect so far because they lack reliable records⁶. The Tax Administration of the Republic of Slovenia assesses, levies and collects taxes on behalf of municipal governments.

The great majority of expenditures are determined by the state. More than half of municipal expenditures are in the area of administration, protection and public institutions. To this public sanitation, roads and fire protections can be added meaning that more than two thirds of municipal expenditures are for public purposes. For the support of local economic development, municipalities spend about 6 percent of total municipal expenditures; this figure, however, varies greatly among municipalities, from 1 to 16 percent, depending on municipal resources.

⁶ Significant financial effects of that tax will not be seen until the new law on Property tax has been passed, replacing the existing property taxes with a tax on real estate (buildings and land) for all individuals and companies.

Table 3: The structure of municipal revenues, 1997 and 1998

Revenues	1997(%)	1998(%)	Real growth 98/97(%)
Tax revenues	42.6	41.2	2.9
Income tax (shared)	39.0	37.4	1.9
Property tax	0.4	0.4	5.6
Gift and inheritance tax	0.2	0.2	-8.7
Tax on gambling	0.2	0.2	19.9
Tax on use of goods	2.8	3.0	16.6
Non-tax revenues	35.6	37.3	11.5
Administrative fees	0.0	0.0	-3.7
Fees on gambling machines	0.9	0.7	-12.2
Fines	0.1	0.2	23.3
Local fees	0.3	0.4	15.3
Communal fees	2.7	2.7	8.3
Revenues from administrative bodies	1.9	1.8	1.9
Contribution for the use of buildings and land	10.3	12.0	24.5
Fees on farming and forests	0.6	1.1	81.6
Other revenues (property sales, rental fees, etc.)	18.8	18.4	4.3
General grants (financial equalization from the state)	18.8	18.4	4.4
Special grants	3.0	3.1	11.3
Total (borrowing excluded)	100.0	100.0	9.0

Source: Cankar, Vlaj, and Klun: Local governments in Slovenia, 2000

Municipalities' borrowing capacity is also determined by the state. They can borrow only from national credit institutions. They can also issue local bonds, but due to the lack of regulation, it is not used very often.

Municipalities would like to gain greater financial autonomy, which is particularly important for the developmental functions that municipalities increasingly have to perform.

Table 4: The structure of municipal expenditures, 1997 and 1998

Expenditures	1997(%)	1998(%)	Real growth 98/97(%)
Administration (wages, costs, etc.)	12.9	13.0	7.7
Protection and salvage funds	0.4	0.4	0.0
Public institutions	41.0	41.7	8.5
Primary education	11.7	11.9	8.7
Research activities	0.2	0.1	-35
Culture	5.4	5.3	3.7
Sport	3.3	3.4	11.8
Social security	3.8	3.7	3.1
Kindergartens and nurseries	14.8	15.1	8.3
Public health	1.5	1.6	17.7
Other	0.4	0.5	49.9
Transfer to local economy	35.6	34.9	4.5
Public sanitation	12.3	11.6	0.6
Housing	4.8	5.6	24.6
Roads	10.6	9.6	-3.5
Fire protection	1.9	2.0	10.2
Other transfers	6.0	6.1	8.7
Reserve fund	0.8	0.5	-28.8
Transfers to sublocal communities	1.1	1.2	12.4
Other	8.2	8.3	-

Source: Cankar, Vlaj, and Klun: Local governments in Slovenia, 2000.

Local government assets

Municipal infrastructure and municipal services are still mainly in the public sector. Only in a few municipalities have they decided to make concessions to private or foreign firms, but this has been criticised and caused many pressures. Public municipal firms were established and have been operating on the basis of the new Law on Public Institutions. The privatisation process has just been started.

The ownership transformation and the privatisation of urban land have mostly been completed. The process has been based on new sector laws: Law on Ownership Transformation, Law on Public Institutions, Law on Co-operative

Societies, Law on Infrastructure Objects and Networks etc. Municipalities have not managed to get the appropriate quantity of land, which has made one of the major tasks of local communities impossible, i.e. providing social housing and non-profitable flats.

The real estate market has not developed yet. Some interest groups, individuals and ex-large socially-owned (state owned) land developers have been speculating since they own some socially-owned sites, information or spatial documentation.

The supply of building sites, especially the improved ones, is still not satisfactory. It results in high land prices, rents and the continuation of illegal housing.

Municipalities do not have any special impact on economic development and they do not prepare any special arrangements to encourage the economic (especially industrial) development. They focus on small and medium enterprises. This is primarily a result of the limited competence of municipalities (in the fiscal and monetary-credit field, employment, spatial regulation) and the excessive centralisation. Secondly, the basis of local development, the role and the importance of natural and man-made resources have not been understood properly, and the local authorities do not have the skills and do not use new development concepts and instruments.

Spatial and urban planning at the local level

The municipalities also have important responsibilities in the field of planning. They must prepare and adopt long-term and mid-term physical plans and detailed urban plans. The long-term plans of individual municipalities must specify the following:

- settlement networks, transport networks, drinking-water supply networks and networks for waste-water drainage;
- policy implementation strategies for planned land use (settlement areas, agriculture, forests, open-air recreation, water resources protection areas, natural and cultural heritage, renewal areas);
- the protection and improvement of the human environment.

During the procedure of the preparation and the adoption of local plans, each municipality has to take into account the Law on Physical Planning, which stipulates that, prior to the adoption of a local plan (also applied to

amendments and additions), a competent body of the Republic of Slovenia must establish whether the physical planning elements of the long-term and medium-term plan are in accordance with the compulsory starting points for the physical planning elements of the Republic's long-term plan and the solutions defined by the Republic's medium-term social plan. Whilst long-term and medium-term spatial plans focus on the land use policies and the distribution of services and activities, local plans translate these policies into prescribed physical form typologies.

The plans that were adopted in the 1980s are mainly still in use. There have only been some minor changes, largely to accommodate the plans to the proposed projects that were not in accordance with the plan. The outdated state of detailed urban plans is frequently a great obstacle for development, since every development project, if a permit is needed, has to be in agreement with the long-term plan. At the same time, municipalities are still waiting for new planning regulation, since the MEPP has so far failed to articulate new legislation, and the new state plan. In 1995, only a modified national structure plan was adopted, in relation to the future development of motorways and highways.

Consequently, the current planning system in Slovenia is plan-oriented with an extensive hierarchy of planning documents covering the long-term and medium term (long-term and medium term spatial plan for the municipality) spatial plans down to local, urban design plans (building plan, conservation plan, spatial regulatory conditions). Any potential development site must be covered by at least 3-4 planning documents, such as the long-term spatial plan of the municipality, the master plan for the city, the local plan for the smaller area and the planning permit detailed documentation. These plans should be harmonised, before a planning permit can be obtained.

The characteristics of the Slovenian planning system are therefore similar to those of other plan-oriented systems used in many European countries (see Table 4): it is aim oriented, with 'like to achieve' ideal development schemes determined in advance and pre-planned, with prescribed land uses, design standards and regulations. There is no place for discretion, but the system is easy to administer, inflexible but legally safe (if the developer follows the prescribed development layout, he will automatically gain a planning permit). Such plan oriented systems are also time consuming (e.g. the adoption of minor changes to a local plan can take one or two years!) and therefore increasingly unresponsive to development needs related to rapid market changes.

Table 4: Planning systems

Plan-oriented system	Project-oriented system
Proactive	Reactive
Aim oriented, like to achieve ideal in advance determined development scheme	Responsive to dynamics of development processes
Prescribed land use, design standards and plan regulation	Adaptable to market needs, consider and other documentation
No/limited discretion, easily to administrate	Administrative discretion,
Rigged, legally safe	Flexible, legally unsafe, demands previous negotiation

Slovenia, like so many other former Eastern European Countries is integrated into the international global markets. In order to both control and attract new development different planning mechanisms are needed.

In addition, rapid political and economic changes also demand corresponding changes in the town planning system, and especially in the development control process. The changes in the system need to be predominantly geared to increase the flexibility of local plans, and to allow more administrative discretion in the development control process and urban design at a local level. What is also needed is more local involvement in the decision-making processes to facilitate both the civil democratic right to participate and to enable private stakeholders to make decisions about their own development rights. This is especially important for development within predominantly built up areas and brown-field sites in order to support sustainable development (e.g. 60% of future development should be directed to the existing urbanised areas).

Urban development control

The relation between planning and control in Slovenia is organised in such a way that municipalities are responsible for planning, whereas the state or the government administrative offices issue building permits.

There are two permits: the building permit and the development permit. The government administrative unit can issue only one, the building permit, if the investor requires so. It is issued after obtaining numerous sector approvals, which greatly affects the time and the cost.

Illegal construction is still rampant, especially in the housing sector, a result of inefficient and inflexible planning (preparation and changes of plans),

inappropriate supply of improved building sites and the relatively high municipal costs. Illegal housing is especially problematic in the green belt around larger cities, which limits urban development and makes it more expensive due to spontaneous development and poor municipal infrastructure.

The building and land register are not up-to-date and stand in the way of a free real estate market and in some cases affect the time needed and the financial realisation of development and other projects or simply turn the potential investors away from the sites for which the ownership rights have not been settled. Projects are under way to update, modernize and digitalize building and land register. They should be completed in the next three years.

Integration of urban development activities

Urban land management is mainly inefficient. The size of land used for every new inhabitant is well below the European average. For instance, in Holland and Denmark, for every new inhabitant there is about 4,5 times less urban land. The process of dispersed building, especially in rural areas, is still going on. The discrepancy between the plans and the development are rather significant and well above the European average. In the city of Ljubljana, the estimated realisation of master plans was 80% for the industrial zones, 49% for the housing and 61% for other users (open spaces, recreation, agriculture, etc.).

Approximately one half of the post-war housing development has been constructed contrary to the plans. The average density in the areas of illegal building are 3 to 4 times below the density needed for efficient functioning of the main infrastructure, especially of the sewage system. The owners of illegal buildings also do not pay communal infrastructure fees, which come up to approximately 30% of the building value. On the other hand, the estimated cost for the infrastructure of the illegal building areas reach almost 54 billions SIT or 2,5% GDP. The lack of appropriate building land additionally stimulated the illegal building. Also, the planning and the control of self-building housing process and areas is more complex and incurs additional costs for the local government and delays the planning process.

The relationships between local government finances, property management and urban planning are not smooth and satisfactory because many of the land policy and urban management instruments are not developed or appropriately prepared. Municipalities, especially the newly established ones, are faced with a lack of resources for financing capital improvement projects and solving problems that cross their municipal borders.

Local development

As already mentioned, municipalities administer the bulk of local public services. However, their administrative and management capacity is very often not sufficiently developed. It is important to recognise the need for improvement in general management practices. Elected representatives in municipalities, administrators and professionals play the key roles in stimulating local development, although development issues have yet to become top priority on the political agenda for many local authorities. In addition, a successful formulation and implementation of a development strategy depends upon the ability of local leaders to promote active involvement of local communities and citizens.

Successful progress also depends on the creation of partnerships with the private and voluntary sectors within the context of strong and supportive government frameworks at all levels. Political leadership and commitment are critical if progress is to be made, but this is too often lacking. In many municipalities, development issues are not at the top of the political agenda.

Municipal administration is very often fragmented with different departments failing to co-operate. The mayor and the heads of administration should therefore strive for horizontal integration between the policy fields within their area. There is a need to further develop the capability and experience of professionals to work in an interdisciplinary manner, and to increase their understanding of policy fields and sectors across the board to be able to cooperate efficiently.

At the same time, vertical integration across all levels of government is also problematic. In the absence of such integration, the development initiatives at local level are often undermined by the decisions of higher authorities. Cooperation and partnership between different levels, organisations, and interests are an essential part of forming local or regional development strategies. Most problems can only be solved through a coordinated action by a range of actors and agencies. These include public-private partnerships, as well as non-governmental organisations, representatives of the public and the public itself.

In addition, the reform of local government by establishing new municipalities and new divisions has increased the incidence of local conflicts. It has made it even more difficult to achieve compromise. The intra-regional cooperation and the functional division of work have become more perplexing. This

situation has forced actors to focus more on single problems and short-term projects and neglect the comprehensive context and longer-term frameworks, which obviously are much harder to visualise and change.

The changes at the regional level during the last decade have revealed that market forces by themselves cannot provide for a balanced development. Economic development following market signals has concentrated in the already developed regions. Disparities between the least and the most developed regions have increased to 1:3 in the value added.

With the growth of business activities, the demand for available locations is growing. Due to the complicated and cumbersome planning procedures, municipalities cannot timely respond to this demand. Especially problematic is the provision of larger plots. Municipalities try to provide for development of business zones, but most of them can satisfy the needs of SMEs only, since they cannot finance the purchase of land for future business development. So they depend upon the land they already possess and on the readiness of private owners to cooperate. They also lack effective land policy and planning instruments at their disposal to be able to direct and regulate the development processes in their communities.

REGIONAL LEVEL

One of the problems is the non-existence of regions and regional planning in Slovenia. At the moment there are no official political and administrative entities at an intermediate level between the local municipalities and the state system, and although municipalities may join into regional associations to regulate and pursue local matters of wider interest, it has not been a common practice.

In Slovenia, for internal purposes, there are many types of “regions” with different definitions relating to specific target issues (Gulie, 1993). For instance, there are bio-geographical regions (7), climatic regions (4), water management regions (8, one per major watershed), architectural regions (typology) (14); and territorial organisations: for forestry (14), for fishing (9), for hunting (18), for nature protection (7), for environmental inspection (9), for health services (9), for education (9), for the telephone service (11), for the courts of justice (8), for Chambers of Commerce (13), and for the social accounting services of the Agency for payments (14). These different types of

regional definition have emerged partly due to the different aspects of the problems to be addressed and partly due to a lack of agreement on the formation of appropriate regional units suitable for all functions.

For planning purposes and for solving special development problems, several so-called “functional planning regions” were formed in the past. The Statistical Office of the Republic of Slovenia has started to publish some data for the so-called “statistical regions” which correspond to the former functional planning regions. There are twelve such regions, some large and some very tiny, their size depending mostly on the spatial and economic conditions of the area.

As a small country, Slovenia is vitally interested in maintaining the basic features of the existing regional settlement pattern and cultural landscape as well as in diminishing the differences in the living and working conditions in all parts of the country, in order to prevent a further decrease of the rural population, especially in the border areas. Slovenia launched its own regional policy in the early seventies (in 1971), when a special law for a more coordinated regional development in Slovenia was adopted, introducing special measures for the promotion of faster development for the less developed communes. Based on the polycentric concept of development, the regional policy measures in the period 1971-1990 reduced somewhat the differences between the urban and the rural areas and, partly at least, slowed the depopulation process in rural areas. However, these policies have been less successful in the mountainous areas, the Karst region and some border areas. In December 1990, a new law on the promotion of the ‘demographically endangered areas’ was passed, replacing the old legislation and promoting a more balanced regional development, which expired at the end of 1990. In this law, the population aging index and the rate of growth were cited as the criteria for the designated regions, and some measures were specified to promote their development in order to stop or slow down the exodus of people from these regions. A special government decree was issued wherein all these areas were specified (local communities, settlements).

The Republic of Slovenia participated in promoting the development of these regions by co-financing the establishment of development programmes for these areas and up to 50 per cent of the investments in local infrastructure, promoting direct investments in business activities (soft loans or interest rate subsidies), tax concessions, and special measures in the field of social services (primary education, vocational training, scholarships, culture, basic health care services, physical culture and social protection).

There have been some examples of positive results in local development of rural areas in Slovenia. However, a detailed evaluation of the impact of the regional incentives in the demographically endangered areas leads to the conclusion that a partial regional policy limited to small peripheral areas in such a manner is not very effective in creating the conditions for a far-reaching, endogenous, self-sustainable local development. To achieve such an outcome, all local development potentials (human capital, natural resources, financial resources) should be evaluated and activated, paying special attention to the connections and linkages across broader territory (municipality, region, cross-border regions). Small and dispersed investments into a demographically endangered mountain area have not been effective in building up a new economic structure, and the strength of the whole region has decreased due to the fundamental structural problems of local industry and employment centres. In the period of transition, the complex problems of industrial restructuring have become acute, with technological, ecological, regional, economic, social and political dimensions. However, Slovenian regional policy has hardly addressed these problems at all. The Slovenian government has been treating these problems mostly as sectoral and not regional problems. In the absence of a comprehensive linked matrix of regional and industrial policies, the Slovenian government has been helping firms in trouble merely on a case-by-case basis, without any co-ordinated or defined criteria.

With the public expenditures of all kinds tightly reined during the period of transition, the percentage of specific regional incentives for less developed or demographically endangered regions, in GDP, went down from about 0.5 per cent in the eighties to less than 0.1 per cent in 1995 and 1996. The expenditures for the regional incentives per head in the recipient regions dropped from over 100 US\$ in 1988 to less than 20 US\$ in 1995. While the resources for specific regional incentives have decreased, the extent of other government interventions into the economy remains quite substantial. However, the main characteristics of these interventions have been the lack of co-operation and co-ordination between different government offices and ministries and the different levels of decision-making (local and national level). No clear set of criteria for these interventions into firms or regions have been established. There is no doubt that nearly all the interventions also have a regional aspect and impact, but rarely has this been explicitly pointed out or taken care of. Hence it is difficult to assess whether, or to what extent, the various measures have contributed to a more balanced regional development.

The problem of increasing regional disparities

A detailed socio-economic analysis conducted at the level of statistical regions for the period 1991-1997, together with the level of the new municipalities (for 1996 and 1997) shows that regional disparities are large and growing. This holds true for both demographic and economic indicators. (White Paper on Regional Development Strategy, draft 1999: 8)

Due to the lower birth rates and the negative net migrations in recent years, the demographic situation is declining throughout Slovenia. The overall population aging index was 76 in 1997, with very large differences between regions and municipalities: in some of the newer industrial towns it was only about 50, while in remote agricultural areas it reached over 100, and in some cases even more than 150. Regarding the rate of growth, the intensity of aging and the density of population, the disparities between the statistical regions and, even more so, between the municipalities, are great and increasing. The primary reason is that apart from the differences in birth rates, the scarcity of jobs in rural areas has for a long time been encouraging migration to other parts of the country. In some municipalities in the northeast and in the western parts of Slovenia, the population is actually dying out. (Ibid, p. 9)

Another issue - the problem of unemployment - that had been overlooked for some time, came to the fore in the period 1990-1997. During this time Slovenia was faced with many complex problems of transition: not only of the transition from a socialist to a market economy, and from a period of acute inflation to a stabilised economy (as in other post-socialist countries), but also from a regional economy inside a larger country to an autonomous national economy with all the state functions. Economic policy has given priority to the tasks concerning the formation of a political and administrative structure for the new state and to macroeconomic problems of transition, and paid scant attention to the regional problems. Like other post-socialist countries, Slovenia went through a very difficult initial phase of economic transition, characterised by a huge drop in industrial production and GDP and increased unemployment. In the period 1990-1993, GDP decreased by 20 per cent and the registered unemployment rate increased from 2 per cent in the period 1986-1990 to 14.4 per cent in 1993. So the emphasis of economic policy was on macroeconomic stability and on the measures to make an end to the drop in production and the rise of unemployment. Recovery began in the course of 1993, and continued in the following five years with an average rate of GDP growth of 3.8 per cent. However, unemployment levels remained high and became the most important long-term problem, with a very strong regional dimension. (Ibid, p. 9)

At present, two most severe regional problems in Slovenia are:

- unemployment (e.g. Pomurska, Podravska, Zasavska region); and
- depopulation (e.g. Pomurska, Posavka, Karst, Goriska region)

In the early 90s, Slovenian regions were categorised into four different groups according to the level of their economic development, economic structure, and the evaluation of natural, human, financial and infrastructure potentials:

- the *economically more developed regions*, with good prospects in economic structure and with positively evaluated development potentials: the Central region, the Coastal region, and the Gorenjska region
- the *economically medium developed regions*, with fair prospects in economic structure and a preponderance of positively evaluated development potentials: Savinjska, Dolenjska, Goriska region
- the *less developed regions* with economic potentials: Pomurska, Karst region
- *medium developed regions* with a problematic economic structure but with some positively evaluated development potentials: Podravska, Koroska, Posavska region, and Zasavska region.

The process of restructuring the economy and the transition from a socialist to a market economy has influenced the economic position of the regions in different ways. In the period since 1991, the polarisations of the Slovenian regions have become quite obvious: on one hand there is a group of three economically better developed regions, and two medium developed regions, whose relative positions have improved; while on the other hand there is a group of two less developed and four medium developed regions whose relative positions have worsened.

Based on the comparison of these two groups of Slovenian regions (one comparison made in 1991 and the other in 1997), the following can be concluded:

- The three more developed regions (Central, Coastal and Gorenjska region) have remained more developed and their relative position has improved; the relative position of the fourth (Goriska) region has remained more or less the same;

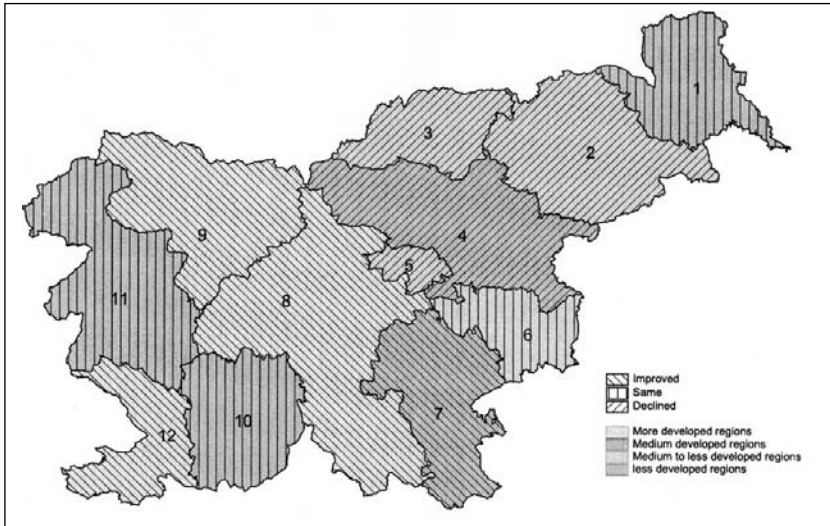
- Dolenjska region, which was a medium developed region in 1990, has used its development potential well and joined the group of economically more developed regions;
- Savinjska region, which was also labelled as a medium developed region in 1990, did far worse in the transitional period: its steelworks and heavy equipment production, as well as some other branches of manufacturing (textiles, furniture) declined into bankruptcy, and the rate of unemployment nearly tripled in only six years. This region, together with Podravska, Zasavska and Posavska region and the three less developed regions (Koroska, Karst and Pomurska) form the group of the regions whose relative position has worsened or remained the same. (Ibid, p. 10)

The relative position of all the economically more developed regions has improved while for all the economically less developed regions things have turned for the worse. The disparities between the more and less developed regions increased in the transition period, showing the same tendency as in other CEE countries. That also confirms the theoretical view that market forces by themselves increase rather than decrease regional disparities.

Concerning the regional disparities between the municipalities, there are insufficient data about them since the new municipalities were formed only in 1995. There are no time series available about the important economic indicators for them. From the limited number of indicators available we can conclude that the disparities between the municipalities are much greater than between the statistical regions. This holds true for the demographic data (growth rate, aging index, density of population) and even more so for the socio-economic indicators. The span in the aging index between the ten municipalities with the lowest aging index and the ten municipalities with the highest aging index is 1:2,5. The span in the unemployment rate between the ten municipalities with the lowest and the highest unemployment rate is more than 1:4. There are also some very small rural municipalities, which have little or no employers (enterprises), so it is not surprising that the disparities in the gross value added per person (which is an indicator of the economic power of the municipality) are very large, reaching a span of 1:30. On the other hand, the disparities in the gross basis for income tax per inhabitant (which is an indicator of the economic power of the inhabitants or the level of standards of living of the population) are much smaller, about 1:2,7, since the income position of the population in such small municipalities is better, often due to their employment in some other municipality (daily commuting). The disparities between municipalities are larger in the big and more

heterogeneous regions like the Central, Savinjska or Podravska regions and smaller in the small and more homogenous regions like Zasavska, Posavska, Karst and Koroska region. (Ibid, p. 11)

Figure 2: Regional disparities 1991-1999



1. Pomurska, 2. Podravska, 3. Koroska, 4. Stajerska, 5. Zasavska, 6. Posavska, 7. Dolenjska, 8. Central, 9. Gorenjska, 10. Karst, 11. Goriska, 12. Coastal

Regional development

Owing to the increasing regional disparities that developed during the period of transition, Slovenia needs an explicit and comprehensive regional policy. A special law promoting regional development was passed in the Parliament last year. From its inception, it was stressed that the principles, instruments and institutions of any new regional policy should be harmonised with the principles of the EU regional policy. In the new law there is a strong accent on the demand for co-ordination between the regional policy and other policies that influence spatial development (industrial, agricultural, transport, employment etc.) with regard to the principles, targets, strategies and instruments that need to be established. The task of co-ordination will be executed by the new Council for Regional Development.

The new regional policy goes beyond the demographically endangered regions. Three priority areas are defined, which correspond to Objective 1 and 2 areas and the border areas. According to the criteria in the new law, communities will be eligible for special regional incentives as border regions, or as structurally backward and economically weak regions (peripheral agricultural and mountainous, depopulating areas - Objective 1) or areas with old industry and a high percentage of unemployment (Objective 2). The aim of the new regional policy is to create an innovative regional milieu by promoting investments in education and training, research and development, the supply of business services, and investments in infrastructure. Thus the capacity of problem regions to absorb new production programmes, procedures and organisation will be increased. A special information system on all development incentives, which will also incorporate the regional aspect, will be set up in order to ensure a rational use of resources and to evaluate the regional impact of the incentives.

In Slovenia the Ministry of Economic Relations and Development is responsible for regional development. The administrative arrangements for this area are at an early stage of development with a low coordination between ministries, since no formal prescriptions have been made for interministerial coordination. As a result, such coordinating efforts are generally carried out on an ad hoc basis, depending on personal initiatives. On occasions, formal ministerial arrangements are made to specify the cooperation on issues of common concern. More efficient forms of cooperation in the area of regional development would require an improved exchange of information among local, regional and national authorities and the exchange of civil servants and experts.

However, the lack of an intermediate (regional) level of territorial organisation is the main obstacle to the realisation of the principle of partnership, since the local authorities in the municipalities are not strong enough for an active and equal partnership, either with the national authorities or the partners in cross-border co-operation, or with big business.

There is also a wide gap between knowledge and action in regional development. It has become almost impossible to convince different local, regional and national institutions, organisations and actors to accept substantial changes and to move in a certain direction and coordinate and synchronise their activities, due to their sectoral confines. Hence it is very difficult to initiate any change in the current development based on a longer-term vision.

As mentioned above, there is also a great difficulty in defining the consistent boundaries of regions for coordinated action, since the varying functional requirements (e.g. for public transit, waste disposal or water provision, economic promotion, etc.) require different regional boundaries. Administrative fragmentation may be seen as a disadvantage, which can be partly offset through the development of a sense of regional identity and a need for intermunicipal cooperation. If this is combined with the transfer of significant powers to regional level, conditions may become more favourable. To be optimally effective, administrative boundaries have to coincide with functional reality. Recognising this, Slovenia should favour the creation of a new regional tier to which both the state and the municipalities would transfer a substantial range of powers (it is expected that this would be opposed by many smaller municipalities on the grounds that such a regional authority would be dominated by more centralised policies).

Therefore, the recent reform of local self-government leaves a lot to be desired from the point of view of functionality and proper delineation of central and local administrative boundaries. In the next few years Slovenia will need to carry out a reorganisation of the whole administrative system and local government structure. Consensus will have to be reached about the formation of regions (districts, provinces), their functions and responsibilities. "Subsidiarity", as a new political and economic strategy, requires an intermediate level of decision-making and organisation to operate between the state and the municipalities. Regions, as wider self-governmental units and administrative districts, should be formed for the same territory. The rationalisation and decentralization of the state should run simultaneously and harmoniously. This is urgent, in order to counter the tendencies towards extensive centralisation, associated with inappropriate and detached decision-making at the state level, as well as to combat the counter-pressures for a complete decentralisation of government, which can result in ineffective self-interested parochial decision making (and resourcing) at the local levels. However, it is not expected that these issues will be resolved in the near future. Future socio-economic development patterns should be defined at that level, since most municipalities are small and with very limited capacities (human and financial) at their disposal. Until recently, the importance of regional institutional building was overlooked. For that reason, regional and subregional development agencies have been established with the task of coordinating all development activities in their area. With the new professional cadre, they will also assist municipalities in fulfilling their development goals. The wealth of the cities and regions will depend on the ability to jointly create

an economic and political climate that allows their businesses and industries to compete successfully in domestic and international markets. For this purpose, some regional institution will have to coordinate spatial planning activities at the regional level, too.

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LOCAL SELF-GOVERNMENT AND DECENTRALIZATION IN HUNGARY

*Introduction*¹

Hungary has a unitary system of government as a result of a series of legislative acts and reforms in 1990 and 1991. Hungary established the legal framework for a two-tier system of government, eliminating the middle tier of the government. By 1990 the number of local governments multiplied to 3154 (1999) from 1523 as many of the local councils broke themselves into discrete units. This was a political reaction to the forced amalgamation policy of the 70s. The 19 counties, the former middle tier, which used to be one of the strongest power centers still exist, but their responsibilities had been scaled back. The counties are now parallel authorities and unrelated to the localities. The local governments in Hungary have an average of 3482 inhabitants.

The Hungarian local governments are relatively small, and they have a wide responsibility. The local government system in Hungary is considered to be very fragmented, which causes a huge cost on the economy.

Hungary established a system where local governments are no longer agents of the central governments. The power of central government and the parliament are exercised through different laws. The ministries have no direct control over the local governments, and the enforcement of the laws and guidelines given to the local government is critical. The lack of the "co-ordination" among the ministries has led to situations where the sectoral law transfers tasks and responsibilities to local government without sufficient financial support. It is not rare that local governments are not able to provide services described by the law.

The government is presently discussing the future of the region. There is a six-year program for regional reform, which would lead to the creation of seven

¹The study gives an overview of the local government finance system in Hungary focusing on the most important problems the system face to after a ten years experience in a decentralized system. The study draws on the research report Metropolitan Research Institute has prepared in the last years, especially in the program of SNDP (Subnational Development Program) which was a joint effort of the World Bank and other donor agencies (USAID, British Know How Fund, etc.), and see especially Hegedüs (2000), Balás-Hegedüs (2000), Gurenko et al. (1999).

regions. One goal would be to create a regional structure which would be a locally elected level of government. However, in the case of the creation of regions, there is the questions of the continued existence and role of the counties. Is there room for three tiers of local elected government in Hungary? How would their roles and tasks be distributed, when the current role of the county is still unclear?

Local government elections²

Elections

The local election process are regulated by the Act No. LXIV of 1990 on the Election of the Local Representatives an Mayors. The most important organs of the local governments are the body of representatives and the mayor. Both of them are elected by the voters of the community.

Suffrage is universal and equal, and voting is direct by secret ballot. All Hungarian citizens have the right to vote in local election, and to be elected as local representative or mayor. Those, who are not Hungarian citizens, but have permanently settled in Hungary also have the right to vote. Those who have temporary residence and demand it before the ballot can vote at the temporary residence instead of the domicile.

Since 1994 the mayors of all local governments are elected directly by the voters. (Before 1994 the mayors of the settlements with more then ten thousands inhabitants were elected by the body of representatives.)

The system of election of the body of representatives are differ in the small and the large settlements. The body of representatives of the settlements with less than 10000 inhabitants are elected in a short ticket system. Such municipality forms one constituency and elected three to thirteen representatives, depending on the number of inhabitants of the settlement. All voters can vote for as many candidate as many the number of representatives will be in the body.

In the larger settlements and in the districts of the capital the body is elected in a mixed system. A portion of the body is elected by individual constituency (appr. 66%), and the rest receive their mandate from party lists. The number of mandates in the body of representatives depend on the number of inhabitants of the municipality, and defined by the law.

²This chapter draws on Horvath M. (2000).

The General Assembly of Budapest are elected directly from party list. In this context Budapest is considered as one constituency.

All the candidate need nomination of the voters, regulated in the law (between 1-3% of the voters), to be listed as candidate.

Direct Forms of Democracy

The Act on Local governments define three forms of direct democracy: local referendum, public initiatives and the public hearing. Those have the right to take part in local referendum and public initiatives, who have the right for vote in the local elections.

Local referendum is legal if more the 50% of the voters take part in it, and the referendum is successful if more than 50% of the participants vote for the winning option. In settlements, less then 500 inhabitants the local referendum can be hold directly in the village meeting, if more than the 50% of the voters take part in it. Within a year a new referendum cannot be hold in the same topic.

Local referendum must be hold in case of merging or separate settlements, establish new communities, establish or separate joint representative bodies, and all the matters determined by the statutes of the local government. Cannot be hold on the decision concerning the local government budget, local taxes and rates, organizational, personal and operational matters, or the declaration of dissolution of the representative body.

Local referendum is called by the body of representatives of the local government. It can be initiated by the quarter of the representatives, by a committee of the body of representatives, or by the executive body of a local civil organization, or by the 10-25% of the voters, as determined in the statute of the local government.

Public initiatives serve to bring local matters to the body of representatives, that fall within their competence. If five to ten percent of the voters (depend on the local statute) initiate a matter, the body must hold a debate on that topic.

Public hearing must be hold at least annually by the body of representatives. Citizens and representatives of local interest groups have the right to take part on it and have a voice in and make proposal during the hearing.

Local government territorial organization

Hungary has a unitary system of government finance as a result of a series of legislative acts and reforms in 1990 and 1991. Hungary established the legal framework for a two-tier system of government, eliminating the middle tier of the government. By 1990 the number of local governments multiplied to 3154 (1999) from 1523 as many of the local councils broke themselves into discrete units. This was a political reaction to the forced amalgamation policy of the 70s. The 19 counties, the former middle tier, which used to be one of the strongest power centers still exist, but their responsibilities had been scaled back. The counties are now parallel authorities and unrelated to the localities. The local governments in Hungary have an average of 3482 inhabitants.

The Act on Regional Development and Regional Planning was passed in 1996. The goal of this law was to ensure that Hungarian regional policy is compatible with the EU system of goals and instrument for development. The law itself is quite general, and the details are being ironed out in practice and through implementing regulations.

The government is presently discussing the future of the region. Today there are 7 statistical regions, and there are seven Regional Developing Councils with limited authority. There is a six-year program for regional reform, which would lead to the creation of seven regions. One goal would be to create a regional structure which would be a locally elected level of government. Part of the focus on creating regions is to be able to channel EU structural funds. However, in the case of the creation of regions, there is the questions of the continued existence and role of the counties. Is there room for three tiers of local elected government in Hungary? How would their roles and tasks be distributed, when the current role of the county is still unclear?

Legal competence of local self-government

The LG Act of 1990 defined the economic bases of local governments, the expenditure and revenue assignment.

Fragmentation

The Hungarian local governments are relatively small, and they have a wide responsibility. In Europe there are two types of local government systems: the northern European type with large local governments, but with wide range of

responsibilities, and the south European type with small local governments with narrow responsibilities. The local government system in Hungary is considered to be very fragmented, which causes a huge cost on the economy .

Hungary established a system where local governments are no longer agents of the central governments. The power of central government and the parliament are exercised through different laws. The ministries have no direct control over the local governments, and the enforcement of the laws and guidelines given to the local government is critical. The lack of the "co-ordination" among the ministries has led to situations where the sectoral law transfers tasks and responsibilities to local government without sufficient financial support. It is not rare that local governments are not able to provide services described by the law.

Hungarian local governments are not agents of the central politics, but the politics has always tried to intervene into the local issues. The centralist tendencies exist in government based on the view that "local government have more freedom than is necessary". In the intergovernmental fiscal system, the grant allocation based on discretionary decisions gives room for political interventions.

Local public services (expenditure assignment)

The size of the overall public sector is large in Hungary, compared with other European countries. General government expenditures (including social security) were about 51 percent of the GDP in 1995 (10 percentage points lower than in early 1990s), and 46 % in 1998. The government plan is to reduce it to 40 % by the year of 2003. The local government revenues have decreased from 16,1 % of GDP to 12 %, in the period of 1993-1998, which is a 35 % decrease.

The Local Government Act of 1990 transferred a number of important public functions to lower tiers of government. Some tasks are considered mandatory: provision of safe drinking water, kindergarten education, primary school instruction and education, provision of basic health and social welfare needs, public lighting, maintenance of local public roads and the public cemetery, enforcement of the rights of national and ethnic minorities.

The largest expenditure category is education, which accounts for 33 % in 1992, and 36 % in 1997. Primary education is mandatory for all localities. Secondary, technical, and vocational schools, while not mandatory, are typically financed by county governments or larger towns. The second biggest item is the health sector (20 % in 1992 and 22 % in 1997), but LGs act as agents of the National Health Insurance Fund in providing health services, including hospitalization - in the larger towns. Services are determined by the national government, and local governments are reimbursed for the cost of providing services and medicine. Investment outlays are also a local responsibility, though financial support is available from central investment grants. With the transfer of communal housing and other assets to localities, maintenance on houses and properties has become a local responsibility. Considerable responsibility for administrating social welfare and several forms of social assistance has also been delegated to localities through the Law on Local Self-Government and the more recent Law on Social Assistance (1993). Responsibilities include the management of long-term social care facilities, such as homes for the elderly and for the handicapped.

The local government tasks have changed in the past few years as a consequence of the sectoral laws and regulations. But the main responsibilities of local government are not going to change as it shows in the Table 1. In the last years the sectors' shares in the local government expenditures have not changed very much.

• **Table 1 Local government expenditures in 1992 and 1997, (in %)**

	1992	1997
Education	33	36
Health	20	22
Social security and welfare	6	7
Housing and water	5	6
Transportation and communication	6	2
Current expenditures	84	83
Capital expenditures	16	17
Total expenditures	100	100

Sources: Ministry of Finance, and Ebel, Várfalvi, Varga, 1998

There is a good deal of flexibility in service delivery. The law has not defined either the minimum service delivery requirement, or how local services are provided. There are different institutional options for service delivery. The local government non-budgetary institutions have a significant role in local government finance system. There are different forms, such as local government owned public companies, limited liability or share holders companies, NGO-s founded by local governments, and private companies owned partly or regulated by local governments. They have off-budget expenditure and off-budget revenues as well. The size of the off-budget revenues is estimated to 10-30 % of the total local government budget. (Hegedüs, 1999). According to a recent study local government owned enterprises have a net turnover of 40 % of the local government total expenditures. (Hertelendi-Koppányi, 2000)

Local governments despite the fiscal squeeze managed to maintain acceptable local service delivery, but localities had to adjust to the changing financial environment. One of the most important factors in the efficient adjustment process was the **wide scope of expenditure decisions** transferred to local governments. It is true that there were several cases when this freedom led to mismanagement of public resources but the overall effect was a more efficient public sector. The other factor which explains why the net decrease of LG sector revenue did not lead to a more critical situation was the "reserves" the old system accumulated in inefficiency. (See Six city report, MRI/UI 1999).

The definition of tasks in the Law on Local Self-Government gives a wide room for local government to define the quantity, and the quality of the services, and even the way how it is organized (contracting out, privatization, public-private partnership). This feature of the law and the flexible revenue structure **make the local government adjustment possible.**

The reformers believed that the free association and cooperation of the local governments will gradually solve the problem of the fragmented system, but these processes took place very slowly. There is little or no willingness among local authorities to cooperate among themselves to provide efficient local services; furthermore, the Local Government Act does not oblige or encourage inter-municipal cooperation or association. The local government transfer system does not address the problem of the inter-juridical spill-over, and gives space for the non-cooperative behavior. There are attempts to set up a strong second tier of local government in order to have a more efficient local government system, but this is a subject of political negotiation.

The freedom of expenditure decisions is controlled by the sectoral legislation and the supporting grants system. The sector laws redefine the local government tasks. The interest of the sector policy makers to increase their share in the budget plays an important role in proposing modifying the sector laws. For example, the "Water Lobby" fights to redefine waste water service as mandatory task, which - probably - would mean that central budget should finance the investments in waste water treatment plant under the supervision of the sector ministry. This is an example when the sector ministry cooperates with the local government sector against the other sectors.

The mandatory and optional tasks of local governments were defined in the Act on Local Governments but they are continuously being modified by the latest laws and regulations: Act on the Budget, Bankruptcy Act, Social Act, Housing Act (arrangements for constraint investments), Act on Public Education, etc. Thus a **"quiet" reform is taking place in public finance.**

Sector laws could redefine the local government tasks in other ways. For example, the proposal for the Law on Waste Management (to be discussed in this year by the Parliament) intends to take the waste management for business units out of the hand of local governments, which could cause a financial problem for local governments because of losing the advantages of the "economics of scale" and the possibility of cross subsidy.

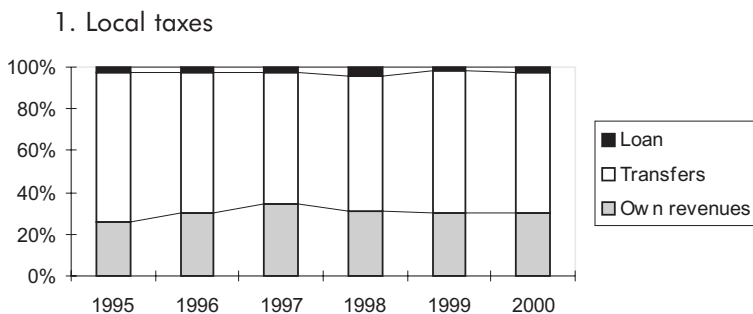
Housing is another example. In the new housing policy in 1999 the central government wanted to give more responsibility to local government in managing the housing subsidy program. The proposal would give a matching block grant to local government for support in local housing sector. In the budget negotiation the local governments rejected this proposal arguing that they did not have own resources to supplement the central grant.

In 1995 central government (which sets general policies in the area of social expenditures) decided to reform the health delivery system and to reduce the hospital capacity to around 10000 beds, as a first step toward rationalization of the supply of curative health service. However, the local governments are the owners of several hospitals, therefore, on constitutional grounds, they are the only ones which ultimately have to approve the reduction in the number of beds in their own territory. The local governments have resisted the closure of hospital beds, creating a delay in the reduction in hospital capacity.(Lutz, etal, 1997, p 164)

One of the critical issues in the expenditure assignment is the distribution of responsibility between the counties and the municipalities. Municipality may oblige a county to take over institutions with territorial duties. It was part of the adjustment strategy that municipalities transferred educational and social institutions to the county because of the financial burden of the service provision. This change forced the central government to intervene into the grant system to provide resources for the counties to fill the gap between the state normatives and the actual cost the service provision generates. The task and the ownership of the service (for example the ownership of the building) is separated, which leads to distortions.

Local government finance and economic resources (revenue assignment)

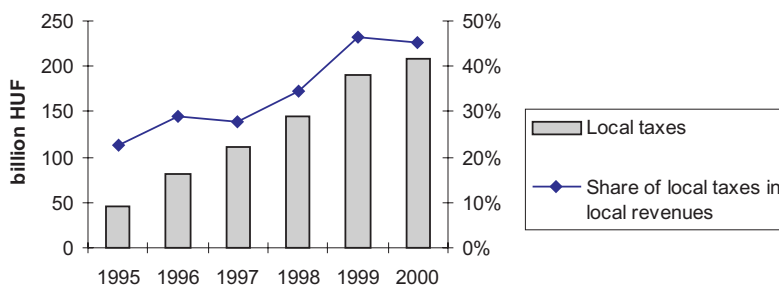
The Local Self-Government Act provides for a range of revenue sources to finance local government functions. The **local revenues** (accounted for 26-35 % of the total revenues in the last 5 years) include: five *local taxes* (tax on business, tax on plots, tax on buildings, tax for communal services, and a tax on tourism), *user charges*, and revenues from entrepreneurial activities, from the disposition of rental and commercial properties, and from assets. The **central government fiscal transfer** (accounted for 63-71 % of the total revenues) includes normative grant, and several targeted matching grants and non-matching grants for investments. The local government can borrow to finance investments and to meet overdrafts or budgetary shortfalls, its share has not become substantial. The structure of the revenues (share of own revenues, transfers, and loan) proved to be quite stable in the last 5 years, while the whole intergovernmental fiscal system - as we will show - has been modified frequently.



• **Figure 1 The revenues of the local governments³**

³Data for 1999 is preliminary, data for 2000 is expected. The source: Budget Data in Consulting, 1998, and Puskás, 2000. Int paper, the budget tables and figures use the same resources.

The Act on Local Taxes defines the municipal taxes. The 1990 Act assigns five taxes to local government: i) the business tax; ii) the communal tax (i.e., a poll tax and/or payroll tax); iii) the urban land tax; iv) the property tax on buildings; and v) the tourism tax. In practice, local governments must decide, at their discretion and by resolution of their respective councils, which of these taxes they want to levy in their jurisdictions. The respective tax bases, tax rates and tax exemptions as established by the central government.



• **Figure 2 Local taxes in the own revenues**

The number of municipalities that levy at least one of the local taxes has increased each year. In 1999, 84 percent of municipalities levy at least one tax, compared to 73 percent in 1996. The two taxes which are most commonly levied are the business tax (almost 1,900 municipalities) and the communal tax on private persons (more than 1,600 municipalities).

Table 2. Local taxes collected by Hungarian local governments, 1998

Tax type	Number of local governments	tax revenue	
		amount (billion HUF)	proportion (%)
Property tax housing	215		
Non-housing	633	13	522* 10,0*
Plot	388	1958	1,5
Communal tax private	1525	2443	1,8
Corporate	825	1161	0,9
Tourism tax	482	2115	1,6
Business tax	2527	113652	84,3
Total	2672	134851	100,0

Source: *Ön Kormány* (March, 1999)

Note: * The two types of taxes on buildings taken together

Business tax is a gross turnover tax levied on manufacturers. Retail sales are not covered by this tax. The maximum rate is set by the CG. The business tax may be levied on all enterprises, public and private, on gross sales revenue net of the VAT and other consumption taxes. **Communal Tax** can be levied on household dwellings (owned or rented) and on businesses. The **land tax** applies to urban land only and is levied on the property owners of idle (unimproved) lots. Its maximum tax rate is Ft. 200 per m², or 3 percent on the "corrected value" of the plot. The corrected value is given by 50 percent of the "assessed value", as determined by the local government. The assessed value is supposed to reflect the actual market value of land. Local governments can legally levy **property taxes on privately-owned buildings**, such as flats, single family houses, summer cottages, garages, storehouses, workshops, and other residential housing. They can also levy taxes on commercial and industrial property. The tax may be levied on area size (m²), or on the corrected value (see above) of the property. The maximum tax rates as established by the Central Government are HUF 900 per m², or 3 percent of the "corrected value". The current **tax on tourism** includes rents, guest nights, and summer cottages. The maximum rates as established by the CG are HUF 300 per night for guests or 4 percent on the rental fee or and HUF 900 per m² for cottages.

The total local tax revenues are quite low, not more than 7.5 % of the CG tax revenues (VAT, PIT, corporate tax and consumer tax) in 1999. 85 % of Hungarian LGs levied taxes in 1998, but the majority - that is 84 % - of the local tax revenues comes from the business tax. Generally local government do not tax households, 6-8 billion HUF local tax is paid by the household sector, which equals to the amount the household sector pays for cigarette (7,5 billion in 1998).

User charges, fees

User charges and fees refer mainly to the users and fees collected by local government institutions and public utilities, such as fees for meals in schools and nursery schools, fees for use of public place, parking fees, but the main revenues come from rents, user charges for garbage collection, gas and water supply. However, the collection of user fees is generally the responsibility of the institution (mayor's office, budgetary institution, public utilities or enterprises) that provide these services. From the point of view of local government revenue structure, the user charges and fees collected outside the mayor's office and the budgetary institutions are off-budget revenues and they are not shown in the LG

budget. (In this case there is only one budget item, the subsidy - if it exists at all - that relates to the charges.) So, for example, parking fees could be part of the LG revenues, if they are collected by the budgetary institution, or could be off budget revenues if collected by an enterprise owned by the local government. The organizational structure of service delivery defines how these data are accounted for.

Local governments have the autonomy to set their own user charges and fees for public services like water, sewage, housing, district heating, garbage collection. However they have no discretion setting fees in education, social and health services. User charges (for water, garbage etc.) are generally agreed upon by the board of directors of the different companies, public enterprises, or mixed enterprises, where the local government is the main owner or shareholder. In the case of services given in concession to the private sector, adjustments in charges are agreed on with the local government. Therefore, in principle, local governments may recover the full cost of service provision.

Revenues from sales of local government assets

On the basis of Asset Transfer Law (1991), from the beginning of 1990 and through 1995, considerable assets were transferred to the local governments: (i) primary assets necessary for the functioning of the local administration, basic education, health and social services, which may only be sold in a limited way; (ii) assets related to the provision of network and infrastructure public services; (iii) publicly-owned housing; and, (iv) other assets to compensate municipalities for original ownership stakes of former council companies.

It is not easy to evaluate the effect of the property transfer to intergovernmental fiscal relation. The assets transferred could be managed by off-budget institutions (limited liability companies, foundations, etc.), which could generate revenues spent on services outside the LG budget.

Revenue from local government property, as a share of total LG own revenues are substantial - 32-35 % - in 1995-97, and there is a decrease in 1998, showing that this was a "one time revenue".

• **Table 3 LG revenue from assets in billion HUF, 1995-2000**

	1995	1996	1997	1998	1999	2000
Selling physical assets	43699	42968	51242	51404	53000	47100
as % of total revenue from assets	63,0%	47,5%	36,1%	72,4%	75,7%	85,5%
Selling shares	19757	27332	81251	15665	12000	7000
as % of total revenue from assets	28,5%	30,2%	57,3%	22,1%	17,1%	12,7%
From privatisation	5938	20064	9258	3969	5000	1000
as % of total revenue from assets	8,6%	22,2%	6,5%	5,6%	7,1%	1,8%
Total revenue from assets	69394	90364	141751	71038	70000	55100
as a % of the total own revenue	34,0%	32,2%	35,2%	16,7%	17,0%	11,9%
Total own revenue	203946	280706	402218	424718	410693	461850

Sources: Budget

Critical issues

The standard criticism against the Hungarian intergovernmental fiscal system is the low share of own revenues. However, in Hungary the education, social welfare, health etc., have a dominant role in local government tasks, which explains the importance of the transfers providing horizontal equity. Access to these services should not depend on the revenues capacity of the local governments. (Davey-Péteri, 1999, 52) Therefore it seems to be an illusion to increase the share of own revenues radically.

The **inner structure of the own revenues is much more problematic**. The role of the revenue from asset sales raises some concerns. First of all, this is not a long term source as it was shown above. Secondly, assets have been distributed very unevenly among localities, which forced the CG to increase the effect of equalization grant, and intervene into the transfers system. The problem was not just the inequality, but much more that no information was available about the size of the distortion caused by this element. The third problem with this revenue source is the lack of accountability to the voters. The LG managers consider this revenue as their own success, which does not need public control in the same way as the tax revenues.

The real value of the assets of LGs are not properly calculated. This is a very complicated issue, because the market values and the book values are very different. The official estimate is 1 800 billion HUF (in 1998), but there was an estimate which stated a figure of 6000 billion HUF.

Asset management is a critical point. It always has risks even in a moderate business policy. For example, the management of Budapest Municipal Government was criticised to sell shares of the biggest Hungarian company (Matáv) when the market was down.

Increase in own local revenues implies encouraging municipalities to levy local taxes. The most frequently implemented local tax is the business tax, which is very unevenly distributed among municipalities. Encouraging greater local revenue raising could work against another objective, that of equalization. Equalization concerns have come to the fore in Hungary due to the unequal distribution of the personal income tax (discussed later). Two-thirds of the revenue from this tax is raised in Budapest.

The **business tax** comprises 80 percent of total local taxes, which although not a long-term solution to municipal revenue requirements, has increased the accountability of local governments to the taxpayer, and has thus begun involving them in the decision-making process. However, this has been limited to a narrow group of potential taxpayers, i.e., entrepreneurs, businesses, and industry. Another disadvantage of the business tax is that taxing business too heavily may discourage investors. Therefore there is pressure to increase exemptions, which, in turn, leads to inequity across the tax base. It must also be noted that while the business tax is often portrayed as being a way of avoiding taxing households directly, in fact, the cost is ultimately borne by the consumer. Hence, it is usually a regressive tax. (Garzon, 1999)

The central government tries to centralize the local business tax revenues or a part of it. According to the proposal the local business tax (which is 202 billion HUF in year 2000) would be collected by the state tax administration and would be redistributed to local governments partly on the origin bases. There are strong counter arguments against this attempt as it punishes local government which used this tax as a part of long term development strategies giving exemption for new business development. Furthermore, it is really a "badly designed" tax causing a lot of distortions.

Also, it is also evident that there is a need for modernization of local taxes. For instance, the property tax (PT) in practice is based on the physical *size* of the properties rather than their *market value*. In addition, the property tax is primarily levied (if at all) on non-residential property. Clearly, there is a need to expand the PT tax base to residential property, among other things, through the elimination of tax exemptions, particularly those that refer to "living-space" and newly built flats. Furthermore, the vehicle tax, which is a national tax shared with local governments, is based on the weight of the vehicles rather than their market value.

However, the uneven distribution is further compounded by the choice of municipality to levy the business tax as the preferred local tax source. Business tax capacity is likewise concentrated in the same municipalities and regions with above average PIT payments. As the business tax is not mandatory, using this revenue in an equalizing mechanism could discourage municipalities from levying the tax.

According to the Property Transfer Law local governments were given the assets. The most important assets were housing and non-residential properties (offices, land) and public works. There was a debate whether these are liabilities for the local government or they are real assets. In the beginning, most of the municipal companies (public works) were loss making organization because their fee structure did not make cost recovery possible, but in the long run - as a result of the adjustment process -- increased user charges changed the situation. However, the arrears issue (contingent liability) is an issue even today.

Municipalities received considerable equity through municipal and related acts, so that they could perform their tasks, primarily public services. The question how much is this equity and what is the most effective way of making use of it is of key importance. The assets of local government could be a dynamic source of new revenue for local governments. But there is no useful information about the distribution of the local assets, which means that this became an important factor for the regional inequality. (The book value information is not proper for basing the equalizing grant system on it)

The conflicts between the two levels (central and local) of government was particularly sharpened by the political cleavage in 1990-94. But even after the 1994 election when this cleavage disappeared the fight over the privatization revenue became an important political issue.

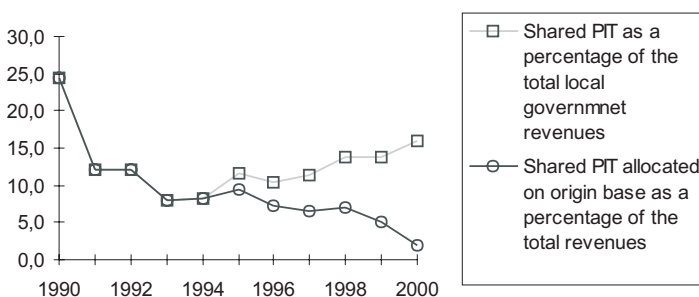
Intergovernmental Transfers

Intergovernmental transfers provide about 64 % of the total LG revenues, which was equal to 867,6 billion HUF in 1998. The transfers are categorized in the budget as shared revenues, normative grants, earmarked grants (grants for theaters), special grants (deficit grants), etc. From the analytic point of view we can differentiate between the derivation based tax sharing and the different grants (which can be earmarked or not, allocated on formula based or ad hoc).

a. Shared taxes

In establishing municipal revenue sources, two national taxes were designated for sharing: the personal income tax (PIT), the motor vehicle tax (from the analytic point of view, even the Duty tax can be classified as shared tax.)⁴.

The PIT is shared based on the locality of residence of the taxpayer, but is distributed with a delay of two years. The percent share of PIT allotted to municipalities, and the rules for distribution is modified annually in the State Budget Law. In 1990, 100 percent of PIT was allocated to municipalities; since then this share has been reduced to 40 percent. Up to 1994, the full share of PIT was allocated directly on the basis of residence. Since 1995, the PIT has gradually evolved toward an additional form of normative grant and equalization grant, with ever more complicated rules for its distribution and an additional share allocated to counties.



• **Figure 3 Change of the significance of the Shared PIT in the LG revenues**

⁴ Duty fee was close to 40 billion HUF in 1998. The revenues was allocated to finance the county local government and the municipal government of Budapest.

The figure shows that PIT used to play a significant role in LG revenues, but its share decreased from 24 % to 2 %, which means that basically this type of transfer has been eliminated. In the year of 2000 only 30 billion HUF is budgeted for shared PIT.

The reason for this change was - according to the official view -- that PIT increased the horizontal inequity. But it seems not to be the whole explanation. The total expenditures of the LG sector has been decreased by 21 % between 1994 and 1998 in real terms (Davey-Péteri,1999,p.55).To force LGs to adjust their expenditures from local governments which had more room for manoeuvring should have taken resources away. Transfers with derivation origin gives less opportunity for CG to exercise fiscal pressure, and this was the main reason why shared tax does not exist.

The shared PIT always contained equalization part. Local governments having PIT revenue less than the minimum stated in the Budget Law had a **PIT supplement**. As this minimum was set quite high, most of the small local governments were eligible for this grant, which means that this is a per capita grant for most of the local governments. PIT supplement is given to the local government where the per capita share PIT is under the 90 % of the average per capita. **The local governments above this standard are not equalized down.** The local governments below this standard are effected. 85 % of the local government get this supplement, which means that 85 % of local government were not interested in PIT collected in their local government. In 1997 95 % of the local governments were entitled to the PIT supplement.

• **Table 4. The significance of the PIT supplement**

	1991	1992	1993	1994	1995	1996
Minimum for villages (HUF/capita)	3.200	4.300	3.400	3.936	4.828	4.509
Minimum for towns (HUF/capita)	5.000	6.000	4.650	5.400	6.623	5.400
PIT supplement (billion HUF)	6,93	7,3	6,48	6,561	7,8	6,5
PIT sharing rate (%)	50	50	30	30	35	25
Revenue from shared PIT	47	63	49	61	82	70
Total revenues (billion HUF)	417	556	565	619	843	934

Source: Municipal Budget Tables

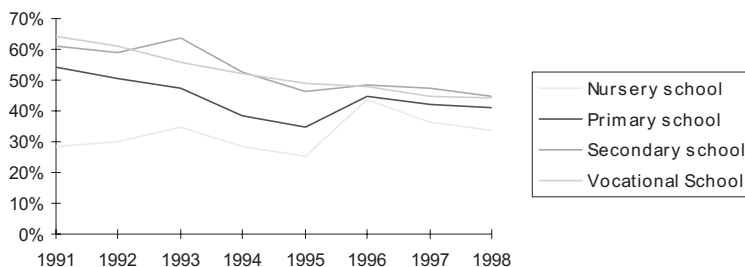
According to the table the 9-12 % of PIT is distributed to local governments with below-average tax capacity (per capita revenue) to enable them to achieve 90% of the national average.

b. Grants

The intergovernmental transfers consist of different types of grants. The grants are different according to allocation principles (formula or ad hoc), matching rules, whether they are earmarked or not, etc. In the budget under one heading there are different types of grant mixed, which in itself is an indication of one of the weak points in the Hungarian grant structure.

The largest transfer from the central government to municipalities is the **normative subsidy**. The real value of normative subsidies has declined over the period, as well as its share in local government budgets, from 42 percent to 28 percent of current revenues between 1993 and 1998. There are currently four types of normatives included within the normative subsidy: (a) per capita grants based on population, which are a proxy for service needs; (b) grants for core services, based on the number of beneficiaries; (c) capacity normative, such as on the number of beds in homeless shelters;(d) matching grant for tourist tax.

The largest amount (two-thirds in 1998) of the normatives is distributed based on education criteria and the second largest for social welfare tasks. The criteria and types of normatives have been subject to annual adjustments. There was an attempt to simplify and reduce the number of normatives in 1995-96, but subsequent modifications have only further complicated the system. The calculation has become less transparent, with some elements of previous normatives currently distributed separately under the shared personal income tax.



Source: Miklós Balogh (2000)

• Figure 4 Grant/cost ratio in education between 1991-1998

Revenues of the normative grant are not earmarked in principles. But in the case of beneficiaries grants where the grant/cost ration is lower than 1, the grant is earmarked. This is the case for example with the grant tied to education. The Figure 4 show that the grant/cost ration has been around 40-50 %. The normative grant system is calculated on estimated indicators of local need mostly for the sectors of education and social welfare. Their value has come to represent less and less of the cost of providing the services on which their calculation is based. Municipalities are required to make up the difference from other revenue sources, which ultimately reduces funds available for other priorities, and especially investment.

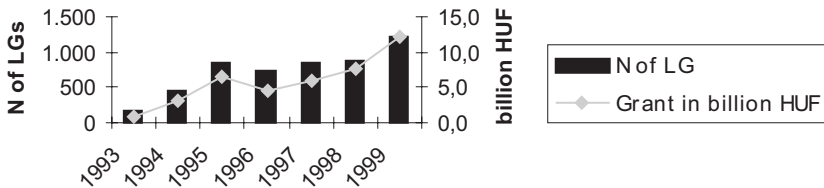
The amount of other transfers from the central government and the State budget have increased considerably over the period. Their share in total revenues has been within a range of 20-24 percent, and in current revenues, from 25 to 29 percent. The largest of these transfers is the **social security transfer** for health care which is sent directly to the health care institutions.

The other earmarked transfers are a collection of a number of disparate grants, including the theater subsidy, the municipal fire department subsidy, supplementary grants for education, the earmarked decentralization fund, the deficit grant and centralized allocations.

Centralized allocations are an additional type of normative, earmarked subsidy which finances a number of specific tasks. These include ad hoc grants and matching grants, and the funds distributed in this manner are quite significant, 30-50 billion HUF. The targets are determined by central government or Parliamentary priorities for local government actions.

Horizontal equalization is an important issue in the intergovernmental finance system. There is no standardized budgetary scheme to equalize the fiscal capacity and the expenditure need of the local governments. However, there are several intergovernmental grants which have an equalization effect more on an ad hoc basis. For example, PIT supplement (discussed above) from the beginning has been revenue equalizing, while the normative based on general need criteria or formula using fiscal capacity variable (as the social policy normative) - equalizes the expenditure needs. In the case of the capital investment grants the equalization is as important as in the case of expenditure finance. A specific equalization grant were used between 1991-1996 was used by the Ministry of regional Development, but in 1996 it was gradually decentralized to the County Development Agencies.

In 1999 a new grant was introduced "**grant to equalize fiscal capacity**", which allocated 38 billion HUF (1999) and 44 billion (in 2000). This grant basically works in the same way as the PIT supplement, that is, equalizes the revenue capacity from the local business tax. It calculates the tax capacity of the local government and supplements up to a normative level. The total local business revenue in 1999 was 171 billion HUF, with the grant it was 209 billion HUF, that is 21 000 HUF/capita. The norms were different according to the type of the settlements (villages 12 500 HUF, cities 16 5000 HUF, county seats 17 700 HUF and capital (with its districts) 20 000 HUF). This grant basically neutralizes the effect of the local business tax using a grant which is 22 % of total revenues.



• **Figure 5 Number of local governments and cost of "deficit grant" program**

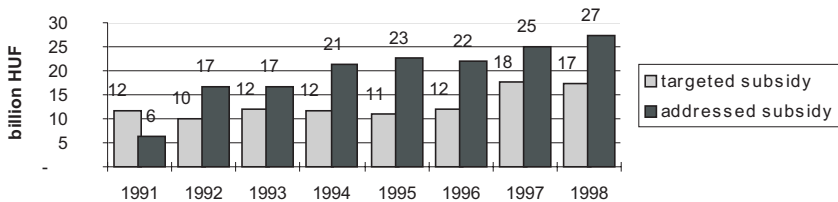
Deficit grant is for "local authorities incurring deficits through no fault of their own". The number of beneficiaries has increased rapidly over the period. In 1997 approximately 840 local governments (including a number of counties) received close to 6 billion HUF, compared to 1230 local governments which in 1999 received two times more than before, that is, 12 billion HUF. The distribution of this grant is based on revenue and expenditure estimates of the municipality, and its functioning both discourages additional effort to raise own local revenues, and rewards inefficient expenditures. The deficit grant in principle is a normative grant with objective criteria for allocation (not discretionary). But in practice the rate of acceptance is changing (both in terms of the number of applicants and the sum they asked for). In 1998 50 percent of the money asked for was transferred to the local governments.

Budapest has more than two million inhabitants which represents one fifth of the total population of Hungary. There are 23 districts and Municipal governments with special revenue sharing procedures. The law on the capital (1991) and its amendment (1995) regulates a quite **radical revenues sharing procedure**. (Ebel, Simon, 1995) The Municipal Government and the district government with regard to their municipal rights are equal. The capital municipality is

responsible for performing duties which concern the whole city (urban transportation, urban planning, public work and housing policy). The municipal government, however, has neither regulating nor supervising role over how districts perform their own duties. The act on the capital declares the revenues sources which have to be distributed among the Municipality and the districts: 1. PIT 2. normative grants based on the total population, 3. local business tax. The revenue pool is used as a gap-filling grant to LGs in proportion to its fiscal need and the revenues tied to this need. It means that equalization spread out to the revenues and tasks included in the scheme. The fiscal need is measured by the service level and its normative cost estimates, and the revenues as user charges, central grants tied to the services. The total revenue redistributed is 52 % in the case of districts, and 46 % in the case of the Municipality of the total operational cost. The effectiveness of resource reallocation is questioned by the uneven distribution of the property stock (the latter is not subject to redistribution, although a version of the capital act would have ordered the redistribution of the yield of properties), and the strikingly uneven geographical distribution of capital investment, which is not part of the equalization procedures.

Addressed and targeted subsidies increased to 52.3 billion HUF in 2000. These subsidies back up municipal investments in priority areas, identified by Parliament annually (clean drinking water, sewage, education and health care), though in very different forms. In case of **targeted subsidies** the share of subsidy - as a percent of total investment costs - is set in each specific target area while addressed subsidies are discretionary decisions and often provide nearly 100% financing. **Addressed subsidies** were originally introduced to finance the continuation or completion of huge regional developments (hospitals, waste water plants) that had begun before the new decentralized municipal system. These objectives seem, however, to have been modified and addressed subsidies have been granted for new investments too, making the program economically unjustified. The volume of the two kinds of subsidies is defined by the annual budget law.

Separated funds of the sectoral Ministries are another source of investment financing. Since mid-1996, the **grants for regional development** are distributed through the County Regional Development Councils (CDC). Three types of grants are available to municipalities through the CDC's: regional equalization grant, development subsidy and earmarked decentralization fund. Local investment priorities are set by each development council.



• **Figure 6 Targeted and addressed subsidy in billion HUF between 1991-1998**

Critical issues

From the local government point of view, grants can be characterized by two criteria. The first is the level of spending flexibility enjoyed by the local government. The two extremes of this characteristic are general purpose and earmarked grants. The second characteristic relates to how the grant size is determined. On the one side of this continuum are formula-driven grants, whose size is limited by certain objective parameters of the recipient, which are beyond the local government control. On the other side are discretionary grants, the size of which is not capped and, to a certain extent, depends on local government investment and service delivery choices. The rigidity of the grant allocation mechanism can be determined by the amount of grant allocations falling into each of the four categories. In general, the larger the percentage of grant distributions that falls in a formula-driven-earmarked category, the more rigid is the grant allocation system. **From 1993 to 1998, there was a significant shift from a general purpose grant allocation system toward a more rigid task financing system.** If in 1993, 37.3 percent of all grants were unconditional general purpose grants, in 1998 their share dropped to 23 percent.

The size of central government transfers and grant allocation rules is subject to annual budget negotiations, which makes any local long-term financial planning impossible. The fiscal autonomy of local governments is frequently compromised by sectoral grant allocation policies and sometimes by direct political intervention through discretionary grants. Central government in the budget negotiation implicitly calculates with the expected change of local government's own revenues (for example in year 2000 the expected revenue from privatization of Gas Work) and the central government reduces the grants

according to this expectation. Nevertheless, in the discussion of predictability it is important to take into consideration that the last ten years was the period of structural changes at each sector of the economy. These changes inevitably had to have an effect on the intergovernmental grant system.

• **Table 5 Distribution of Grants by Major Categories (% of total transfers)**

	1993		1998	
	General Purpose	Earmarked	General Purpose	Earmarked
Formula-driven grants	37.3	56.0	23.0	70.0
Beneficiary and Discretionary grants	-	6.8	-	7.1

Source: Gurenco-Hegedus-Kovács, 1999

The grant system is very complicated, as it is an outcome of the compromises among different stakeholders in the system. The complications are related to the intention that the grant express the real expenditure needs as closely as possible, and give incentives to the actors providing services in a proper way. In practice, it gets so complicated that the decision makers at institutional level do not follow the intentions of the sectoral policy (in the case of education, the number of normatives has been increased to more than 20).

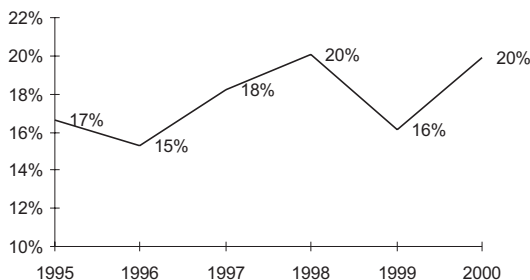
The "deficit grant" program has been frequently seen as distortional since it encouraged many local governments to seek the solution of their fiscal problems in claiming "deficit grants" rather than through local reforms. Although the amount of deficit grants remains relatively small (around 0.1% of GDP in 1999), the number of local governments applying for these additional grants has increased to almost 35 percent of all municipalities, indicating serious flaws in the current design of the transfer system. The problem with the deficit grant is that it has discretionary elements, and gives sometimes bad incentives as well, and fosters the "rent seeking attitude" of local governments.

c. Local government capital investments

In 1990, local governments in Hungary became responsible for the investments in the areas they are responsible for according to the expenditure assignments. These represented huge investment needs in areas of infrastructure and

environment, especially in respect of EU accession. However, local governments had to make up for deferment in capital investment. Local government investments have remained quite stable in the last years, between 15-20 % of the total expenditures.⁵ But because the local government share in the GDP has decreased, their investment share decreased as a percentage of GDP, as well.

We have to note that "off-budget" local government investments have not been shown in Figure 7. While local governments have spent 2.2-2.5 % of GDP annually on infrastructure investments, municipal public service enterprises have carried out investments of an additional 1.5 percent of GDP. With respect to their sectoral contribution, in the basic activities municipal companies' investments accounted for 30 percent of the total sectoral investment. In the Supplementary service sectors this proportion equalled 20 percent. Companies in which municipalities have shares carried out investments in an amount of more than HUF 400 billion (nearly 5 percent of GDP). Out of these investments 31 percent was undertaken by gas and electricity companies and 38 percent by companies operating in other business services. Basic and supplementary public service companies invested nearly HUF 130 billion in 1997 (1.5 percent of GDP). Within supplementary services, telecommunication accounts for more than half of the investments. In the case of basic service companies, the distribution of investments is more even within the various sectors. District heating, sewage and waste treatment take up on average 12-13 percent respectively, water management and local transport account for 25-29 percent of the total basic service investment. (Hertelendy and Kopányi, 2000)



• **Figure 7 Local government investments as a percentage of total expenditure in 1995-2000**

⁵ In year 1996 the lower level of investments can be explained by the "Bokros pack" (austerity program, and higher figure for year 1998 is explained by the election.

The main source of financing local government investment is revenues from property (sale of assets), the grant from central government, loans and "operating surplus". Table 6 shows how the role of different financing sources has changed.⁶. The revenue from local government asset sales was the main source in the year of 1995-1997, when it accounted for 60-80 % of the total investments. From 1997 its share has been decreased. The second most important source is the capital grant, which accounts for 16-25 % of the total investment. The data show some of the distortion in local government investments. First of all, the property sales can not be a long term source, and as it was distributed unevenly among the local governments, it contributed to the growing disparity among the different settlement types. Loan had a very limited role, which shows that the municipal credit market has not played the role expected.

• **Table 6 The financial source of the local government capital investment in 1995-2000**

	1995		1996		1997		1998		1999		2000	
	in b.	in b.	in b.	in b.	in b.	in b.	in b.	in b.	in b.	in b.	in b.	in b.
	HUF	HUF	HUF	HUF	HUF	HUF	HUF	HUF	HUF	HUF	HUF	HUF
	in %	in %	in %	in %	in %	in %	in %	in %	in %	in %	in %	in %
Capital investment	136,1	100,0	143,7	100,0	216,9	100,0	279,7	100,0	237,0	100,0	314,4	100,0
Revenue from property	80,3	59,0	107,1	74,6	175,2	80,7	105,1	37,6	50,7	21,4	94,9	30,2
Loan	19,7	14,5	14,3	10,0	17,6	8,1	43,4	15,5	12,0	5,1	21,3	6,8
Capital grant	24,2	17,8	24,0	16,7	38,1	17,6	50,6	18,1	55,6	23,4	70,1	22,3
"Operating surplus"	11,9	8,8	-1,7	-	-13,9	-	80,7	28,8	118,7	50,1	128,2	40,8

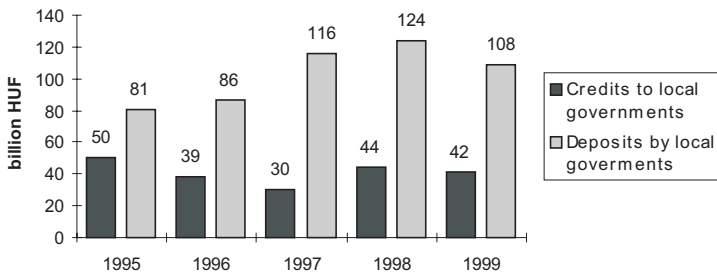
d. Local government capital market

According to the LG Law of 1990 local governments are in principle free to finance their budget deficit through capital market. Evolution of the municipal credit framework in Hungary may be divided into two general phases. In the first phase, from 1990 to 1995, there were no formal central rules which constrained local government borrowing - no debt service limits, no reporting requirements, no separate specifications for the issuance of municipal bonds. The controls on subnational borrowing essentially operated (or did not) based on market discipline.

⁶The data do not show exactly the financing source for investment because some part of the revenues could be used for operating expenditures. But it shows the main trends.

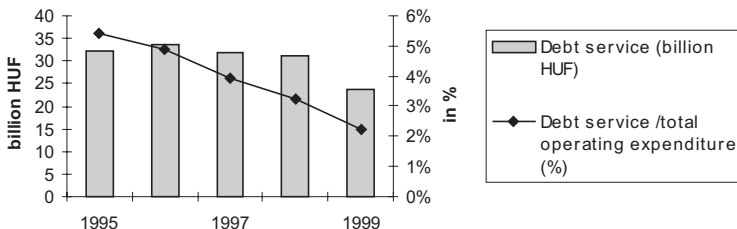
The possibility of credit sector has not been utilized by the local government, the main reason for which is not the supply side regulation, but much more constraints on the demand side. Local government financing choices for investments were determined by two other factors. The first is the availability of a large number and amount of central government grants, targeted by sector and type of equipment. This has led most municipalities to engage in "grant-maximization" behavior. The second factor was the large share of revenues generated from the sale and privatization of municipal assets.

The outstanding loan to the LG sector have contracted even in nominal value, but in real value the outstanding loan is around 40 % of the figure in 1995. The deposit has decreased as well in real value, but nominally the LG sector is a net depositor.



• **Figure 8 Loans and deposits by the local government in 1995-1999**

To measure the role of the credit market in term of the debt service, the conclusion is the same. The debt service was 5 % of the total expenditure in 1995, but it decreased to 2 %. One of the reasons was that the revenue from asset sales was used for repaying the outstanding loans.



• **Figure 9 Local government debt service in 1995 -1999**

Regulation of local government borrowing and the eventual consequences of municipal default were implemented through three measures: (1) a debt service limit for local governments was introduced in 1996; (2) the Municipal Debt Adjustment Act (1997) and (3) the Securities Act includes rules on issuance of municipal bonds (1997).

Debt of the local government is defined to include loans, bonds, guarantees issued on behalf of third parties and lease agreements. Annual debt service is limited to 70 percent of corrected own current revenues. Own current revenues are defined to include local taxes, duties, interest revenues, environmental fines and other own revenues. This definition excludes revenue of institutions (rent, user fees) although these are also included in local government budget tables as part of "own local revenues". Own local revenues are "corrected" by subtracting the amount of short-term liabilities, (not including cash flow credits which are used to ensure funding of local government operations). Data on the current status of local government debt service indicate that for 1997 local governments reached over 20 percent of their available debt service limit and close to 30 percent in 1998. This data does not include guarantees and leases, so the level of available borrowing capacity is even lower than can be directly estimated. (Pigey, 1999)

The centerpiece of the new municipal borrowing framework is the **Municipal Debt Adjustment Act**, Law XXV of 1996, in effect from about mid-1996. The law defines a debt adjustment process, whose objective is to allow local governments to regain their financial health while at the same time protecting the rights of creditors. The provisions of the Municipal Debt Adjustment act are quite sophisticated and impose a definite financial and moral cost on local governments who default on debt or other payments.

Issuance and trading of local government bonds are regulated by the Securities Act, which came into effect in 1997. Public offerings require the publication of a prospectus and bond offer announcement, both of which are subject to approval of the Supervisory Commission. The Securities Act does not regulate private placement of municipal bonds (the most common form for local governments to date). The Supervisory Commission has introduced specific regulations: (i) the minimum amount of a private issue must be HUF 5 million; (ii) investors must be specified in advance (with a letter of intent); and, (iii) a brokerage firm must be employed in the transaction. The issuance of bonds by municipalities is very

undeveloped. Limiting factors include the lack of regulations (until passage of the Securities Act), lack of a secondary market, and the higher costs associated with issuing bonds. Since 1992, there have been a total of 24 bond issues, with all but two private placement issues.

Meeting the demand for sub-national investment finance

The local government investment data show a cyclical element tied to timing of the elections, which demonstrates the political interest in developments. The furniture investment needs are related to the fact that the renewal of municipal property has been delayed, and the quality of public services has deteriorated. According to reports dealing with the issue, municipal investments were much below replacement rates. The municipal assets accounted for 1800 billion HUF in 1998 (which is more a book value evaluation) or 6 000 billion HUF, the replacement cost would be around 3 %, which is less than investments in 1998 (279 billion HUF).

The local government (and its municipal companies) investment needs are very high, to meet these need new sources of resources is needed. In environmental sector (water and waste management) the estimated investment needs in relation to the EU integration strategy are estimated to 1200-2000 billion HUF, which represents 12-20 % of GDP (in 1998). The investment strategy of the second half of the 90s will not be sustainable in the future to satisfied the local government investment needs.

There is a financial gap the investment need of the LG and the present possibilities. In the economic sense three possible **final** resources are the following: 1. EU grants, 2. User charges, 3. Tax revenues (central and local). Of course user charges could be play a role if the banking system or the private companies are willing to finance the investments. A recent World Bank study made clear forecast for the future resource structure of the local governments investments.

The World Bank projection is the local government municipal enterprises will play more role in local investment finance. They investment will double as a share of GDP, while local government investment will increase by 36 %. What is important from the intergovernmental fiscal relation, that borrowing will play a much important role than today, that is will finance local investment as 2.5 % of the GDP. (At present it would mean around 250 billion loan issued to local government and public utilities. The real question is **the ability to pay** by the user of the services invested in.

• **Table 7 Local Investment Finance (as a percentage of GDP)**

	Local Government		Public Utilities	
	1997	2003	1997	2003
Total Investments	2,2	3,0	1,6	3,2
Investment finance: Savings (current revenue - current expenditure)	0,8	0,8	-0,3	0,2
External resources:	1,4	2,2	1,9	3,0
EU grants	0	0,8	0	0,7
Central Grants	0,5	0,7	0,6	0
Asset sales	1,6	0,2	0	0
Borrowing	-0,7	0,5	1,3	2,0

Source: World Bank SNDP report, 2000

The fiscal pressure on local government sector will continue. Local governments will be forced to continue their adaptation strategy. There is a danger that the continued change in the intergovernmental fiscal relation will halt the decentralization process, and will force local governments into **the role of agent of the central government**. Its effect will be that the "grant maximizing" attitude will be dominant, and the danger of moral hazard will increase.

Hungarian intergovernmental finance system played an important role in the transition, but as a result of continuous reforms it has been over-regulated with the partial, uncoordinated modifications. The reform steps attempted to solve the most urgent short term problems with the aim of optimizing the position of the central government. It was basically successful, but started to ruin the framework of the efficient adjustment process. There is a need for a coherent reform program in the area of intergovernmental finance.

One of the most important elements in the reform is the grant structure. The **grant structure** for the expenditure for the service delivery should be radically restructured. More simple -- formula based - grants should be introduced, where the interest of the sectors will be provided through a block grant design. (This was proposed by Davey-Péteri, 1999) The grant design should be based on the local own revenue capacity (not just local tax) and the expenditure needs. In this system the role of deficit grant will be more important, as it is the only way to compensate the special cases. The disincentives should be built in to avoid moral hazard behavior.

The reform should include the **revision of sector strategies**. The government has to revised sectoral strategies in the view of the decentralization, making clear task assignment and estimate the real investment need and its financial sources. Parallel with this steps, it is very important to make decision about the nature of the second tier.

Local situation of minorities

Political changes in the past decade and the democratization of the country affected minority policy a great deal. Although some of the changes were not particularly visible, they meant a significant change in the area. During the years of state socialism there was great silence about minority questions which affected Hungarians living outside the borders of Hungary and minorities living within the country as well. Hungary did not have a minority policy; neither did it serve as a 'mother nation' (country of origin) as a result of the internationalist politics. Officially four minority groups were registered in Hungary in this period: German, Slovakian, Romanian and South-Slavic (Yugoslavian) which included Croats, Slovenes and Serbs. Gypsies were not considered an ethnic or national minority, but rather a social category. No minority law existed which would have served to protect the rights of people who fell victims of a non-violent, but purposeful assimilation.

With the new atmosphere of democratization in the 1980s, the problem of Hungarians in minority position (primarily as a result of the more and more worrying situation in Romania), and the issue of minorities within Hungary became a topic of discussion. A myriad urgent questions arose that had been swept under the carpet, expecting immediate solutions. It was the founding of the **Ethnic Board** (Nemzetiségi Kollégium) in 1989 which meant the first milestone, followed by the National and Ethnic Minority Secretariat quickly after, necessary because the first did not have decision making competence. The Secretariat was the first to take on the 'minority question' formally and officially. In 1990 the National and Ethnic Minority Institute took over the role of the Secretariat and the handling of minority issues. In the same year a Minority Codex was drafted to regulate minority rights. The common institute of national councils was founded in 1991, named as the Minority Round Table, including 13 minorities by this time (Ruthenians and Ukrainians did not form separate groups, but at that time Jews still took part). After a long debate the Minority Law was passed by the Parliament in 1993, which received ambivalent reactions from the minorities. In 1994-95 local and national minority self-governments were set up following elections.⁷

⁷Kende-Szilassy p. 2

According to the Constitution of the Republic of Hungary, national and ethnic minorities living in Hungary are constituent components of the state and have a share in the power of the people. The Republic of Hungary provides protection to national and ethnic minorities. It guarantees them the right to collective participation in public life, the fostering of their culture, the wide usage of their mother tongue, mother tongue education, and the use of names in their own language." (Paragraphs 1-2, article 68 of the Constitution). In full harmony with the endeavours of minorities to attain autonomy, Parliament in 1993 passed Act LXXVII on national and ethnic minority rights

The rights of minorities are reinforced by several parliamentary acts. The most important are the Act LXV of 1990 on Local Self-governments (ALG) and the Act LXXVII of 1993 on National and Ethnic Minorities (ANEM).

The ANEM defines which minorities - because of their numbers and the tradition in Hungary - have the right for self-government. These are the Bulgarians, the Gypsies, the Greeks, the Croatians, the Poles, the Germans, the Armenians, the Rumanians, the Ruthenians, the Serbs, the Slovenians and the Ukrainians.

The right for ethnic identity is declared as human right, that is the rights of the persons and the communities also. The declaration of belonging to a national or ethnic group is only the decision of the persons. The law accepts the double ethnic identity too. Those Hungarian citizens have the right to formulate ethnic self-government, who consider themselves belonging to an ethnic minority and declare their identity with the participation in the election of the ethnic self-government.

Minority self-governments run at national and local level. There are three methods to formulate local minority self-government, but there is no difference in responsibilities of these self-governments.

A municipal government may declare itself a minority government if more than half of its elected representatives are of a certain national or ethnic minority. This form of minority self-governing can be seen as a form of territorial autonomy of the minority.

If more than thirty percent of the local representatives are of the same minority, they indirectly may form a local minority government comprised of at least three members.

Local minority government may also be elected directly by citizens; the rules for such elections are stipulated in Act No. LXIV of 1990 on Local Government Election. This form of minority government elects its own officials. The election of this form of local government is demanded at least five voters of the settlement, who declare their same ethnic identity.

The Act on Local Government Election defines special method to ensure the local representing of the minorities. It says, that if non of the candidates, who was stand by minority groups win a mandate in the local assembly, then all the minorities can get a mandate if the number of votes for one of their candidates reach the half of the votes, that where enough to win a mandate. All the minorities can win only one mandate in body of representatives according to this method, and this mandates are added to the number of representatives in local body.

The scope of the authority and responsibility of the minority local governments are defined in the ANEM. Their main duty is to represent the interest of the minority. In some decision they have sovereignty, in other issues they have veto rights in local government decisions, or in some questions least have voice in the local decisions.

They have sovereignty in self-governing matters, including the foundation of minority institutions, e.g. schools also. Minority governments have right to veto in local issues that affect them as minority like questions affecting their cultural rights, e.g. appointment of directors of minority institutions. In making decision concerning issues such as education, the media, local traditions and culture, and language use, the local government must obtain agreement with the local minority government of the concerned ethnic group.

The actual content of the constitutional fundamental right of self-governance as granted to ethnic minorities is comprised of the right of self-administration of self-governments in the areas of education and culture. In this area the minority self-governments participate, through exercising the so called co-administration competencies and powers in the performance of the local education administration tasks and through their rights to establish institutions or take over institutions they may maintain (primarily education) institutions themselves.

A municipal government that maintains minority institutions - particularly education institutions of minority (ethnic) nature - should respect the rights of minorities, all the more so, since the exercising of the so called 'co-decision' competencies or powers is not aimed to reduce the autonomy of municipal governments, instead, it is aimed to improve the quality standards of the performance of local public affairs in the broadest sense of the term.

In the lack of minority government the minority can elect a speaker to represent their interests. If the speaker is not elected in the body of representatives, he or she has the right to take part in its sessions.

The main minority issue in Hungary is not the local situation of the minorities, but the question how to represent the minorities in the Parliament. The issue of parliamentary representation had been a matter of constant discussion since the changes, an issue still not solved. In 1998 the Parliament rejected the proposal presented to them.

The main problem in local level is the cooperation between the local governments and the local minority governments, especially in the field of financial cooperation. Operational disturbances in budgetary management have a substantial influence on the relations between municipal governments and local minority self-governments. Despite the sector laws contains detailed regulation about the fields of budgeting, accounting and monitoring of the minority governments, it seems that these regulation gives no clear guideline for the cooperation of the local and minority governments. Most of the conflicts origin from the different interpretations of the laws. A separate law is needed on the relations of municipal governments and minority self-governments and their necessary co-operation - including the areas of co-operation in budget management - which would clearly specify the fundamental rights and obligations of the two subjects at public law, clarifying the fundamental concepts and would provide answers to the most important practical questions.

Minority self-governments are still often facing efforts doubting even their very legitimacy, aiming to complicate or even prevent their operation (primarily on the part of certain municipal governments). Despite the fact that the relevant statutes of law more or less definitely lay out the obligations of the local municipal governments with respect to the operation of minority self-governments, municipal governments are not often willing to implement the provisions of the law.

The code on minorities hopefully soon to be adopted could for instance specify though the various minority self-governments may be provided with direct central budgetary funding to finance the performance of minority public affairs and minority public service provision and how they could use the support by the state through public foundations.

Finally, attention should be drawn to that there are increasingly marked efforts and increasingly definite arguments concerning that a territorial (county or regional) minority self-governance level should be developed which should be capable along with or independently of country minority self-governments of performing specific tasks of minorities - primarily secondary level education of minorities - an of maintaining the required institution system. This would of course be impossible without effective state support in this case, wherever a state public task would be taken over by the various minority (ethnic) self-governments.

Appendix: Background tables

• Table 8 Local government revenues, 1995-2000, in billion HUF

	1995	1996	1997	1998	1999	2000
Own	203 946	280 706	402 218	424 718	410 693	461 850
Revenues	25,8%	30,0%	34,8%	31,4%	29,8%	30,5%
Transfers	564 646	632 498	726 192	867 623	943 058	1 015 711
	71,3%	67,6%	62,9%	64,1%	68,3%	67,1%
Loan	23 218	22 778	25 984	61 012	26 000	36 300
	2,9%	2,4%	2,3%	4,5%	1,9%	2,4%
Total	791 810	935 982	1 154 394	1 353 353	1 379 752	1 513 861

Source: Budget data, for 1999 preliminary data, for 2000 expected

• Table 9 Local government expenditures in 1992 and 1997, (in %)

	1992	1997	1999
Education	33	36	33
Health	20	22	19
Social security and welfare	6	7	7
Housing and water	5	6	6
Transportation and communication	6	2	1
Other (administration)	14	10	13
Current expenditures	84	83	79
Capital expenditures	16	17	21
Total expenditures	100	100	100

Sources: Ministry of Finance, and Ebel, Várfalvi, Varga, 1998, Budget data for 1999, Ministry of Finance

• **Table 10 Personal Income Tax, a shared revenue, 1991-2000**

Year	PIT (two year earlier)	PIT to local governments				Shared PIT as a percentage of the total local government revenues	Shared PIT allocated on origin base as a percentage of the total revenues
		in %		million HUF			
		on origin bases	redistributed	on origin bases	redistributed		
1990	74 530	100,0		74 530	74 530		24,4
1991	94 038	50,0		47 019	47 019		12,1
1992	125 972	50,0		62 986	62 986		12,2
1993	163 177	30,0		48 953	48 953		8,0
1994	204 327	30,0		61 298	61 298		8,2
1995	267 517	29,0	6,0	93 631	77 580	16 051	11,5
1996	281 317	25,0	11,0	101 274	70 329	30 945	10,5
1997	356 979	22,0	16,0	135 652	78 535	57 117	11,4
1998	447 725	20,0	20,0	179 090	89 545	89 545	13,9
1999	499 660	15	25	199 864	74 949	124 915	13,8
2000	605 785	5	35	242 314	30 289	212 025	15,9

• **Table 11 Local Government Accounts, 1993-1998 (%of GDP)**

	1993	1994	1995	1996	1997	1998
Total Revenues	16.1	15.9	13.6	13.0	12.8	12.0
Own Current Revenues	3.0	2.8	2.6	3.0	3.3	2.9
Revenue Sharing with Central Govt.	1.4	1.5	1.7	1.6	1.7	1.9
Transfers from Central Govt.	7.7	7.3	5.7	5.0	4.3	4.2
Transfers from Other Public Sector	2.8	2.9	2.4	2.4	2.4	2.2
Capital Revenues	0.7	0.9	0.8	0.6	0.6	0.5
Other Revenues	0.5	0.5	0.4	0.4	0.5	0.3
Total Expenditures	17.2	17.4	13.9	13.0	13.1	12.7
Current Expenditures	13.5	13.7	11.5	10.9	10.5	10.2
Capital Expenditures	3.1	3.3	2.4	2.1	2.6	2.4
Other Expenditures	0.6	0.4	0.0	0.0	0.0	0.1
Balance	-1.1	-1.5	-0.3	0.0	-0.3	-0.7
Net Financing	0.5	1.0	0.2	0.3	0.3	0.4
Privatization Revenues	0.2	0.3	0.5	0.7	1.0	0.5
Net Borrowing	0.3	0.7	-0.2	-0.4	-0.7	-0.1
Residual Balance	-0.6	-0.5	-0.1	0.3	0.0	-0.3
Memo item:						
Borrowing/Borrowing Cap (in %)	117	167	81	27	19	30

Source: Ministry of Finance

• **Table 12 Municipal Assets (1991-1997) millions HUF, 1998 prices**

	1991	1992	1993	1994	1995	1996	1997
Immaterial assets*	2144	1992	2451	3260	2666	2407	2622
Material assets	1179162	1239850	1226047	1226983	1023452	909708	896412
Invested financial assets	33619	657144	743472	824992	675689	734968	608495
Assets transferred for operation and management	0	0	157929	177537	143004	120212	125378
Total invested assets	1214925	1898986	2129899	2232773	1844811	1767295	1632907
Total current assets	320578	319035	284672	270965	265505	315256	400416
Total assets	1535503	2218020	2414571	2503738	2110315	2082551	2033323
minus: liabilities	-45288	-61956	-95207	-169014	-129247	-105315	-100434
Total assets	1490215	2156065	2319364	2334724	1981069	1977236	1932889

Source: Ministry of Interior, APEH-SZTADI (National Tax Office)

Note: * Immaterial assets: leases, right to use land, concession rights, etc.

• **Table 13 Local taxes, 1991-1999 in billion HUF**

	1991	1992	1993	1994	1995	1996	1997	1998	1999
Building tax	200	2119	2294	3255	4145	8313	10752	13056	16620
Land tax	15	394	474	710	813	1296	1717	1811	2260
Communal tax - entrepreneurs	646	933	1222	1200	1075	1174	1178	1161	1350
Tourist tax - "bed tax"	270	455	510	745	768	1505	1878	2147	2390
Tourist tax - building	92	400	407	309	363	461	524	637	824
Local business tax	2300	12510	21632	27237	38452	66130	93133	124316	171470
Other	5451	390	-	-	-	-	-	-	-
Total local taxes	9478	17221	27089	46383	46383	80371	111162	145826	198360

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Inge Perko-Šeparović

THE REFORM OF LOCAL SELF-GOVERNMENT IN CROATIA

Introduction: country background

Until 1991, the Republic of Croatia was one of the federal republics of the Socialist Federative Republic of Yugoslavia (SFRY). After the first multi-party elections held in May 1990, a multi-party Parliament was formed (the *Sabor* of the Republic of Croatia) which on 22 December 1990 adopted the Constitution of the Republic of Croatia. The adoption of the Constitution ought to have been the beginning of a process of establishing a constitutional and legal order as the only way to emerge from the state of anomie which was the result of the disintegration of the Yugoslav community and of the destruction of the legal order established in the Constitution of SFRY of 1974 and the constitutions of the Socialist Republics adopted in the same year. The political relations with SFRY, however, continued to be very tense due to the threats by the Serbs and the Yugoslav Army to make a coup, and the refusal to accept the Draft Contract on the Alliance of Yugoslav Republics which Slovenia and Croatia offered to other Republics within SFRY. On 21 February 1991, the Sabor of the Republic of Croatia passed a Resolution according to which all federal laws were pronounced invalid in the territory of the Republic of Croatia unless they were in conformity with the Constitution of the Republic of Croatia. On May 19, 1991, a referendum was held in which 84.94 % of voters went to the polls, of whom 93.94% supported the sovereignty and independence of the Republic of Croatia. Enforcing the decision made in the referendum which by the Constitution was binding on all government bodies, on 25 June 1991 the *Sabor* adopted a Declaration proclaiming a sovereign and independent Republic of Croatia and passed a constitutional decision on sovereignty and autonomy. Throughout this period, armed conflicts between the rebellious members of the Serbian national minority and the Yugoslav National Army on one side and the Croatian armed forces on the other side intensified. Trusting the international community, Croatia believed that a peaceful separation was possible. With the so-called Brijuni Declaration of 8 July 1991, Croatia accepted a moratorium on any further

proceedings and documents for a period of three months. During this moratorium, the aggression on the Republic of Croatia became more and more intensive and almost one quarter of its territory was occupied. It was accompanied by extensive destruction and a large number of victims. After these three months, on 8 October 1991, the Sabor of the Republic of Croatia adopted a Decision on the termination of all legal ties on the basis of which, together with other republics and provinces, Croatia had constituted what had then been known as SFRY. The Republic of Croatia was recognised by the international community on January 15 1992 on the basis of a decision of the European Union whose example all other states then followed. On May 22 of the same year, Croatia was admitted as a full member of the United Nations.¹

During the period from 1990 to 2000, the dominant political party in the Republic of Croatia was the Croatian Democratic Union (HDZ), a party characterised by an emphasis on national sovereignty and the national state, a lack of confidence in the institutions of civil society, resistance to the international community and constant attempts to establish political/party supervision of the institutions belonging to the legal and political system of the Republic of Croatia. Ten years of autocratic rule by the HDZ resulted in international isolation, recession, structural crisis and the lack of confidence of citizens in government institutions.

Although the decentralisation of public administration and independent and impartial judiciary are necessary preconditions for the democratisation of the Croatian society and the inclusion of Croatia into regional and global associations, during the last decade, however, the concerted efforts of the ruling regime aimed, with unfortunate success at exactly the opposite direction: toward the total centralisation of public administration and toward inefficient judiciary.

After the parliamentary elections of 3 January 2000, the democratic parties, the so-called "Oppositional Six", took over the governance of the country². They formed a coalition government. In two runoffs of the presidential elections held on 24 January and 7 February 2000, a candidate of the opposition also won, Stjepan Mesić, of the Croatian People's Party.

Although the change of government in the parliamentary and presidential elections created a new political and social atmosphere, the serious

¹ Source: Smerdel, B. in Sokol, S./Smerdel, B.: *Ustavno pravo*, Informator, Zagreb, 1997.

² The parties which constitute the so-called "Oppositional Six" are the Social-Democratic Party of Croatia (SDP), the Croatian Socio-Liberal Party (HSLs), the Croatian Peasant Party (HSS), the Liberal Party (LS), the Croatian National Party (HNS) and the Istrian Democratic Diet (IDS).

consequences of war activities and the authoritarian manner of ruling the country will affect Croatia much longer: the economic and social conditions are very serious, the state institutions do not function properly, major violations of human rights have taken place, the media have been controlled, corruption is present in all segments of society, the legal profession and the system of legal education are in a state of crisis, and legal conscience has not yet developed. Very important is also the fact that power has been taken over at the highest level of representative and executive authority, whereas other levels have largely remained unchanged. Therefore, the realisation of the political will of the government to democratise the country and start the process of European integration requires the participation of all the relevant factors of social and political life in Croatia.

Reform of local self-government in Croatia

The organization and the competencies of local self-government in the Republic of Croatia are based on the provision of Article 126 of the Constitution of the Republic of Croatia of 22 December 1990 in which citizens are guaranteed the right to local self-government.

In December 1992, the Parliament of the Republic of Croatia passed four main laws by which the system of local self-government is established.³ On the basis of these laws, the first local elections were held in February 1993, and in the course of the following two months, the local representative bodies were constituted and the new system of Croatian local self-government started functioning.⁴

The basic local self-government units in Croatia are communes and towns⁵. All these municipalities belong to counties, which are both the units of local administration (this means that some affairs of state administration are carried out at their level) and self-government. The capital of Croatia, Zagreb, is excluded from such an organization of local administration and self-government: it represents a separate and an integral territorial and administrative whole and has the status of a county.

³The Law on Local Self Government and Administration, Law on Territories of Counties, Towns and Communes in the Republic of Croatia, Law on Election of Deputies of Representative Bodies of Local Self Government and Administration Units and Law on the City of Zagreb.

⁴ The legislation of local self-government was completed during 1993 by two other important laws (Law on Financing the Units of Local Self Government and Administration and Law on Determination of Scope of Activities of Local Self Government and Administration Units.

⁵ Hereinafter, the common name 'municipalities' will be used for communes and towns.

Territorial Structure

The Law on the Territories of Counties, Cities and Municipalities laid down the territorial structure of local self-government in Croatia in the Republic of Croatia of 1992 (it was amended five times) and by the law of the same name of January 1997 (this law was also amended twice). The system of local self-government is based on a large number of relatively small communes and on a formal, but not substantial, differentiation between rural (communes) and urban local units.

The system of local self-government is based on a large number of relatively small communes and on a formal, but not substantial, differentiation between rural (communes) and urban (towns) local units. At the present, there are 122 towns and 422 communes as units of local self-government that belong to 20 counties as units of local self-government and administration. The City of Zagreb is excluded from such a territorial structure and its status is regulated in a separate law.

Towns and Communes

According to the Law on Local Self Government and Administration, the status of a town may be given to a settlement, which is the seat of a county, or a settlement that has more than 10,000 inhabitants. In addition, not only the narrower city centers but also outlying settlements may be included, which constitute a natural, economic and a social whole with that particular city based on the everyday needs of the population. The Law also provides for the possibility to proclaim a place to be a town, even if it does not satisfy these conditions but if there are special reasons for such a decision (historical, economic or those concerning traffic). In implementation this exception has become the rule because from the existing 122 towns, only 41 (34%) satisfy the basic legal criteria concerning administration and population. Another 30 towns (25%) managed to satisfy the population criterion in that the population of an urban settlement included also the population of the surrounding, rural settlements. The remaining 51 settlements (41%) were given the status of a town for some special reasons. The result is that until today, in the category of towns as units of self-government, extreme differences are encountered in terms of the number of inhabitants.⁶

⁶ On the one side there are three towns (Split, Rijeka, Osijek) with more than 100,000 inhabitants, and on the other, five towns (Cres, Komiza, Novalja, Starigrad and Vis), which have fewer than 3,000 inhabitants.

The Law envisages that the communes are, as a rule, established for the territory of several settlements, which make a natural, economic and social whole. However, this rule has not consistently been followed in practice, so that there are as many as 35 communes (8%) that encompass only one settlement, whereas on the other side, we have 9 communes (2%), which encompass more than 40 settlements.

The number of cities and communes in the Republic of Croatia has changed since the passage of the Law because some rural settlements were given the status of a commune, and a large number of communes were given the status of towns. By 2000, the number of towns and communes had increased by 11%.

Table 1 Communes and Towns in the Republic of Croatia

Year	Communes				Towns			
	Units	Index	Inhabitants	Index	Units	Index	Inhabitants	Index
1992	418	100	4.734	100	68	100	28.124	100
2000	422	101	3.627	77	122	179	20.353	72

Such a trend of an increased number of communes and towns has reduced their average size and the number of inhabitants. This atomisation has resulted in an increased number of communes whose finances, staff or organization are not capable of rendering local services. Although there is a formal distinction between communes and towns as rural and urban local units, this distinction in the Croatian system of local self-government has not been carried out in a consistent manner. The differences in the competencies of these units are very small, and the supervision of the county bodies is equally complete and intensive, so we can say that their status is not made equal. Such equalization has affected first of all larger towns, whose independence and self-government is tailored to the measure of small rural communes. This problem is intensified by an increase in the number of towns and by the transformation of individual communes into towns, whereby the differences among towns have grown while their status has remained the same.

Counties

The whole territory of the Republic of Croatia is divided into 20 counties that are the units of administration and self-government. The areas of the counties are primarily determined on the basis of administrative criteria, whereby the natural

and historical boundaries of Croatian regions are neglected. There are significant differences among the counties in terms of the area, the number of citizens and the number of local self-government units they include.

Table 2. Counties in the Republic of Croatia⁷

County	Territory (in sqkm)	%	Inhabitants ⁸	%	cities	%	communes	%
I. ZAGREBAČKA	3077,66	5,44	282.989	5,89	8	6,56	26	6,16
II. KRAPINSKO-ZAGORSKA	1230,02	2,18	148.779	3,10	7	5,74	25	5,92
III. SISAČKO-MOSLOVAČKA	4447,91	7,87	287.002	5,98	6	4,92	13	3,08
IV. KARLOVAČKA	3621,83	6,41	174.054	3,62	5	4,10	16	3,79
V. VARAŽDINSKA	1260,53	2,23	187.343	3,90	6	4,92	22	5,21
VI. KOPRIVNIČKO-KRIŽEVAČKA	1733,73	3,07	129.907	2,71	3	2,46	21	4,98
VII. BIJELOVARSKO-BILOGORSKA	2637,78	4,67	144.042	3,00	5	4,10	18	4,27
VIII. PRIMORSKO-GORANSKA	3589,61	6,35	323.130	6,73	14	11,48	21	4,98
IX. LIČKO-SENJSKA	5350,50	9,46	71.215	1,48	4	3,28	8	1,90
X. VIROVITIČKO-PODRAVSKA	2021,56	3,58	104.625	2,18	3	2,46	13	3,08
XI. POŽEŠKO-SLAVONSKA	1821,19	3,22	134.548	2,80	4	3,28	6	1,47
XII. BRODSKO-POSAVSKA	2026,69	3,58	174.998	3,64	2	1,64	26	6,16
XIII. ZADARSKA	3634,33	6,43	272.003	5,66	6	4,92	26	6,16
XIV. OSJEČKO-BARANJSKA	4149,53	7,34	331.979	6,91	7	5,74	35	8,29
XV. ŠIBENSKO-KNINSKA	2993,73	5,30	109.171	2,27	5	4,10	13	3,08
XVI. VUKOVARSKO-SRIJEMSKA	2448,21	4,33	231.241	4,82	4	3,28	26	6,16
XVII. SPLITSKO-DALMATINSKA	4523,60	8,00	474.019	9,87	16	13,11	39	9,24
XVIII. ISTARSKA	2812,90	4,98	204.346	4,26	9	7,38	30	7,11
XIX. DUBROVAČKO-NERETVANSKA	1781,59	3,15	126.329	2,63	5	4,10	17	4,03
XX. MEĐIMURSKA	729,69	1,29	119.866	2,50	3	2,46	21	4,98
XXI. CITY OF ZAGREB	640,04	1,13	770.826	16,05	-	-	-	-
TOTAL	56.532,63	100	4.802.412⁹	100	122	100	424	100

⁷ Sources: Alliance of Towns and Communes (number of towns and communes), Ministry of Justice Local Self-Government and Administration (territory and number of inhabitants).

⁸ The data on number of inhabitants in counties is based on the census made in 1991, before the present territorial division of Croatia (Law on the Territories of Communes, Towns and Communes) has been established. The data on number of municipalities show the state on 1 January 2001.

⁹ The data on the number of inhabitants that was given to the Ministry of Justice Local Self-Government and Administration by the County Offices for Statistics (4.802.412) deviates from the official number of inhabitants in Croatia (4.784.265).

As it is already mentioned the capital of Croatia, Zagreb, is excluded from such an organization of local administration and self-government. The status of Zagreb is regulated with separate law - it represents a separate and an integral territorial and administrative whole and has the status of a county.

Internal Structure of Local Self-Government

Local authorities are structured in the following way: a) the representative bodies (elected assembly in counties or the council in municipalities) are accountable to their electorate for their decisions and the work done in its name, b) a bearer of the executive power (county governor, mayor, municipal head and the executive board, responsible for controlling its decision-making process and services, c) administrative departments managed by their Heads and other administrative staff.

Representative bodies

The municipal councils and county assemblies embody the representative nature of local government. They are representative bodies of citizens, which pass their local acts within the framework of the rights and duties of self-government units and also manage other affairs in conformity with the law and their bylaws. With the exception of the City of Zagreb, where the exact number of members of a representative body has so far been determined by law (50), the total number of members of a representative body has been determined by the statutes of municipalities or counties according to their population, within the limits prescribed by the law.¹⁰

The law lays down the basic government structure of a representative body: the president, who presides over the sessions and represents the representative body, and two vice presidents. The representative body makes its decisions by a majority vote if the majority of its members are present at the session. An exception is the adoption of bylaws, of the budget and annual balance sheet that are passed by the majority vote of all members of the representative body. The process of voting at their sessions is public, unless the representative body decides to use secret ballot.

¹⁰According to the Law on Local Self-Government and Administration: the number of municipal councils is from 16 to 32, town councils from 20 to 50, and county assemblies from 30 to 50.

Only if a municipality or a county has not provided by statute the exact number of members of its representative body, or in the case of the organization of new municipalities, the law has provided for the number of members in their representative bodies (which, depending on the number of inhabitants, is divided into five categories ranging from 20 to 45).

Executive Bodies

The bearers of the executive power are governor (in counties) and mayor (in municipalities).¹¹ The representative body elects them by the majority vote of all members, in the way and a procedure established in the rules of procedure of the representative body.¹² They each have one or two deputies, elected and confirmed in the same way and on the basis of the same procedure. Governors and mayors are presidents of executive boards of counties and municipalities.

The executive board manages the executive affairs of local self-government and, within the scope of delegated activities, the affairs of state administration allocated to it by law. The members of the executive board are elected by the representative body by a majority vote of all members, on the proposal of the president of the executive board (the mandatary). The representative body in its bylaws determines the number of members of the executive board¹³. The members of the executive board are, as a rule, heads of administrative departments. Due to the fact that the accountability to the council and the community for all matters rests on the executive official, it is essentially a political, as well as a managerial function. Since the representative body elects and releases the members of the executive board, its party structure has a significant impact on the party structure of the executive board. Therefore, its composition reflects the political interest of the party or the party coalition that has the majority in the representative body and secures a close relationship with the council and the party groups.

¹¹ For example, the Bylaws of the City of Osijek lay down that Mayor represents the City and manages the following affairs from the scope of activities of self-government: implements the decisions of the City Council and is accountable to the Council for their execution, sees to the management of city assets and gives orders for the execution of the city budget, in the name of the Executive Board manages the work of administrative departments and signs documents passed by them, unless Heads of departments are responsible for signing them. Mayor has the right to withhold from execution a general local act of the City Council, if it violates the law or any other regulation and to request from the Council to remove the flaws within 15 days. If the City Council fails to do so, Mayor is obligated, within 7 days, to inform the competent central administration body about the failure.

¹² The difference in the position of governor on the one hand, and mayor on the other, lies in the fact that the appointment of governor must be approved by the President of the Republic on the proposal of the Government of the Republic of Croatia.

¹³ According to Law on Local Self-Government and Administration, the executive board of a county can not have fewer than 10 or more than 13 members, the executive board of city can not have fewer than 7 and more than 13 members, and the executive board of commune can not have fewer than 5 or more than 11 members.

Administrative Departments

The Law on Local Self-Government lays down that in order to manage the affairs from the self-government scope of activities of municipalities and counties, or the affairs delegated to them by the government administration, various administrative departments and services shall be established. In the communes with fewer than 8,000 inhabitants, only one central administrative department is established.

The internal structure of administrative departments and services is determined in a general local act of a municipality or county. The administrative departments are managed by their heads. The heads of departments are, as a rule, members of the executive board. The executive board on the basis of a public competition appoints the heads that by their position are not members of the executive board. The heads are accountable for their work to mayor. The administrative departments as a whole are accountable for their work to the representative body, to county governor or mayor and to the executive board.

Electoral System

The electoral system for local self-government representative bodies during 90-ies was a combination of a proportional and a majority system. According to the law, on the basis of which the local elections were held in 1997, a quarter of the members of each representative body were directly elected in constituencies established pursuant to a separate law (majority system)¹⁴. A candidate is considered to have been elected if he or she has received the largest number of votes cast (a system of relative majority with one runoff). A deputy is not voted for separately and is considered to have been elected together with the elected member. Three quarters of representatives are elected proportionally on the basis of fixed lists of candidates in such a way that the territory of the entire municipality or county constitutes a constituency (proportional system). In order to take part in the division of seats in a representative body, the lists of candidates must pass an electoral threshold (a prohibition clause), for which a differential legal regime is prescribed.¹⁵ The number of votes received by a list of candidates

¹⁴ The law on local elections was changed in April 2001 to pure proportional system (with 5% threshold). The last local elections were held on the basis of the new law on 20th May, 2001.

¹⁵ A list of candidates presented by one political party or an independent list of candidates must receive at least 5% of valid votes; a list of two political parties or a two-party coalitional list must receive at least 8% of valid votes; and a list of three or more political parties or a coalitional list of three or more political parties must receive at least 11% of valid votes.

which has satisfied the prohibition clause is converted into the number of seats in the representative body by D'Hondt's method of vote conversion.

The present electoral system, described above, and the rules of electoral procedure are the same for the election of members of the representative bodies of all territorial local units, regardless of their type (whether units of the same local level - communes and towns, or a variety of local and regional levels - municipalities and counties) and does not allow for variation in either the organization or scope of activities of local self-governmental units based on their type¹⁶. In practice, it has ended up in emphasizing extreme partizanship even in the smallest communes, which are encumbered by conflicts among the political parties, continuous problems connected with the functioning of party coalitions and a virtually permanent state of crisis within the local representative bodies. The implementors of local self-governmental tasks in municipalities in Croatia are, as a result, under the strong influence of party politics, and all the affairs of local self-government and the entire public life of citizens of municipalities (no matter how small) are politicized. This slows down the development of local self-government and systematically diverts attention from its fundamental purposes and tasks.

The composition of representative bodies of local self-government illustrates the general relation between political powers in Croatia in 1997 - HDZ, the party with the absolute majority in both houses of the Croatian Parliament at that time, has an absolute majority in 65.0% of representative bodies at the county level. By controlling the absolute majority or by forming post-election coalitions, HDZ won the governor positions in 85.0% of counties and the position of the Mayor of the City of Zagreb. Moreover, HDZ won the absolute majority of seats in the representative bodies of 43,3 % of towns and 61,3% of communes, and finally, through post-electoral coalitioning came to power in approximately 60 % of towns and 70 % of communes in Croatia. The one-party dominance at all levels of government has resulted in a very complex situation in which the party structure is divided into HDZ (and its satellites) on the one hand, and all other political parties called "oppositional" (forming various coalitions among themselves) on the other.

¹⁶ In concrete terms, a small commune of 1,300 inhabitants elects its representative body in the same way as Croatia's capital with over 1,000,000 citizens.

Table 3. Overall results of elections for town and communal councils on 13 April, 1997

PARTIES OR ELECTION COALITIONS	TOWN COUNCILS			COMMUNAL COUNCILS		
	absolute majority of seats	relative majority of seats	TOTAL	absolute majority of seats	relative majority of seats	TOTAL
HDZ	52	26	78	258	29	287
IDS	10	-	10	24	5	29
HSLs	1	1	2	4	2	6
HSS	-	3	3	22	10	32
HNS	-	-	-	-	1	1
SDSS	1	-	1	10	-	10
PGS	-	-	-	1	1	2
SDP	-	1	1	-	1	1
Coal.with HDZ*	1	10	11	9	8	17
Oposs.coal.**	4	6	10	11	2	13
Independent list	-	-	-	1	1	2
Equalized result***			4			20
TOTAL			120			420

Table 4. Overall results of the election for County Assemblies on 13 April, 1997

Pol.parties or electoral coalitions which won majority in representative body	No. of County Assemblies in which one party or one coalition of parties won absolute majority of terms	No. of County Assemblies in which one party or one coalition of parties won relative majority of terms	No. of County Assemblies in which parties made post election ad hoc coalition	Party structure of executive branch after elections and appointed Governor according to party affiliation
HDZ	13	7	5	18 (Gov. = HDZ)
IDS	1	-	-	1 (Gov. = IDS)
HSLs/HSS/HNS	-	-	1	1 (Gov. = HSLs)
Independent lists				
TOTAL	14	7	6	20 (1) ¹⁷ *

¹⁷ In Primorsko-Goranska County the representation of members of two party coalitions in the County Assembly was equal (HDZ/HSLs/HSS - 20; SDP/PGS/HNS - 20). In regard to the balance of power, the representative body did not manage to elect the County Governor and the Executive Board of the County, so that the crisis in the representative body resulted in the dissolution of the Assembly and extraordinary elections were held on 30 November 1997.

Self-government scope of activities

As mentioned earlier, the legal competence of local (and territorial) self-government is in principal determined in the Constitution of the Republic of Croatia of 1990. According to the Constitution, citizens are guaranteed the right to local self-government, which encompasses the right to make decisions of local importance regarding the needs and interests of citizens, particularly concerning regional development and town planning, the organization of localities and housing, public utilities, child care, social welfare, culture, physical culture, sport and technical culture and the protection and improvement of the environment.

This Constitutional provision has further been elaborated in the Law on Local Self-Government. The law defined the above-mentioned areas of competence as "the self-governmental scope of activities of towns and communes". However, although the Law takes in consideration the formal difference between urban and rural local self-government units, there is hardly any difference between them in terms of their competence. It can be concluded that the law has adopted a monotypic model of communes and towns, neglecting the fact that at least three types of local units (large towns, medium-sized towns and the numerous villages and settlements which have received the status of commune) exist in Croatia.

The Law on the Determination of Affairs of the Self-Government Scope of Local Self-Government Units listed in details list of the affairs of self-government and is precisely determined which are to be performed by communes and cities and which by counties. At the end, it is prescribed that all other affairs, not determined by law¹⁸ as the affairs of the self-government scope of activities are to be carried out by the ministries and other central administration bodies.

In addition, the law provides expressly that the above-mentioned areas of competence are regarded as "the self-management scope of activities of communes and towns" unless otherwise provided in a separate law. In practice, this provision has allowed a drastic distortion of the principle of the presumptive competence of local self-governmental units in the areas enumerated in the Constitution, because separate laws have taken away the competence of communes and towns for most activities in these areas and assigned it instead to central governmental bodies.

¹⁸ The fact that this Law lays down that the affairs of self-government, beside by the law, can also be determined by subordinate legislation (i.e. by a government decree or a minister's regulations) is a separate legal problem. Such a legislative provision is in violation to the Constitution. Namely, the Constitution of the Republic of Croatia stands by the principle that only law can determine the local self-government scope of activities.

Table 5. Competences of Local Self-Government

FUNCTIONS	All municipalities	Regional or urban governments	Central or state territorial administration	Other government format	Remarks (the main role of)
I. EDUCATION					
1. preschool	○	○	○		M + RG
2. primary	○	○	○		RG + C
3. secondary	○	○	○		C
4. technical	○	○	○		C
5. open universities	○				
II. SOCIAL WELFARE					
1. nurseries	○	○	○		M + RG
2. kindergartens	○	○	○		M + RG
3. welfare homes	○	○	○		
4. personal services for elderly and handicapped	○	○	○		
5. special services (families in crisis, etc)	○	○	○		
6. social housing	○	○	○		
7. other					
III. HEALTH SERVICES					
1. primary health care		○		○ (CIH)	
2. health protection		○	○	○ (CIH)	
3. hospitals		○	○	○ (CIH)	
4. public health		○	○	○ (CIH)	
5. other					
IV. CULTURE, LEISURE, SPORTS					
1. theaters	○	○	○		
2. museums	○	○	○		
3. libraries	○	○	○		
4. parks	○				
5. sports, leisure	○	○	○	○ (COC)	
6. maintaining buildings for cultural events					
7. other: archives	○	○	○	○ (CNA)	
8. other: technical culture	○	○	○		
V. ECONOMIC SERVICES					
1. water supply	○				
2. sewage	○				
3. electricity				○ (CEPI)	
4. gas	○				
5. district heating	○				
6. other					

VI. ENVIRONMENT, PUBLIC SANITATION					
1. refuse collection	○				
2. refuse disposal	○	○	○		
3. street cleansing	○				
4. cemeteries	○				
5. environment protection	○	○	○		
6. other					
VII. TRAFFIC, TRANSPORT					
1. roads		○	○	○ (CRA)	
2. public lighting	○				
3. public transport	○	○	○		
4. other					
VIII. URBAN DEVELOPMENT					
1. town planning	○	○			M
2. regional/spatial planning	○	○	○		RG + C
3. local economic development	○	○			
4. tourism	○	○	○	○ (CTF)	
5. other					
IX. GENERAL ADMINISTRATION					
1. authoritative functions (licenses, etc.)	○	○	○		RG + C
2. Other state administrative matters (electoral register, etc.)		○	○		
3. local police			○		
4. fire brigades			○	○ (CFPA)	
5. civil defense			○		
6. consumer protection	○	○	○		C

Abbreviations:

C	central or state territorial administration
CEPI	Croatian Electric Power Industry
CFPA	Croatian Fire Protection Association
CIHI	Croatian Institute for Health Insurance
CNA	Croatian National Archives
COC	Croatian Olympic Committee
CRA	Croatian Road Administration
CTF	Croatian Tourist Federation
M	all municipalities
RG	regional governments

Besides the powers specifically given to units of local self-government by the Constitution (listed above), the Law on the System of State Administration permits additional aspects of state administration to be delegated to units of self-government (and even to some other legal persons who have public powers, like institutions) by separate law. They then conduct these affairs together with their original, self-government activities. In such a case, central government bodies

must have stronger control over local self-government units, naturally only in reference to the performance of the affairs delegated in such a way. As the holders of executive powers in municipalities, the municipal mayors are responsible for the lawful and professional execution of such affairs. In practice, however, this legislative possibility has not been taken advantage of, not even by transferring the activities to representative and executive bodies in large cities (e.g., Rijeka, Split and Osijek).

As a result of these factors, four major features characterize the status of local self-governmental units today in Croatia:

- a) a monotypic model for local self-governmental units, that does not take into account their natural diversity or variation in population;
- b) enumeration of the specific activities that belong within the scope of self-management competence of communes and towns (despite the assignment of broad areas of competence to communes and towns in the Constitution);
- c) enactment of separate laws assigning broad areas of competence back to central governmental bodies from among the areas of competence of communes and towns enumerated in the Constitution (which has thus far been the rule rather than the exception); and
- d) virtually no utilization of the legal option of transferring to local self-governmental units activities beyond the specific areas of competence assigned to them in the Constitution.

Performance of the central affairs in the field

There are two main possibilities for the performance of central government affairs in the field. One possibility is that the local elements of these central affairs are managed by separate field bodies of the central government administration, completely detached from local self-government units. For that purpose, the ministries and other central administration bodies may organize a network of local branch offices with a different territorial range of operations. In such a way, the central government preserves full control over the execution of its affairs in the field because the local branch offices are hierarchically subordinated to it. The other already mentioned possibility is to entrust the performance of local elements of central affairs to local self-government units (so-called delegated scope of activities).

The ministries and other central administrative organizations may establish their branch offices in a county, city or commune. They are managed by the head that is appointed or released from duty by the minister or director. In his or her work, the head is responsible to the minister or director. This option is used by the ministries in so-called traditional government departments. The Ministry of Defence has organized its offices for defence at a county level, with field offices in cities and larger communes. The Ministry of the Interior has established its police departments in counties, and police stations in municipalities. The Tax Administration of the Ministry of Finance has its branch offices in counties, with field offices in cities. The Customs Administration of the same Ministry has its customs offices in major cities and its customs branch offices at border crossing points. Apart from these ministries, a network of territorial agencies has been organized by the Ministry of Reconstruction and Development, the Ministry of Maritime Affairs, Transport and Communications and the Ministry of Agriculture and Forestry, but only for some of their services.

In addition, the Law on the System of State Administration provides that for the purpose of performing the affairs of the government administration in the counties, county offices ought to be established as state administration bodies at the local level. The offices of the City of Zagreb have the same status, because the City of Zagreb has the status of a county. These offices carry out the affairs of the state administration of the first level on presumption, i.e. unless law otherwise prescribes it. By a decree of the Government of the Republic of Croatia, offices are established in each county and are dealing with economy, education, culture, sports and information, health, social welfare and labor, physical planning, housing, public utilities and environmental protection, surveying, statistics, public property and general administration. There are also offices dealing with maritime affairs and tourism. By its decree of 30 December 1993, the Government established 175 county offices (approximately 9 in each county) and 106 branch offices. Initially, it was prescribed that these county offices and their branch offices may employ up to 5,850 civil servants. In the meantime, their number has increased to over 7,000.

Special responsibility for the performance of the affairs of the state administration in counties lies with county governors and the Mayor of the City of Zagreb, and their deputies. The law refers to them as "representatives of the state authorities" in the counties and in the City of Zagreb and they have thus acquired the status of "officials of the Republic of Croatia" (like ministers). In that regard, the central government has strong influence on the election and the

release from duty of these officials. County governors and their deputies (the same applies to the Mayor of the City of Zagreb and his or her deputies) are elected by the representative body of the county, but the President of the Republic may not confirm their appointment. If the President of the Republic refuses to confirm their appointment (the law does not state the reasons for which the Head of the State may reject their appointment and this is therefore his free judgment) then the county assembly is obligated to elect another county governor. If this does not take place within 14 days or if the Head of the State does not confirm this other county governor, then the President of the Republic himself appoints the county governor and his or her deputies.

State supervision of local self-government

The supervision of the legality of general acts¹⁹ of representative bodies of local self-government units, which are passed within the scope of activities of self-management, are, according to the Law on Local Self-Government, carried out by all central government administration bodies, each of them within its scope of activities. In the case of doubt, it is presumed that the Ministry of Administration is responsible for supervision, on the basis of a negative clause in determining its competence.

The supervision procedure itself up to the final decision must pass through several instances. The first instance is the municipal mayor, because he or she is responsible for the legality of local general acts. If the municipal mayor finds that such an act is in contradiction with the law²⁰, then he or she is authorized to prevent the execution of such a decision and demand from the local representative body to remove the respective flaws within 15 days. If the local representative body fails to do so, the municipal mayor must within 7 days inform accordingly the central administration body, competent for the supervision of legality.

If the municipal mayor fails to see that the general act is contrary to the law, then a higher instance, i.e. the county governor, will directly be involved in the

¹⁹ In Article 79 of the Law on Local Self-Government, there is a formulation "supervision of the legality of work and general acts of the representative bodies". First, this expansion does not make sense because the work of representative bodies consists of making decisions, and secondly, it is in direct contradiction to the restrictive interpretation of the supervision of legality of local self-government in the scope of activities of self-government.

²⁰ A serious flaw is made in the Law on Local Self-Government (paragraph 3, Article 47, paragraph 3, Article 51 and paragraph 3, Article 55) because it is added "or other regulation", which represents an essential extension of the supervision of legality.

procedure of supervision. Namely, the municipal mayor must, within eight days of the day of passage, submit to the county governor the bylaws and every general act²¹ passed by the municipal or city council. If the county governor establishes that such an act is contrary to the law, he or she is obligated to inform, within eight days, the competent body of the central administration. The same obligation rests with the county governor with regard to the bylaws and general acts of the county assembly.

When a body of the central government administration finds that a local general act is contrary to the law, it will suspend its execution, unless this has already been done by lower instances. Furthermore, it will propose to the Government of the Republic of Croatia to initiate proceedings for a judgment on the legality of the conflicting act before the Constitutional Court.

The Government decides independently on initiating of the proceedings before the Constitutional Court, judging the importance and the degree of the violation of law. However, this must not be dragged out, because if, within 30 days from the receipt of the proposal, the proceedings are not initiated, then the suspension of the execution of the conflicting act ceases automatically.

The final decision on the legality of a local general act is made by the Constitutional Court, which decides whether to annul or to rescind the act, depending on the seriousness of the violation of law.

It is clear from the above overview that the supervision of legality of local general acts is set so inclusively and thoroughly that it seldom happens that any local unit dares to pass any bylaws or general acts without a preliminary consultation with higher instances. Even more so, because in the case of flaws, it is threatened with drastic sanctions. Namely, the Law on Local Self-Government authorises the Government, on the proposal of the Ministry of Administration, to dissolve the local representative body if it repeatedly passes general acts contrary to the Constitution and the law²². However, Constitutional Court protection is secured

²¹ This obligation is connected with the fact that in such a way, at least when it is the question of communes, the bylaws and general acts will be published in the official gazette of the county because municipalities, as a rule, do not have such a gazette.

²² This is not the only reason for which the Government may dismiss a local representative body. It can also do so if the bylaws or the local budget are not passed on time, if the municipal mayor or the county governor are not appointed on time, if at least half of the members of the representative body resign or if the representative body makes a decision which jeopardizes the sovereignty and territorial integrity of the Republic of Croatia. The latter ground has remained from the time of the conflict with the rebelling Serbian municipalities.

against such a government decision. Such system of court protection has been proved in practice, particularly in the example of the so-called "Zagreb crisis".²³

The supervision of the legality of individual administrative acts is achieved through a complaint and other remedies provided for in the Law on General Administrative Procedure. A complaint against may be lodged to the competent administrative body of the county. If it was decided in the first instance by an administrative body of the county, it goes to the competent ministry. Since this is a question of the affairs in the scope of activities of self-government, in which local units are autonomous, such supervision is not really the best solution because state administration bodies appear as an instance of appeal in self-government matters. This imperfection is lessened by the possibility of initiating an administrative action against a second instance decision of the county administration or a ministry before the Administrative Court of Croatia. In such an action, the Court examines the legality of the second instance decision.

State supervision in the scope of delegated activities

When the affairs of the government administration are delegated to municipalities, much more intensive supervision can be carried out by government bodies. They are then subject to administrative supervision limited not only to the supervision of legality but also to control of appropriateness, economical quality, and efficiency. This even refers to the capability of officials to carry out these affairs. In short, this is a kind of supervision that is very close to the hierarchical control, which exists in the government administration. In principle, the administrative supervision of municipal bodies that manage the delegated affairs of the state administration is carried out by county offices. However, central ministries and state administrative organizations may appear as a supervisory instance.

²³ Under the term "Zagreb crisis" we understand the political crisis in the capital that lasted from the autumn of 1995 to January 1997. At the elections for the City Assembly of Zagreb, held in the autumn of 1995, the governing party, the Croatian Democratic Union (HDZ), lost its absolute majority in that body and could not appoint its candidate for Mayor. The opposition parties made an agreement and appointed as many as four candidates for Mayor, but the President of the Republic did not want to confirm any of them. At the end, he himself appointed a lady Mayor of the City of Zagreb, on whom the majority of the City Assembly passed a vote of no confidence immediately after her appointment. It led to an open conflict between the City Assembly and the lady Mayor. The Government of the Republic of Croatia tried to stop the conflict by making a decision to dissolve the City Assembly, against which the President of the City Assembly filed a constitutional complaint. On the basis of that complaint, the Constitutional Court annulled the Government's decision because it found it was not in conformity with the law. After that, the crisis in the management of Zagreb continued and was brought to an end after the preliminary local elections in the whole country at the beginning of 1997, in which HDZ again won a majority in the City Assembly.

The supervisory powers of the state administration bodies in relation to local self-government units regarding the execution of delegated affairs are numerous and diverse. A supervisory body may require reports, data and other information, discuss the situation within the supervisory body, propose the measures to be taken in order to conduct the affairs of the government administration, initiate a proceeding to establish the liability of the officials who manage these affairs, carry out a substitution, i.e. the performance of the affairs, instead of the supervisory body and at its expense, etc.

Due to the fact that in the administrative bodies of municipalities, the same officials conduct both affairs of in the scope of self-government and in the scope of delegated activities, one can assume that with such supervisory powers, the influence of the central government will even expand to those affairs in which local units ought to be independent.

Financing of Local Self-Government

The basic characteristic of the policy of financing public needs of local communities in contemporary states is certainly the result of an understanding that the expansion of public functions of a modern state is not only limited to its central bodies but has an impact on the local self-government and administration, as well.

Local self-government units (communes, towns, counties) have become the bearers of many public functions. Local government has thus become not only a democratic institution but also a very important factor of development in general. Homogeneous preferences of citizens at the local level help them to have a significant influence in the decision-making process.

Local budgets participate in GDP at only 4-6%. Their share in the overall budgetary funds in the last few years has been between 13-18%, and if other expenditures of public funds (retirement, health, etc.) are added, then the share of local budgets in public expenditures decreases to 5-10%. Approximately three quarters of the expenditures of local budgets is spent on current expenditures, and only a little more than one fifth of expenditures are spent on capital investments. This all points to very limited financial power of local self-governmental units. Among them, the weakest are the counties, which participate in only 10% of the total revenue of local budgets. The bulk of the administrative and other expenses of counties must therefore be financed directly from the state budget.

In the structure of expenditures of local budgets, dominant expenditures are for: public works (30%), primarily allocated for the construction of the communal infrastructure; administrative expenditures for the maintenance of the local apparatus (20%); and grants to public enterprises of local significance (20%). Less than one quarter of the resources of local budgets is spent for education, health protection, social welfare, culture and sports.

More than half of the revenues of local units are collected through state-level taxes, while the balance comes from locally generated taxes and fees. The tax revenues of local self-governmental and administrative units can be classified into two groups: revenues from shared taxes and revenues from local taxes and fees. Among them, the most dominant are state-level income tax and profits tax, which collectively account for 85%. Shared tax revenues are collected by the central tax administration, which then makes them available for local self-governmental units in the percentage prescribed by law. The distribution of the various centrally collected tax revenues is as follows:

- revenues from income tax: 60% for the central budget, 8% for the budgets of counties, 32% for the budget of municipalities;
- revenues from profits tax: 70% for the central budget, 10% for the budgets of counties, 20% for the budgets of municipalities;
- revenues from capital transfer tax: 40% for the central budget, 0% for the budgets of counties, 60% for the budget of municipalities, and
- revenues from gambling and betting games: 50% for the central budget, 0% for the budgets of counties, 50% for the budgets of municipalities.

In the tax system of the Republic of Croatia, there are ten local taxes: four of them are at the country level and six of them at the level of municipalities. County taxes are: (1) inheritance and gifts tax, (2) motor vehicles tax, (3) vessels tax, (4) tax on the organization of games and sports events.

Municipal taxes are: (1) consumption tax, (2) tax on vacation houses, (3) tax on advertising, (4) company tax, (5) tax on the use of public areas, (6) surtax on income tax.

The major part of tax revenues in the budgets of local self-governmental and administrative units comes from shared taxes, particularly income tax and profits tax (over 80%), while the contribution of other shared taxes and a local tax is relatively low. Only one third of the revenues of local budgets are so-called non-tax revenues, which are composed of different local dues, stamp taxes,

contributions, rents and the like, collected by local self-governmental bodies. As a result, there is a significant level of fiscal dependence by local self-governmental units on the state administration.

In addition to the revenue sharing system described above, a system of supplemental grants exists to support underdeveloped units of regional and local self-government. The whole system of financial assistance to underdeveloped self-governmental units is inadequate because it is based on the index of average public revenues rather than on established minimum standards for rendering local services.

Instead of conclusion: the evaluation of existing situation

Croatia's independence made it necessary to form and strengthen all parts of the administrative system that are typical of an independent and modern state. At the same time, Croatia had to consider the general trends affecting all administrative systems of today: globalization, regionalization and individualization.

The last decade in Croatia, however, has been characterized by an adherence to institutional habits and ways of thinking from the previous system that put emphasis on the integrative aspect of public administration and on its dependence on strong executive power. To some extent, neglect of the institutions of the public administrative system that could help achieve the legitimate interests of its constituents, on the one hand, and the impoverishment of the country as a whole as a consequence of the war and the destruction it caused, on the other, increased the aspirations for centralization. The interests that result from regional and local diversity were neglected. One could say that the intensity of this concentration in some cases was such that it annulled the very effects it aimed to achieve.

The consequences are visible today in the centralization of almost every aspect of the organization and operation of the public sector in Croatia. At the regional and local level, this state of affairs is leading rapidly to an atrophying of the units of regional and local self-government to the point where they are not able to satisfy the basic demands of citizens - let alone do so responsively and efficiently.

A negative experience in the implementation of the existing model of territorial organization of the Republic of Croatia and the system of local self-government so far, point to the necessity of their change. An irrationally high number of local self-government units and employees in their administrative bodies influence the level of public consumption. The centralization of many administrative activities prevents the efficiency of the work of local self-government bodies. In addition, the existing system of financing the local self-government units makes the development of an efficient communal infrastructure impossible and can not respond to the basic needs of citizens in the sphere of health, social welfare, employment, education, culture, environmental protection etc. The existing government apparatus is very expensive and inefficient. The large number of various state administrative bodies with unclearly divided competences brings to the conflict of competences and slows down the decision-making process in dealing with problems and cases within these bodies. The personnel in these bodies are employed by the criterion of negative selection and there is no adequate system of their training.

In addition, the existing system of financing local self-governmental units is demonstrably inadequate. It makes the development of an efficient communal infrastructure impossible and it cannot respond to the basic needs of citizens in the spheres of health, social welfare, employment, education, culture and environmental protection.

Finally, conceptually incomplete and inconsistent processes of reform and privatization in certain areas of public services have begun, but have been left unfinished. The existing public institutions and agencies, where the majority owner is the State, have a monopoly on almost all public services, both in the social field (education, culture, science, health, retirement and disability insurance) and in the economic sphere (electric power utility, water resources management, forestry, railways and roads). The privatization process of these institutions has been nontransparent and the possibilities of establishing new, private and competitive institutions are restricted by law. This has resulted in limited possibilities to improve efficiency and cost effectiveness by decreasing the costs of governing and the burden on the state budget. At the same time, there are at present only limited opportunities to increase functionality by raising the quantity and quality of the services delivered by the public sector.

Legal provisions related to local self-government in the Republic of Croatia mainly have been passed at the end of 1992, when almost one fourth of the state territory was under the military control of the rebel Serbs and the former

Yugoslav Army. Together with the dominant political viewpoints, which emphasized the importance of a national state and its sovereignty, the factual situation of that time had a strong impact on the legislation on local self-government. It was permeated by considerable mistrust in any form of local initiative and autonomy. The legal provisions contained numerous tools of influence and mechanisms of control used by the state administration in its dealing with the local self-government units. In practice, this resulted in a total centralization of powers and resources in the hands of the central state administration and decreased the level of independence of local self-government units to an extent that was unacceptable both legally and politically.

In the meantime, the situation in Croatia has changed. The territorial unity of the country is preserved and a unified political and legal order in its entire territory is established. A need for strong centralization and a strict control of the central government over local self-government units is not necessary any more. Earlier, it may have been justified by the dangers for the territorial integrity of the Republic. Furthermore, in 1996, Croatia became a member of the Council of Europe and a year later, it ratified the European Charter on Local Self-Government. The country thereby assumed an obligation to adjust its legislation with the European standards of local self-government. However, no significant steps have been taken to adjust the legislation to the changed circumstances and to fulfill the obligations towards the Council of Europe. All this required a revision of the Croatian legislation to remove all the obstacles and create a favorable framework for a stronger process of decentralization and a thorough reform of local self-government in Croatia.

Governments' Initiatives

Shortly after its formation, the coalition government published on 8 February 2000 the Program of the Government of the Republic of Croatia for the period from 2000 - 2004. In the chapter that refers to state administration and local self-government, the government has announced the initiation of a process of broad decentralization and the strengthening of local and regional self-government. According to the Program, this process would include a widening of the sphere of affairs of the units of local self-government and the provision of a higher level of independence from central government and administration. The process will also include a significant increase in the financial capacity of local self-government units, which must be accomplished by a distribution of income

realized through common taxes and by the introduction of more lucrative income of local units and the use of various non-fiscal instruments of financing (shares, bonds, loans, etc.) In order to realize the project of the decentralization of the administrative system, the gradual transformation of the territorial organization of the country is envisaged. The new territorial organization must be based on recognition of regional diversities.

In order to achieve this and other reform goals established in the Program, in mid-March, the Croatian Government adopted a decision on the design of a development strategy of the Republic of Croatia, entitled "Croatia in the 21st Century" (hereafter, the "Strategy"). In June 2000 the Government appointed a special Commission composed of scientists and representatives of different Ministries, which started with preparation of Strategy. Simultaneously, several competent Ministries have started initiatives for reform of certain segments of public services (e.g., education and health care).

Being aware of the institutional obstacles to the successful implementation of reforms, the President and the Government of the Republic of Croatia initiated a process of Constitutional changes in order to change political system. Political discussions on constitutional amendments lasted from March to the beginning of November 2000, when the House of Representatives of the Croatian Parliament adopted the constitutional amendments.²⁴

With the constitutional amendments, significant modifications in the system of local self-government were introduced. First, the right of citizens to regional self-government was expressly established. This is exercised in the counties, defined as units of regional self-government (but no longer as units of local administration). The constitutionally defined competencies of the units of local self-government are extended to primary health protection, primary education, consumer protection, fire protection and civil defence. The constitutional amendments also introduced the obligation of the state to offer assistance to the financially weaker units of local self-government. Finally, the Constitution provides for the principle of subsidiarity in delegating affairs to the competence of local self-government, that is, the principle that these affairs will be delegated in preference to bodies that are the closest to the citizens.

²⁴ The constitutional amendments were adopted at the session of the House of Representatives of the Croatian Sabor held on 9 November 2000.

Having in mind the main determinations of Governments' Program, and the initiative for preparation of Strategy, as well as Constitutional changes that were introduced, we can conclude that new Croatian Government clearly expressed its political will to give strong support to the idea of a broad-based process of decentralization in public administration. The Government's formal declaration to this effect indicated that the Government intends to develop and operationalize decentralization process as one of the strategic priorities in its mandatory period.

Constitutional changes show that the Government has a clear vision of changes in the system of local self-government leading towards decentralization. Starting the process of decentralization of public administration and reform of local self-government are strategic priorities of the Government that will come on the Governments' agenda within the first quarter of 2001. During this period, the laws on local self-government and local election are planned to be amended. Certain legislative interventions within some other existing laws are also envisaged, aimed at transfer of some affairs of state administration to the units of local self-government (the laws on primary and secondary education, health care and health insurance, social welfare, management of institutions in culture and financing of local self-government). However, these changes have only the character of temporary measures, because the reform of the whole system of public administration and local self-government is a long-term, complex and expensive process, which cannot tolerate experimentation or improvisations. The conclusions of the meeting of the presidents of political parties forming the coalition (February 23, 2001) have shown the clearly manifested political will to amend the Constitution again and to introduce a one-House Parliament.²⁵

Project Decentralization of Public Administration

In February 2000, the Croatian Law Centre²⁶ started work on preparation of policy project due to last several years called "Decentralization of Public

²⁵The amendments to the Constitution, which introduced the unicameral parliament, have been adopted in March 2001. The reform of local self-government started in April 2001, when the new Law on local and regional self-government has been adopted. The reform was continued in June by the changes of the Law on financing the units of local self-government and administration.

²⁶The Croatian Law Centre (hereinafter: CLC) is a nongovernmental, non profit and nonpartisan association of citizens, established in 1994 with the support of the Open Society Institute, with the aim of promoting the rule of law in the Republic of Croatia.

The activities of the CLC projects are directed to government bodies, the professional public, as well as to citizens and the public at large. In its projects, the CLC applies various methods of work (public advocacy, free legal aid, legal logistics, monitoring and field research in the legislation and legal practice, legislative and constitutional and judicial initiatives, and the dissemination of legal information). In the realisation of its projects, the CLC has established cooperation and contacts with numerous domestic NGOs and international organisations and institutes.

Administration" (hereinafter "Decentralization Project" or the "Project") with the support of the Open Society Institute - Croatia. From the beginning of September, the Project is carried out in cooperation with the Government of the Republic of Croatia on the basis of the mentioned Letter of Cooperation.

Platform for preparation of the Project was determined with an opinion of CLC that the development of Croatian public administration must move in the direction of opening up to the world, differentiation, increased operational independence, improvements in the situation of local officials and public employees, deconcentration of powers and decentralization of the political and administrative system. Therefore, a project focused on decentralization of public administration should represent a powerful instrument for accelerating this process and a means of developing and implementing the necessary reforms. The ultimate goal of the decentralization process should be complete reform of the system of state administration and local self-government and a reform of the system of public services to bring about less expensive and more efficient satisfaction of the basic needs of citizens and to raise the level of social standards.

Decentralization Project is focused primarily on the regional and local self-government related issues, which are part of the broader decentralization strategy. The Project consists of following six interrelated components:

1. Local government territorial organization;
2. Legal competences of local self-government;
3. Local government elections;
4. Local public services²⁷;
5. Regulation of local government employees; and
6. Local government finances.

Although from its establishment until the parliamentary elections of January 2000 the CLC operated in an expressly unfavourable political environment, it has become thanks to its activities a prominent factor in the professional and nongovernmental scene in Croatia and has acquired the respect and support of wider public.

The clearly expressed programme orientation of the new Government, the concrete measures undertaken since its assumption of power, and the framework of its strategy have characterised the new political environment in which the basic commitment of the CLC corresponds to the declared commitment of the new authorities. The credibility of the CLC, based on its high level of professionalism, the independence of the positions it takes, and its demonstrated influence on the political, professional and wider public, makes the CLC a desirable partner for the new public authorities.

Along with the justifiably expected normalisation of the political scene in Croatia, the CLC has had the opportunity of acting over a longer period of time and in a systematic way to contribute to the creation of a modern and efficient government on the one hand, and to assist in developing democratic institutions and in creating an open society on the other. Such a goal can primarily be achieved by the creation, or participation in the creation, of public policies, the development of legal solutions to implement the selected public policy and by monitoring and influencing the implementation and enforcement of law.

²⁷This component of the project is divided in several sub-components: primary and secondary education, health care, culture, environment protection and social services.

The expected reforms will be based on the formation and implementation of a public policy models, which has been chosen from among alternative models through a process of public discussion involving both experts and all relevant factors of state policy. Based on the adopted public policy models, concrete legislative proposals will be drafted, introduced and enacted.

The Decentralization Project is implemented through groups of experts from all fields relevant to the particular component of decentralization²⁸, which represent the core of a "policy community." Each group consists of policy analysts from relevant disciplines who participate in the process of developing alternative public policy models and preparing concrete legislative proposals for reform.

Decentralization policy developed under each specific component of the Project will be evaluated on the basis of objective and subjective indicators. The objective indicators of evaluation will be efficiency, cost-effectiveness, equality and fairness in rendering of services. The subjective indicators will be the perceptions of citizens of the impact and control of regional and local authorities and the level of quality of services as a direct consequence of the policy developed under the Component in question.

Decentralization Project is conceived within the framework of the general policy of the Government, as one of the principal instruments of formulating and implementing the Government's decentralization policy. Execution of the Project in partnership with the Government additionally justifies the Decentralization Project, lends considerable political support for its execution and guarantees the impact of the Project to the expected and desired changes.

The necessity of coordinating the Decentralization Project with the timelines of the Government's National Strategy influenced the dynamics of the Project's execution. The timing of each Component has been harmonized with the timing envisaged by the Government, to the extent it was known at that moment. It is planned that the completion of the Project will coincide with the end of this Government's mandate, in December of 2003.

²⁸i.e. lawyers, political scientists, economists, public finance experts, sociologists, historians, geographers, statisticians as well as experts from each relevant field of public service.

Other decentralization initiatives

According to the CLC knowledge, the elaborated systematic overview of initiatives and projects related to local self-government is not established in Croatia at the present. However, besides Croatian Law Centre, various local and international organizations, representing nongovernmental and multilateral organizations share an interest in various aspects of reform of public administration with special emphasis on decentralization issues. The number of concrete projects in the area of local self-government in 2000, and those that are in process in 2001, is relatively small. This overview has included the initiatives and projects in the area of local self-government of the organizations with which the CLC has already established some contacts.

The Association of Towns and Communes of the Republic of Croatia (a nongovernmental, voluntary and independent organization, formed on the model of similar associations in the world), which encompasses the units of local self-government and represents their interests, developed a draft law on local self-government in March 2000 and submitted it to the Government of the Republic of Croatia. Since the opinion of the Government is that the reform of local self-government must be carried out through a gradual transfer of authority to the units of local self-government, this draft law was not accepted. However, in the preparation of the relevant laws, the Government (that is, Decentralization Project) will consult the units of local self-government through this organization.

"The Local Democracy Embassy" is an organization, which has been active in Croatia since 1996. During 2000, under the auspices of the Council of Europe, its Sisak and Brtonigla branches carried out the training of local administrators and civil servants in the Sisak-Moslavina and Istria Counties. The training was aimed at offering the local administrators the tools for good governance and to improve the management of locally elected people and civil servants. The training program will be continued in 2001.

The Urban Institute has been active in Croatia for several years. Its previous activities were mostly aimed at building local institutional capacity. Within this framework, the Urban Institute has given technical and know-how assistance to local units in Eastern Slavonia. In the year 2000, the Urban Institute initiated the Croatian Local Government Reform Project (LGRP). Together with the Fiscal

Reform Project (Barents Group), LGRP carried out a review and diagnostic of the legal and regulatory framework for local government budgeting, functions, finance and inter-government relations (between cities, municipalities, counties and central government).

In the context of Stability Pact *Friedrich Ebert Stiftung* initiated regional project on local self-government and decentralization in the countries in region. During the project, national systems of local self-government and their reform projects will be compared. After comparative analysis is conducted, the workshop will be organized in order to exchange the experiences. The results of public discussions through the workshop will be prepared and distributed for discussion with politicians at national and local level, researchers and experts. The Croatian Law Centre is involved in this project as local partner for Croatia.

Nedo Miličević

**STATE AND PROBLEMS OF LOCAL
SELF-GOVERNMENT IN
BOSNIA AND HERZEGOVINA**

*Basic characteristics of the constitutional arrangement of
Bosnia and Herzegovina*

In order to be able to perceive the state and the problems of local self-government in Bosnia and Herzegovina, one should have in mind the basic features of its constitutional arrangement. In many ways it is atypical, insufficiently defined yet, and in some aspects even a contradictory one. In addition, the entire political context characteristic for Bosnia and Herzegovina for the time being is a very unfavorable one. Not only do all these elements define the actual state of local self-government, but they also constitute limiting factors for its future development. It is necessary, therefore, to specify first of all the following:

Bosnia and Herzegovina is a complex State community having an extremely complicated organizational and functional structure, in which its two Entities have a high degree independence in exercising the State authority functions.

The legal system of Bosnia and Herzegovina has been undeveloped yet, divided by Entities and in many ways contradictory.

Concurrently, there is a constitutional obligation to apply and obey international law to a great extent. Sixteen (16) international legal documents make an integral part of the B-H Constitution, among them the European Convention for Protection of Human Rights and Fundamental Freedoms with its Protocols, which provisions being directly applied with a legal force above laws. And, in contrast to the aforementioned obligation as per international law, there stand the facts:

- first, that all our so far legal system has been insufficiently relied upon that law (in many points inconsistent with it), and
- second, that our entire legal resources have had an insufficient knowledge about that law.

The B-H society's property structure is extremely unfavorable. It has a great impact on overall social relations, so on the state and the development of local self-government as well. This has been manifested, first of all, as follows:

a) The situation in domain of a private property is a chaotic one. There is still a great number of Bosnia and Herzegovina citizens being refugees and displaced persons deprived of being able to use their home and their property.

b) There is an immediate need and obligation to change in a quality way and without delay the ownership character of a predominant part of all material properties in Bosnia and Herzegovina, presently considered state property. This process has to go in a very unfavorable social and political context, what would obviously create great difficulties and dangers, so that considerable infringements the citizens' equality and their equality in rights could occur.

The basic feature of the Bosnia and Herzegovina constitutional arrangement is that the entire State arrangement and the organization of its authority have been based upon an explicit and one-sided ethnic factor domination. Such domination has got an especially unfavorable expression in a divided (territorialized) constituency of its three nations, where Bosniacs and Croats, but not Serbs, have been acknowledged as constituent nations of the B-H Federation, while Serbs, but not Bosniacs and Croats have been a constituent of the Republic of Srpska.

Thus, any of these three peoples have been divided into two categories, in the second, unequal category, being all those citizens not belonging to the constituent nation of the respective Entity. In other words, any of the three nations is fully equal on only half of the B-H territory (in one of the Entities), while persons belonging to them living in the other Entity, as well as all other B-H citizens - persons belonging to national minorities, are either limited or unable to enforce many constitutional rights. This has unavoidably led to the following:

a) The constitutional arrangement of the Entities and the organization of the State authority in them significantly differ from each other. It is characteristic for the Federation of Bosnia and Herzegovina an emphasized decentralization, which has been made, it is true, in an inconsistent manner, because it is based upon a dominated Canton's position and an insecure and unclear constitutional position of Municipality. There are in the B-H Federation four vertical levels in exercising authority (Municipality, City, Canton and Federation level), and there is still possibility of installing a fifth one - by establishing a District, often announced and not yet realized. On the other side, there are in the Republic of

Srpska only two levels of exercising authority (Municipality and Entity level). Formally, there still exists a City level, but de facto there is no this level of authority.

The above mentioned organizational-functional asymmetry should be regarded in relation to the proved expertise and scientific belief that one of the primary conditions for an effective exercising authority in a specific State, and particularly for equality in the protection of its citizens' rights, is that there should exist some instance correlation between that State's Government bodies. In addition to that, Bosnia and Herzegovina is a State with 13 Constitutions in which 13 Assemblies adopt laws, while sub-laws are adopted by nearly 200 Governments and Ministries. There is a reason for fear that this must result in an expensive State and a bureaucratic and ineffective State authority.

b) The central bodies of the Bosnia and Herzegovina State authority have a very limited scope of functions and responsibilities. Among those specifically mentioned one cannot find local self-government, even by interpreting the term in the most tolerant way.

c) The decision-making procedure defined by the Constitution and making decisions in the State authority central bodies is not only a complex one, but objectively it could be ineffective as well. The same danger exists, for the time being, in the constitutional system of the Federation of Bosnia and Herzegovina, too.

d) Since the principle of hierarchy in the actual constitutional arrangement of Bosnia and Herzegovina is almost entirely abolished, it is uncertain the implementation of those few decisions of the State authority central bodies.

The above outlined leads to the conclusion that the degree of disintegration of the B-H society and the State at the moment of adopting the Constitution of Bosnia and Herzegovina (The Dayton Constitution) had a great impact on the selected constitutional solutions.

The B-H system must be decentralized, not only because of its multinational structure, but also because of demands of modernization. This decentralization, however, must not lead to disintegration, to reducing that system just to the sum of its parts.

Decentralization is needed because of deetatization of Bosnia and Herzegovina, too, but it must go along with deetatization of the Entities and Cantons (regions). Otherwise, there would be created strong centers of regional authority, that would act centrifugally in relation to joint affairs of the central bodies. Having in mind the constitutional position of the Entities and Cantons, there is a real danger of it, and it could have an especially negative impact on the development of local self-government.

In the mid 2000 year, the constitutional solutions in the Entities' Constitutions relating to the three constituent peoples were proclaimed by the Constitutional Court of Bosnia and Herzegovina inconsistent with the Constitution of Bosnia and Herzegovina. It was said their constituency should relate to the entire territory of this State. It is therefore an obligation to get them be in compliance with the B-H Constitution, i.e. with the Decision of the Constitutional Court of Bosnia and Herzegovina. The realization of this task will be extremely difficult and delicate. Not only is it a question of a lack of necessary political consensus, but it is also a question of need to examine a great number of constitutional provisions in both Entities in a critical way (may be more than a half), which - in one way or another - have got solutions based upon divided constituency, and according to which either one nation (in the B-H Federation) or the two ones (in the Republic of Srpska) are in a legally different, disadvantaged position.

With respect to the aforementioned changes in the Entities' Constitutions, it is especially difficult the fact that there have left in the Constitution of Bosnia and Herzegovina many provisions containing the same (even more explicit) solutions like those in the Entity Constitutions' provisions that have been proclaimed unconstitutional. One should say here as well that this obligation does not relate, at least legally, to the change of the actual constitutional treatment of national minorities, however, there are under way considerable social activities to embody them in it. The demand is, no doubt, an urgent one, because the current constitutional state has led to the situation that national minorities are almost not mentioned in the B-H legislation, and their real position is not only difficult, but in many ways disadvantaged, with some of them (Roma) almost a catastrophic one.

Regardless the above mentioned difficulties and limitations, the aforementioned constitutional changes have been made for creating a more secure constitutional framework for development and strengthening local self-government in Bosnia and Herzegovina.

Constitutional position of local self-government in Bosnia and Herzegovina

The Constitution of Bosnia and Herzegovina does not contain any explicit provision on local self-government. There is only one provision in this Constitution treating the issue of territorial organization of Bosnia and Herzegovina, and it is the provision defining the obligation of the Entities and any subdivisions thereof to comply fully with this Constitution and the general principles of international law. But, it is just such a constitutional demand that means an obligation for all those holding the state authority offices in Bosnia and Herzegovina to observe:

- the basic democratic principle defined in the Constitution of Bosnia and Herzegovina, that Bosnia and Herzegovina "shall be a democratic state, which shall operate under the rule of law and with free and democratic elections";
- the constitutional definition that "the general principles of international law shall be an integral part of the law of Bosnia and Herzegovina and the Entities".

It is provided by the Constitution of Bosnia and Herzegovina that "Bosnia and Herzegovina and both Entities shall ensure the highest level of internationally recognized human rights and fundamental freedoms". There are explicit standards that the rights and freedoms set forth in the European Convention for Protection of Human Rights and Fundamental Freedoms and its Protocols shall directly apply in our country, with the constitutional statement that these acts shall have priority over all other laws.

Beside European Convention for Protection of Human Rights and Fundamental Freedoms, another 15 most important international legal documents treating human rights and fundamental freedoms make an integral part of the Constitution of Bosnia and Herzegovina and should be applied and observed by the Bosnia and Herzegovina State authorities. It is stated thereby that "the enjoyment of the rights and freedoms provided for in the Constitution of Bosnia and Herzegovina and in the international agreements listed in Annex I to this Constitution shall be secured to all persons in Bosnia and Herzegovina without discrimination on any ground".

Regardless of the fact that the outlined normative solutions in the Constitution of Bosnia and Herzegovina do not explicitly regulate the local self-government issues, they provide a clear constitutional basis and framework for a secure regulation of these relations in the Entities' Constitutions and laws, in line with the requirements of the international law principles.

It is defined in the Constitution of the Federation of Bosnia and Herzegovina that the Federation is "one of the two Entities composing the State of Bosnia and Herzegovina". It has its authority, competence and responsibilities, "which are not, according to the Constitution of Bosnia and Herzegovina, within the exclusive competence of the B-H institutions". It consists of the Federal units explicitly said to be "equal in rights and responsibilities". There are ten Cantons which differ very much from one another - by size, number of population, development etc. It is provided by the law that the Cantons are established "taking into account ethnic, economic-functional, natural-geographic and communication principle". It is obvious, however, that the ethnic principle was prevailing when they established, what resulted in having the two Cantons "with a special regime", so-called "mixed Cantons" (as a consequence of not being able to divide their territories according to this principle).

The Cantons have their Constitution, dispose of a large range of rights to self-organizing, have a large independent responsibility and significantly participate in exercising constituent and legislative responsibility of the B-H Federation. Their bodies are: legislative body (consists of one House), executive authority (President of Canton and Government of Canton) and Cantonal judiciary. The number of deputies in the legislative body is determined in relation to the population's ethnic structure, while human resources of the Government, Cantonal police and Cantonal judiciary must reflect ethnic structure of the respective Canton's population.

The Constitution of the Federation of Bosnia and Herzegovina explicitly defines that each Municipality exercises self-government on local matters. However, this Constitution does not define the Municipality's responsibility, but it could be derived to some extent from other constitutional provisions, primarily from those treating the Cantonal Government. It is defined by the Constitution that each Municipality in exercising its responsibilities must:

- a) take all necessary measures for ensuring the protection of the rights and freedoms provided for in this Constitution; and
- b) take account of the ethnic structure of the population from its area.

The Municipality has its Statute which is to comply with the Constitution of the Federation of Bosnia and Herzegovina, Cantonal Constitution and Cantonal legislation.

Each Municipality has a Municipal Governing Council with members whose term lasts for two years. Any voter may be elected to be a Municipal Councilor. Municipal Councilors shall be elected democratically by the eligible voters in direct and secret Municipality-wide elections. Each voter is entitled to vote for any party, and each party shall be allocated a number of Councilors seats proportional to the percentage of the total valid votes.

The Municipal Governing Council shall:

- a) prepare, and by a two-thirds majority vote approve the Municipal Statute;
- b) elect the Municipal Executive;
- c) approve the Municipality's budget and enact regulations on taxation, and otherwise secure the necessary financing not provided by the Cantonal or the Federation Government; and
- d) enact other regulations necessary for carrying out the Municipality's responsibilities.

The Municipal Council shall arrange for the selection of the Municipal Executive and establish rules of procedure subject to Federal and Cantonal legislation. It shall have open sessions, other than in exceptional circumstances as provided in its rules of procedure, and shall keep a record of its decisions. Municipal regulations shall take effect as specified therein, but not before they have been made to the public.

The executive authority in the Municipality is exercised by the Municipal Executive. He/she is responsible for:

- a) appointing and removing Municipal officials;
- b) executing and enforcing Municipal policies and regulations, as well as responsibilities assigned or delegated to the Municipality by the Cantonal and Federation authorities;
- c) ensuring the cooperation of Municipal officials with the Ombudsmen; and
- d) reporting on the implementation of Municipal policies and activities to the Governing Council and the public.

According to the Constitution of the B-H Federation, for the area of two or more Municipalities connected urbanely or territorially due to the citizens' everyday needs, there shall be formed a City "as a unit of local administration and self-government, in conformity with Federal law". In addition, it is provided that capitals of the Cantons with a special regime shall be organized according to the same principles, what means that these places (Mostar and Travnik) shall be

formed as Cities. Besides, it has been enacted a special Amendment to this Constitution on the organization of Sarajevo, in which it is provided "there shall be established in the Sarajevo Canton the City of Sarajevo as a local self-government unit".

According to the Constitution of the B-H Federation the City's responsibilities comprise:

- the finance and fiscal policy in accordance with Federal and Cantonal laws;
- joint infrastructure;
- urbanized planning;
- public traffic; and
- other responsibilities granted to the City by the Canton, or delegated by Municipalities.

The City must have a Statute that complies with the B-H Federation Constitution, Cantonal Constitution and Cantonal legislation.

It is established in the City the City Council that consists of an equal number of Councilors from each Municipality. Their number, electoral procedure and the duration of the term shall be provided by the Statute. It is a responsibility of the City Council to: prepare and by a two-thirds majority approve the City Statute, elect the Mayor, approve the City's budget, enact regulations to carry out assigned responsibilities and carry out other responsibilities provided by the Statute.

The Mayor is responsible for: appointing and removing City officials, executing and enforcing City policies and City regulations, ensuring the cooperation of City officials with the Ombudsmen and reporting on the implementation of the City policies to the City Council and the public.

The City provides for income by taxation, taking loans and in other ways in accordance with law.

For perceiving the state and the role of local self-government in the Federation of Bosnia and Herzegovina it is necessary to have in mind the Cantonal Constitutions, too.

It is a common characteristic for all Cantonal Constitutions (except, to some extent, the Constitutions of the Cantons "with a special regime") that, mostly, they have undertaken provisions of the Constitution of the B-H Federation. This

relates as well to the provisions of Cantonal responsibilities, Municipal authority, sources of revenue and finances, relationship between the Cantons and Federal and Municipal Government and so on. There is no concretization (almost at all) of some specificity of the respective Canton. There has not been respected even an objective need to address in those acts some issues more completely than it has been done in the Constitution of the B-H Federation.

Analyzing the provisions on local self-government in the Constitution of the Federation of Bosnia and Herzegovina and in the Cantonal Constitutions it is a common estimate that its legal treatment in this Entity does not meet many requirements of the European Charter on Local Self-government. One should connect this estimate with the fact that the Canton's responsibility is large, while, at the same time, not only is the Municipal authorities' responsibility little, but it is not clearly defined. It means it is determined by the Cantonal legislation, however there is no secure criteria in their Constitutions to protect the principles concerning the scope of local self-government as provided for in the Article 4 of the European Charter. Also, there is an obvious constitutional insecurity as for the sources for funding local authorities, because it mostly depends on the Cantonal authorities' behavior. It means, the legal conditions for exercising functions of local authorities are inadequate, what is of particular relevance in the situation of a bad social environment in Bosnia and Herzegovina.

Ever since the beginning, i.e. ever since its enacting in February 1992, the Constitution of the Republic of Srpska has not defined a clear and consistent conception of local self-government. A careful and detailed analysis would show that it is embodied in this Constitution a contradiction as for local self-government. On one hand, local self-government has been paid considerable attention and has been dedicated explicitly several Articles of the Constitution. An entire Chapter of the Constitution has been dedicated to local self-government; it is said to be one of the fundamentals the constitutional and political system of this Entity is based on. On the other hand, local self-government is in a way minimized in the Constitution. It could be seen from the Chapter of the Constitution treating local self-government. It is named only "territorial organization", even though it in fact relates to local self-government and should be named accordingly. The provisions on local self-government are not concentrated in that Chapter (it in fact contains only three Articles), but they are spread over the entire Constitution's text. The Constitution does not contain a general standpoint concerning the right to local self-government etc.

Despite the aforementioned, some provisions of the Constitution of the Republic of Srpska dedicated to local self-government sound very well. This impression is primarily a result of the fact that the Constitution proclaims local self-government as one of the fundamentals the constitutional arrangement of the Republic of Srpska is based on. It is done in the Article 5 of the Constitution. Local self-government is treated equally as other fundamental social institutions therein, it has been given a character of a fundamental social relationship that all other social infrastructure is based upon. It would be logical that, due to such its "fundamental" status, local self-government enjoys a special social protection as well, because special social relations are especially protected.

However, at the level of legal proclamations, local self-government has not been left by the constitution-making body without any protection. There have been proclaimed the rights of the local self-government units as a border that the state bodies must not pass over, so its autonomy is protected in that way. In this case as well local self-government is specified along with other most important social relations. Concretely, in the Article 66. of the Constitution it is stated that "human rights and freedoms, equality before the law, independence and equal position of enterprises and other organizations, constitutional position and the rights of self-government units constitute a basis and measure for republic bodies' entitlements and responsibilities". But, despite that, the autonomy of the local communities in the Republic of Srpska has constantly narrowed, while the centralization of the state authority has constantly strengthened.

Territorial organization of local authorities

Prior to the 1992 - 1995 war, the Municipalities in Bosnia and Herzegovina had been treated in the Constitution as basic territorial political communities based on the citizen's authority, i. e. communities with predominant State functions.

In legal terms, the Municipalities in both Entities in Bosnia and Herzegovina are treated presently as local self-government units, primarily directed to the law - to performing local tasks and satisfying citizens' local needs.

However, as a result of lack of understanding differences between the two mentioned legal treatments of the Municipality, especially when still being under an impression of a strong position of the Municipality during the recent war, there are still different opinions as for the place and role of the Municipality, tending that it be a strong State authority unit.

Prior to the war, the conception of the Municipality as a territorial political community had been derived from a strategy that it be a large and strong Municipality, whose center should have been a bearer of the respective region's development. So, at the beginning of the war in Bosnia and Herzegovina there were 110 Municipalities¹. According to the Constitution, they all had the same functions, at the same time drastically differing between each other². In fact, these functions made Municipality a decentralized State authority routing more than 80% of its activities to carrying out Federal and Republic laws, but not to performing local tasks and satisfying citizens' local needs.

The General Framework Agreement for the Peace in Bosnia and Herzegovina (the Dayton Agreement) divided the territory of Bosnia and Herzegovina into two Entities in the proportion 51% : 49%. When dividing territories and drawing the inter-Entity line there were decisive political reasons, while all other reasons were almost ignored. At that time, 49 Municipalities were divided by the inter-Entity line. Concurrently, in some regions during the war the authorities from that time formed new Municipalities, what was done predominantly according to the ethnic criterion.

There have remained all existing distinctions among Municipalities - in their size, number of population, economic strength etc. In addition, there is a number of requests to form new Municipalities. But, the Entity authorities postpone addressing these requests. For all of them (either those for, or those against) the ethnic principle is a decisive one. There is only wish to allow forming those new Municipalities in which "my nation" would be majority. All other reasons are not observed, because it is dominating a fear of ethnically clean Municipalities, i.e. Municipalities having "undesirable ethnic structure". It has been taken in the B-H Federation a special Decision on uniform criteria for constituting new

¹The number of Municipalities in Bosnia and Herzegovina varied during XX century. During Austro-Hungarian government in B-H there were round 3.700 Municipalities, in the Kingdom of Serbs, Croats and Slovenes, i.e. in the Kingdom of Yugoslavia about 2.000 Municipalities, while in the early 50s of this century there was still in Bosnia and Herzegovina about 400 Municipalities.

² Differences among Municipalities in Bosnia and Herzegovina on the eve of the last war could be seen from the following data: Municipalities' areas ranged from 33 square meters - Sarajevo Center to 1.266 square meters - Foča; the number of population: from 4.162 - Ljubinje to 195.139 - Banja Luka; national product in particular Municipality was higher up to 86 times that in another one; budget consumption up to 42 times etc.

Municipalities or changing the current Municipalities' borders³, by which provided for many relevant elements for it. Nobody, however, does not stick to this act. Hence, it is further postponing a critical examination of the Entities' territorial organization, what refers then as well to the entire Bosnia and Herzegovina. That would be particularly needed given what is said in the European Charter on Local Self-government with respect to this issue.

There is in Bosnia and Herzegovina the situation of the so-called monotype Municipality, what means they are all in the same legal treatment, with the same rights and responsibilities. It has never been initiated a serious legal discussion on the necessity of the so-called urban and rural Municipalities, like in some European countries. There are, so, various legal treatments of Municipalities in that sense in the countries being far ahead of Bosnia and Herzegovina as to urbanization of their whole territory. It is the actual situation here, there are in each of both Entities several cities and a high percentage of rural spaces with many villages destroyed and, even more, stayed without, or mainly with the aged population.

There is, in fact, in both the Federation of Bosnia and Herzegovina and the Republic of Srpska one-degree local self-government. There are a lot of reasons urging the need to examine this situation. This might be particularly necessary due to the already mentioned huge distinctions among Municipalities in Bosnia and Herzegovina, by their size, number of the population, economic power etc., what, it seems, will keep on lasting given the actual authorities not being ready to open this issue.

It is necessary for some affairs from the local self-government domain - by their scope, territory to involve, human resources that imply necessary funds, to have units with more power and economic potential than Municipalities. Also, the communication with the State authorities' central bodies, needed for a mere functioning and development of self-government, would be more efficient if there existed a higher level of self-government organization, too. There are many

³ It is determined by the aforementioned Decision that one can establish a Municipality for an area having preconditions for enforcement of local self-government, that that area represents a unique space, i.e. natural-land whole, that it consists of one or more places populated and interconnected by communications to enable a free connection within a Municipality and that there exist on that area economic and other conditions for a particular number of population to satisfy their basic and common needs and interests (education, culture, infrastructure activities etc.). It is provided for in the Decision the possibility to define by a Cantonal law the lower limit of the number of population as a condition for establishing new Municipality.

developed models world-wide, among which the most common one being the so-called "mixed model", according to which they perform on that higher level some affairs from the State authority domain and some affairs from the field of self-government. It has proved particularly cost-efficient, what is very important for the actual situation in Bosnia and Herzegovina.

Local elections

Since the Dayton Agreement so far, Bosnia and Herzegovina has been almost constantly in the election process. Considerable undemocratic potentials of the so far Elections are the product of a range of common features of the constitutional and the entire social situation in Bosnia and Herzegovina. All until recently it resulted, beside other, in "plebiscite emotionalizing voters", whereby their loyalty and support being directed primarily to the national parties and their leaders, regardless of their realistic behavior and their programs. Voting against "possible danger and undesirable outcome" there prevailed the strategy of sophisticated voting, in which the party of someone's own nation was given a vote. In that way it was creating at the very ballot station an invisible national coalition, trusting that a competing party whose program not based upon only its nation's interests should be stopped.

A parallel process was going under way for unmasking behavior of the war and after war holders of public offices. In the situation where people being in poverty in general, the governing structures have more and more "proved" by corruption and groundless enrichment. Showing verbally care for the families of people who lost their lives, for the expelled persons, refugees or veterans, and presenting themselves a representative of "their own nation", they seemed less and less convincing and more suspicious. As a consequence there has commenced the process of "sobering up the people" characteristic especially by the following:

a) There is more and more lacking trust in the holders of the State and political authority and public criticism of their behavior.

b) With all three nations, in both Entities, there have happened conflicts within the block of national political parties, and such a conflict has also happened within the governing national political parties.

c) It is for the first time ever since the Peace Agreement has been concluded that the Elections for Municipal authorities, held in April 2000, showed the voters being less homogeneous as for specific national political party. At the same time as well, some political parties, not creating their political conception

on the ethnic basis, have grown as relevant political factor. The elections were held according to the Rules and Regulations of the Temporary Election Commission (organized by OSCE). These Rules and Regulations were innovated by many solutions that considerably strengthened the influence of the voters on the election of holders of offices in the Municipal bodies, so the overall electoral results were much better than in the previous years.

The outlined characteristics deserve surely a positive estimate, but one still cannot take it as a new political ambiance in Bosnia and Herzegovina. This has been shown especially in the implementation of the electoral results in Municipalities. In order to keep the power there were many cases of either creating new or renewing old partnership ties between national parties. It also expressed the point of view of the parliamentary parties as regards the proposed draft of the Electoral law. There was little readiness to discuss it with arguments and to possibly improve the offered solutions. With respect to this the national political parties' standpoints were rather identical. As for the number of the offered solutions to challenge, "they were reasonable", but without being ready to open discussion thereon. It comes out obviously that from the very beginning they were not ready to accept it.

Not only have the new-elected Municipal authorities met a lot of problems and difficulties in exercising their functions, but they have met their own insufficient capability and loss of feeling that the successful beginnings at the past Elections are much more binding than promising ones. That is why in many Municipalities in Bosnia and Herzegovina it is still difficult to establish even elementary local self-government mechanisms, and it is simply because the Elections' results are not implemented.

Namely, in the Municipalities with ethnically mixed population, like most Municipalities in Bosnia and Herzegovina are, the Municipal authorities were not constituted for one or two years after the Elections, what means it is difficult in these Municipalities to talk about local self-government at all. Concurrently, in multinational milieus where these bodies formed, democratic procedures are hardly passed, as a consequence of which the work of the local bodies is conflicting and slow. The minority population has been very often treated by the dominant national groups in a discriminatory way - from trivial disturbing to making impossible a normal life, most often by inappropriate and long procedures, and, it is not a rare case, by a direct and gross violation of rights.

There are also interest ties between the central State agencies and local self-government bodies in order to implement the law and the Dayton Agreement as a whole in a selective way. It is implemented first of all what is in the interest of "their nation". It is, in fact, the ten-year nationalistic basis for exercising the State and political authority, where local agencies being very often even more radical than the central ones.

At the General Parliamentary Elections held in November 2000 (for the level of Canton, Entity and B-H State), the voters' orientation mainly followed their behavior at the April Elections for the Municipal authority bodies. However, both objective and subjective weaknesses in the implementation of the April Municipal Elections, as well as some inappropriate acts of the political parties and the representatives of the International community in B-H during the pre-election campaign, resulted in a great success of some extreme nationalistic parties (SDS, HDZ). Hence, there have arisen in the implementation of these electoral results considerable problems, even blockade (most parliamentary and executive agencies have not been established yet). This will certainly have an unfavorable reflection on the development of local self-government in Bosnia and Herzegovina, because after these Elections the outgoing governing nationalistic Parties were left the local authority level (Municipality) as the only chance to preserve power.

Bosnia and Herzegovina does not have yet its electoral law. In every country this law is given a primary social significance, including the issue concerning the place and role of local self-government. Therefore, when enacting it one must obey the principles of the European Charter on Local Self-government and be able to understand new tendencies in Europe concerning regional self-government.

Local public services

It is difficult to give an estimate for Bosnia and Herzegovina that it belongs to modern societies. In the pre-war period as well its modernization (industrialization and urbanization) had been executed in a speedy, shortened way, in many ways by force, and it was followed by a massive and unprepared exodus of the rural population to cities. That is why Bosnia and Herzegovina has remained in many ways a rural milieu, with predominant rural values and traditional mentality.

The 1992 - 1995 war brought to massive and forced displacement of the population. It was aiming at ethnic cleansing of "one's own territory", applying even the most brutal methods. Beside a terrifying number of the people who lost their lives, soldiers and civilians, a great number of the most capable and creative people went abroad; the industrial workers and administrative officials came to agricultural areas, and villagers to industrial ones; the urban population arrived in villages, while the rural ones in cities etc. During this war a number of Municipalities "changed" to a great extent their pre-war population - there has left in some Municipalities only around ten percent of the same people who lived there prior to the war (for instance: Drvar, Srebrenica, Bosanski Petrovac, Bosansko Grahovo).

For the outlined reasons many Municipalities in Bosnia and Herzegovina have not been yet local communities in the very sense of that term, i.e. that there exist direct ties among people, substantial solidarity and emotional closeness. Still today, they are in many ways conglomerates of social groups found one next to another, without strong mutual ties, contacts and interests. The ones do not accept this new milieu as their permanent residence, but only as a temporary one, and they behave in such a way. The others, however, are willing to keep on staying in a new milieu, but they are not accepted by it, or there are no objective preconditions for it. A great majority of newcomers have not still been involved in the new environment, particularly if coming from a big city to village.

As a consequence of the aforementioned, there is an insufficient feeling in local communities for people's identification with the respective milieu. This situation characterizes the behavior of the newcomers and domiciled population. For the first ones it is a new and unknown place in relation to which they do not have a feeling like to their homeland. On the other hand, domiciled population is burdened by a belief that their milieu has become poor and rural, full of unknown people being very often in power, and so their resistance toward them is a big one.

The situation of divide and resistance has certainly been a consequence of the huge war sufferings and crimes that happened on a particular micro-locality. There is now there a distance and a lack of confidence between those who are returning and the population who spent there all the war time and was keeping the power, thus being responsible (or feeling that way) for expelling and suffering of their neighbors, as a rule, belonging to other nation and religion.

In the pre-war period, local self-government had been arranged as a part of integral self-management. Municipalities - communes had been organized as "small States" having large authority.

During the war and, to a great extent, post-war period, the entire social circumstances in Bosnia and Herzegovina have been such ones to encourage tendencies for strengthening Municipal independence, autarchy and extending Municipal responsibilities beyond authorizations as provided by law. Due to lack of unique and efficient authority on higher levels, Municipalities found themselves in the situation in which, following logic, they returned to the characteristics of the previous communal system. In fact, the war circumstances and the immediate time thereafter were convenient for the Municipality to care about all social life issues, what often meaning the least care about what has a character of local affairs. Nationalism was accepted as "useful in great many ways". Not only has it become the basis for acquiring authority, but it has also become a means for redistribution of power on the local level, whereby the first characteristic of such politics was violation, even suppression of national equality.

The laws which regulate local self-government in Bosnia and Herzegovina are passed within the Entities. There is in the Republic of Srpska the Law on local self-government passed on the Entity level⁴, while in the B-H Federation both on that level⁵ and on the Canton's level. It comes out the conclusion from a comparative review of the solutions as provided by law that the legal treatment of local self-government now is more than earlier uniformed between Entities. The representatives of the International community who care about the realization of the Peace Agreement for B-H, and who participated in seeking legal solutions while drafting the Law on local self-government in the Republic of Srpska, certainly contributed to it. Presently, it is more uniformed the organizational structure of Municipal agencies in both Entities, particularly by introducing the office of Municipal Executive in the Republic of Srpska.

The aforementioned Laws treat local self-government mainly in the same way as the right of citizens to participate through directly elected bodies in running public affairs, providing conditions for life and work and the protection and promotion of their common interests. It is a question of the so-called "self-

⁴ The Law on local self-government in the Republic of Srpska were passed on November 18, 1999 (Official Herald of the Republic of Srpska, No.35/99)

⁵ The Law on the basis of local self-government in the B-H Federation was passed on September 19, 1995 (Official Gazette of the B-H Federation, No. 6/95)

management sphere" - in the B-H Federation its elaboration falls mainly within the scope of the Cantonal legislation. There is an obvious disharmony between strong declarations having a principled character and, as a rule, poor and insecure provisions concerning the position and rights of the Municipality and local self-government. As a result, there are a lot of unclear matters in local self-government in B-H (in both Entities) as for sharing responsibilities between Municipality and higher levels of authority, insecure sources of financing local authorities and a lack of secure authorizations for taking measures and actions to prevent infringement of constitutionality and rule of law in this domain.

The positive side of the current state is that, according to the Dayton Constitution, the European Charter on Local Self-government is applied in Bosnia and Herzegovina. It constitutes support and pressure for local self-government in our country to develop in accordance with international standards. The thing is that in the peace conditions the citizens will more and more disagree with the cases of undemocratic behavior of the authorities and ignorance of their needs and interests. It is just on the local self-government level that they will feel the most the activities of democratic alternative - from the political Parties having such an orientation, to non-governmental organizations that have become an important factor of influence in Bosnia and Herzegovina.

It is surely of great significance for the development of local self-government in Bosnia and Herzegovina a persistent insisting on obeying the principle of division of authority (to legislative, executive and judicial one). It has been inherited the socialist principle of the authority unity, which was, in fact, a support for building the "Party State" as a negation of rule of law and democracy. Still today, this consciousness is very present and strongly pressures the overall authority structure in Bosnia and Herzegovina. It is surely a long-lasting process to affirm the principle of division of authority and it will meet many obstacles. The development of local self-government could considerably contribute to this affirmation

The personnel composition of the authority bodies is of particular significance for the development of local self-government in Bosnia and Herzegovina. It is a characteristic for the entire actual human resources structure (from the central to Municipal bodies) an insufficient expertise, i.e. lack of capability to meet modern requirements of international law and necessary degree of the social structure democratization. It is an imperative, therefore, to educate in the long run both public service officers and the overall clerical apparatus, especially on the level of Cantons, regions and Municipalities.

Financial and other economic resources

The issue related to funding local self-government and regulations for ensuring financing of local authorities is a core issue of its functioning, what is provided within the system of legislation, in accordance with the principles of the European Charter on Local Self-government. This Charter defines that the local authorities, in conformity with the economic policy of the State, have the right to their appropriate own sources of financing, with which to dispose freely within the scope of their entitlements.

The Law on the local self-government grounds of the B-H Federation defines that Municipalities, i.e. local self-government bodies have the right, according to the Constitution of the B-H Federation, to the appropriate sources of funding, to dispose freely of, within the scope of their entitlements, as well as the right to the funds for carrying out delegated affairs from domain of the rights and responsibilities of the Cantons and the Federation. The similar provision is embodied in the Law on local self-government of the Republic of Srpska. But, local authority bodies do not have their own sources of income, neither do the Entities, and Cantons (in the B-H Federation) as well, transfer them necessary funds for functioning and carrying out public affairs, especially those from domain of public services, communal infrastructure and public traffic. The situation thereto related is slightly better in the Republic of Srpska, because in this Entity, according to an explicit provision from the Law on local self-government, 30% of the total income on the territory of the respective Municipality is directed to Municipalities (in the underdeveloped Municipalities - 40%, while in the extremely undeveloped Municipalities - 50%).

Though it is an obligation as provided by the Constitution to apply the European Charter on Local Self-government, in both Entities it is not provided the application of its fundamental Article from the Paragraph 9, which regulates the issues as to financing of local authorities. This is because local authorities do not collect taxes, do not have their sources of income, while the funds that are transferred to them are not sufficient for exercising public functions and affairs of interest for local population.

The relationship between the Entity and Cantonal authorities has not been legally defined, to ensure by the law that Municipalities and Cities do become autonomous local authority bodies independently managing public affairs, in the interest of the local population and based upon their own responsibility. It is

characteristic, may be first of all with respect to financing local self-government, because the sources for it are insecure and fully dependent on the decision of the higher State authority agencies. Both the B-H Federation and the Republic of Srpska collect taxes and other levies and duties, but they behave differently when transferring funds to local budgets, often depending on which political option (Party) is in power in a particular Municipality.

The Municipality and the City are responsible for functioning of public services, however due to lack of resources that are collected through communal fees and city rent, these services do not encourage successful exercising of the affairs entrusted to them. This is a consequence of the fact that Cantonal authorities in the B-H Federation, and the corresponding bodies on the Entity level in the Republic of Srpska, have, within their responsibilities, the regulatory function for fees and other levies and rents. One should seek there the reason why the local authorities are not able to go into big investments for the reconstruction and the construction of communal infrastructure, what is, in addition to other, one of the primary preconditions for the return of refugees and displaced persons.

When considering the legal situation and problems related to financing local self-government in Bosnia and Herzegovina, one should have in mind that it is a request of the Council of Europe, within the ADACS Program, that the State and regional agencies start and establish the Project concerning decentralization of the fiscal policy, in order for the local authorities and local self-government in entirety to build capacity for regulating and managing public affairs in the interest of the local population.

Position of minorities on the local level

One of the most secure indicators showing a democratic level of the overall social structure is the state and problems concerning minorities in it. It means then that the minority issue is first of all the problem of the majority community, a mirror of its emancipation and culture. The promotion and the culture of persons belonging to minorities contribute to the entire stability of the country in which they live, to strengthening friendship and cooperation among peoples and states and to the peace. In fact, the respect and care for freedom and equality of other people, especially if that one is minority, are the precondition for a cohesion of the society, while tolerance method of acting in that direction.

The position of minorities on the local level is certainly reflection and result of their overall situation and position in the total social structure. That situation in Bosnia and Herzegovina is an unfavorable one for all minorities, however, due to

the cruel war and the ten-year governance of the national political Parties, this estimate refers first of all to national and religious minorities. The problem is in their legal treatment, and particularly in their factual situation. The constitutional arrangement in Bosnia and Herzegovina has been made based on an explicit domination of the national factor, but the governing State and political structures de facto understand under it only Bosniacs, Serbs and Croats.

In the normative part of the Constitution of Bosnia and Herzegovina national minorities are not mentioned almost at all, save the provision on the prohibition of discrimination based upon ethnic origin. Concurrently, beside an impressive list of the international legal acts treating human rights and fundamental freedoms (among which being some fully referring to national minorities), that according to the Constitution make an integral part of the Bosnia and Herzegovina legal system, their influence in Bosnia and Herzegovina has still been very poorly felt. It is shown in an illustrative way by the fact that in the whole Bosnia and Herzegovina legislation national minorities are mentioned in just several laws, as a rule generally and far below the international law standards.

Compared to the above mentioned poor and inadequate legal treatment of national minorities in Bosnia and Herzegovina, their factual position is even much more unfavorable. One should have in mind here an objective fact that with most of national minorities in Bosnia and Herzegovina the number of persons belonging to them is a small one (below 1.000), and that, mainly, they are not grouped on a particular locality, but settled all over Bosnia and Herzegovina (most often just a few families in one Municipality). It is a different situation with Roma, whose number is much bigger than of the persons belonging to all other national minorities in Bosnia and Herzegovina. In some Municipalities there is a great number of them, several thousands (Bijeljina, Visoko, Kakanj, Tuzla, Bosanska Gradiška). The persons belonging to the national minority of Ukrainians, too, are quite numerous in Bosnia and Herzegovina (about 4.000), mostly settled in the Municipalities Prnjavor, Prijedor, Banja Luka and Srbac.

It is a general characteristic for all national minorities they are on the margins of the State and political authorities' interest, what is favored by their inadequate legal treatment. Not only have they been limited in having the benefit of many their human rights, in some case, just according to the Constitution, they have been fully deprived of the opportunities to enforce them as well.

The Romani population is living in the most difficult conditions. Due to an almost full unemployment and illiteracy, they do find themselves in a great

poverty and misery, and full economic, social and health neglect. There are very often cases of tough discrimination against this minority population, not only by the persons belonging to other ethnic groups, but also by the persons in power in the State agencies and public services.

The persons belonging to all national minorities in Bosnia and Herzegovina are becoming more and more aware that the improvement of their social position depends to a great extent upon themselves. That's why they organize their associations and require more and more to participate in exercising public affairs. The realistic situation, however, is they are very little and symbolically involved in performing public affairs, particularly in exercising the state authority. In these cases as well Roma are in an especially disadvantaged position, though, at least in some Municipalities (having in view their percentage in the overall population of the respective Municipality), they should have been more included in these activities. An illustrative example for this is the police. According to an explicit provision from the Constitution of the B-H Federation, the national structure of the police in any Municipality must be in compliance with its population's ethnic structure. If this constitutional requirement was obeyed, there should be in many Municipalities 5 - 10 policemen from the Romani population in each. The thing is, however, there is not a single one (Visoko, Zavidovici, Kakanj, Zenica).

Participation of the persons belonging to national minorities in local self-government in Bosnia and Herzegovina is very poor. It is a rare case that they are included in it, even though that would be the right and most secure way for complying minority and majority interests with each other on a particular area. Not only would thus be eliminated misunderstandings and possible conflicts between minorities and a majority, but that would be a way for persons belonging to minorities to integrate into the society in which living, preserving thereby their ethnic identity. In the situation when national political Parties still dominate with all the three constituent nations, and since up to now the persons belonging to national minorities have not formed their political Parties, there is little prospect of the opportunities for minorities to provide at the Elections their involvement in exercising the state authority and public affairs. There is little possibility and prospect for them to organize themselves politically (to form their political Parties), and this because of a particular minority group being small in numbers and dispersed all over Bosnia and Herzegovina territory. In this moment there is more prospect of engagement of non-governmental organizations of national minorities in enforcement and the protection of minority rights in local self-

government units. They could encourage local authorities that in the process of making and implementing regulations be provided the full protection of minority interests, all until they acquire an advisory, consulting and legal influence with respect to it. But, given the realistic relations in Bosnia and Herzegovina, it would be difficult to expect for the situation to improve substantially if the position and the rights of persons belonging to national minorities in local self-government has not been clearly ensured by law. The European experience in that domain, binding international law acts and activities of a number of international agencies and organizations, first of all the Council of Europe, give a clear message and the way how to act in Bosnia and Herzegovina in that sense. In any case, the actual legal and realistic position of persons belonging to national minorities in local self-government is an unsatisfactory one, with many cases of discrimination that are sometimes based on legal grounds as well.

LOCAL GOVERNMENT IN SERBIA

Introduction

In this paper I will give basic concepts of the local government system in Republic of Serbia, with reference to individual significant and characteristic systems of local governments in some European countries. Comparative legal aspect review of the local government system is necessary to show the nature and basic characteristics, strong points but even more the weak points, namely the limits of the local government system in Republic of Serbia.

In the first part of the paper fundamental theoretical political and constitutional and legal concepts of a local government system will be presented concisely, as well as its place and significance in a political and constitutional system of a particular state.

In the second part of the paper will be determined the structure, functions, organization and economic competencies of a local government, relation between local and central (i.e. state) authorities, system of election of local government authorities, as well as the relation between minority communities and the local government.

Political and constitutional fundamentals of a local government

In a contemporary political and constitutional theory there are numerous definitions of a local government that are more or less opposed. Diversified determination of the essence of this notion is based on deeper philosophical-theoretical assumptions of individual authors, as well as on the attachment to a corresponding legal and political tradition of particular states and legal systems. Roughly and with considerable reduction it is possible to present two opposed viewpoints with respect to the nature of a local government.

According to the first, a local government system should constitute a part of a territorial organization of a modern state which, for the sake of optimization and efficiency of performing its functions and jobs, surrenders or entrusts these to the

authorities on a local level that are entirely or partially elected by the citizens themselves without any influence from central authorities. The local government authorities perform the assigned tasks independently, within a more or less strict and precise legal framework under the varying size of control by the central i.e. state authorities. Regardless of the fact that even in this concept of local government the rights of citizens to local government and fundamental functions of a local government are guaranteed by the supreme act of law of a state - its constitution (meaning that Parliament with its laws, i.e. executive authorities with its decrees can not revoke it), this concept of local government emphasizes its derivative character. Nevertheless, the basis of a local government lies in the state and its will to entrust particular public functions to the local authorities, and if not satisfied with their performance can (at least in principle) "return them" to itself by laws.

Such a local government presented in such simplified terms, as part of a state organization in principle with specific - locally elected authorities, does not exist today in any democratic state. However, the local government systems in France, Belgium, Italy and partially in Germany and Austria traditionally correspond to this notion.

For example, the governing French Constitution - The Fifth Republic Constitution neither proclaims, nor guarantees the right to a local government. The French political and constitutional tradition is loyal to the principle of national sovereignty proclaiming "a government emerging from the nation, consisting of the nation and governing for the nation" in "Republic that is indivisible, secular, democratic and social".¹ Not before Section XI of the Constitution, relating to the Republic territorial units, is there any mention of the local governments, Communes and Departments, that are free to self-govern through self-elected counsels under the terms and conditions stipulated by the law and where (in the Departments) a delegate of the central government is present (i.e. the Prefect) who is responsible for "national interests, administrative supervision and observance of the law enforcement".² The French model, due to its excessive centralization, is, by many authors, considered rather as a guardianship - a tutelage over the local government, than a real local government system.

¹ Art 1.2. Constitution of the Republic of France, Constitutions of the Countries of the World, Editors Albert P. Blaustein & Gisbert H. Flanz, New York, 1988

² Art 1. 72 Constitution, Ibid.

The Constitution of Italy of 1947 in its fundamental principles, among other, recognizes both a local government and an autonomy and stipulates that the Republic of Italy, although a unitary and indivisible state, applies the widest scope of administrative decentralization. The Constitution anticipates that the state laws observe the principles of self-governing and decentralization.³ Italy was the first of the European states to introduce a modern concept of regionalism in its constitutional system, that is to say the elements of a significant political autonomy of territorial units - regions - of non-federal type, but also retained a concept that the local units (communes and provinces), beside being the self-governing communities whose boundaries, number and functions are determined by the general Republic laws, are also territorial units both of state and regional decentralization.⁴

The governing Law on the Local Government Order of the Republic of Italy of 1990, anticipates that mayors and presidents of provinces, beside being the authorities and representatives of the local government, are also government officials supervising the performance of state and regional functions transferred to a municipality and a province.⁵ When taking the functions they swear the oath in front of local councils "according to the formula of Decree of the President of Republic relating to the status of civil state officials"⁶. As "Government Officials" they can pass enactment they are authorized for by the provisions in the fields of public peace and order, public health and public hygiene, and also control everything that can be of interest for public peace and order and informing the Prefect (i.e. the government delegate) about the issues.⁷ Moreover, if they don't conduct those tasks, the Perfect can nominate a commissioner for their performance.

The Constitution of Germany of 1949, in its section about individual rights does not foresee the right to a local government, but in Section III of the Constitution, relating to the federal system of government, in Article 28 stipulates the obligation of federal units (Länder) that communes (municipalities - Gemeinden) and districts (Kreise) constitute local communities in which the population is represented in the bodies of representatives elected by general, direct, free, equal and secret voting and that communes must be granted the right of self-governing over all issues of a local community, complying with the restrictions stipulated by the law.⁸ Nowadays, the German political and legal

³ Art 1. 5. Constitution of the Republic of Italy, Ibid.

⁴ Art 1. 128 and 129 Constitution of the Republic of Italy, Ibid.

⁵ Law dated June 8, 1990 No. 142, Organization of Local Governments Art 1.36

⁶ Ibid. Art. 36, para 2.

⁷ Ibid. Art. 38

⁸ Art 1. 28. Constitution of the Federal Republic of Germany, Ibid.

theory, as well as highly developed local government practice, that has a diverse structure, organization and functions in particular federal units (Leanders), insists on a democratic character of a local government and through the subsidiary principle⁹ grants increasing competence to larger self-governing units - cities and districts.

A concept that a local government differs from the state government, that its origin is not in the state and its right to autocratically "assign" performance of certain public tasks to local authorities, but that the people organized at the local level precede the state (not just in theoretical model, but empirically and historically) originates in the political philosophy of liberalism. According to this concept there are two tracks to execute the public power: governmental, i.e. central and local - self-governing, standing parallel with each other, with special authorities, manners of their election and functions they are conducting and among them there is no principle of superiority. According to this model, central, i.e. state authorities (government and ministries either federal or of federal units) have no right of supervision over the work of local bodies although they can institute proceedings for the judgement of legality of operation of the local bodies with independent court institutions (ordinary or constitutional courts). This concept that does not exist today in any effective - legal system in the world, originates from the English tradition of local government (as well as self-governing of Scandinavian states and Switzerland), that has its roots in the early Middle Ages, when a modern state as known today had not existed.

In the English tradition parishes are the basic units of a local government from the early Middle Ages up to now, though the scope of its functions has been changing. Today a parish is not a unit of local government any more, but nevertheless holds out as an agent, namely a body of a district council¹⁰, looking after local assets and needs of a village, i.e. community, and represents a forum for discussing the local needs and problems. In the unwritten English Constitution, due to the principle of supremacy of Parliament sovereignty, the local government does not have an entirely original character - all of its competencies are authentically the competencies of the Parliament, since in the last instance, only the parliament can decide about collection and spending of

⁹ i.e. assumptions of competencies in performing public work in local governments with respect to the state competencies of the national and federal authorities - author's remark.

¹⁰ Complicated system of English local government which had six units: parishes, village districts, city districts, cities, counties and borough counties, is significantly simplified. Till then this system had a multilevel (parish - village district - county) and two-level (city district or city - county) and single level (city with a district status) governments. The need to reform this system was emphasized as early as the end of the forties in this century, in order to be finally legalized in 1974 after proposals of several government reform committees.

See: The British System of Government - local government, Aspects of Britain series, HMSO, London 1996.

money for public needs, and a local government, just in order to exist, must have its own budget funds. But once assigned by the Parliament the functions of a local government can not be revoked, or unlawfully controlled by the executive authority. According to the English legal theory a local government has its "own" functions in the sense that, when stipulated by the enactment of Parliament (i.e. by laws, either general relating to all units, or individual relating to a particular unit of local government), only its bodies are authorized and obliged to deal with them on their behalf and for their account and not based on some delegation of central authority. Contrary to the continental legal systems by which a state delegates a number of its functions to a local government, the English local authorities have no delegated functions.¹¹ If the execution of certain public functions is conferred by law to the central government authorities, then they can not delegate them to the local authorities. According to a number of authors a decisive fact for this concept is that central authorities, in principle, have no local district units of their own. This theoretical principle is not implemented so strictly in English practice any more due to the simple reason that a large number of functions and public works, which a modern state has taken upon itself on account of increasing welfare and material progress of its citizens, demand enormous interference by the central - governmental authorities in the daily life of people. Should the implementation of law be left to the local government entirely, without possibility of rational and efficient control of its work, it could prejudice fulfillment of citizens needs and efficient, namely, cost-effective performance of public works. Due to these reasons, the contemporary relation between the English state and the local government is characterized by the ever growing scope and existence, beside the always present court supervision of the work of local authorities, ministerial, i.e. administrative supervision conducted in various ways.

In view of everything that was presented, as well as that which is fundamental in the process that leads to gradual, but it seems inevitable standardizing of mechanisms which modern management of public needs imposes both to a local and regional, i.e. central authorities in different legal systems of developed democratic European countries, it is possible to give a definition of local government that could reconcile the opposing opinions on its nature and manner of functioning.

Today, the local government undoubtedly constitutes a part of public authority that enables citizens of a local community to manage their local business independently and democratically either directly (rarely) or through elected

¹¹ Stanley de Smith & Rodney Brazier, *Constitutional and Administrative Law*. London, 1989.

bodies (as a rule) according to the legal system of a particular state in which process the central - state authorities are obliged to respect this right of citizens and local bodies unless they breach the imperative norms of the constitution and law, the final decision on which may be reached only by an independent court authority.

Local government in Serbia

The Constitution of the Federal Republic of Yugoslavia explicitly states that in FRY "the right of local government is guaranteed pursuant to the constitution of a member Republic"¹². Another provision of the FRY Constitution related to the local government is given in Article 73, Item 5, stipulating that real estates and other assets used by the units of local government are owned by the state and that the position and rights of local government with respect to their disposal and use is regulated by the law.

Under Article 7 of the Constitution of Serbia, a municipality is defined as a territorial unit where a local government is realized and by that is determined the single-levelness of the local government structure. The Municipality and the City of Belgrade, as a special territorial unit (that beside self-governing character also has a function of Republic in specific businesses) is considered in the Sixth Section of the Constitution - a Territorial Organization of the Republic. The Constitution stipulates that the local government system will be determined by law, as well as that specific tasks of the Republic can be delegated to a municipality subject to providing the appropriate assets. The Constitution stipulates direct decision-making by the citizens on performance of tasks of the local government - by referendum and through freely elected representatives in municipal assemblies. The basic enactment of a municipality - the statute - must be in compliance with the Constitution. The municipality specifies by the statute in detail its tasks, bodies and organization as well as other issues significant for its operation. The Constitution guarantees the municipality the original revenues to conduct its competencies determined by the law. Fundamental competencies and tasks of a municipality are stipulated and listed in the Constitution. This constitutional framework, regardless of the relatively modest municipal competencies, is no obstacle to a developed single-level local government. Functions of a municipality are not strictly listed in the Constitution so they are not depleted - it is not a so called principle of positive enumeration. In our

¹² Constitution of the Federal Republic of Yugoslavia: Art 1.6.

opinion the competencies of a municipality may be broader having in mind one of the basic constitutional principles - in the Republic of Serbia everything that is not expressly forbidden by the Constitution and Law is allowed. This principle of legal liberalism is, decoratively at least, one of the basic constitutional principles of the Constitution of Serbia stipulated in Art. 3, Item 1 of the Constitution of Serbia.

The Constitution of Serbia has, as a rule, adopted the "continental" model of local government. According to it a local government is less the right of citizens with respect to the central government guaranteed by the Constitution but more the form of territorial organization of public (state) government. After all, this is the case in the majority of constitutional texts of the European countries as we have stated above. Having in mind the case of England, where central authorities are increasingly "mingling" in the operation of the local government authorities, such normative framework stipulated by the Serbian Constitution is the cause of a local government fragility, but probably not a critical one.

The governing Law on Local Government was enacted in November 1999 during the rule of the regime of Slobodan Milošević, more precisely it was suggested by the Government of Serbia consisting of the coalition partners The Socialist Party of Serbia and the nationalist Serbian Radical Party. The Government has promoted the Law arguing that it is in compliance with the respective laws of developed democratic states of Europe and that it prevails over the principles included in the European Charter on Local Government of the European Council. Democratic opposition has, less in the Parliament, but more in media disputed the arguments of the Government and considered the Law as final revoking, that is to say introduction of tutorship over the local government.

The Law is in a greater part a codification of the issues in this area that were until then scattered through several laws. As tasks of the local government it stipulates: town planning and building construction (enactment of town planning designs and their execution; issuance of building license; use, regional planing and allocation of building land; community planning, allocation of business premises, parking area and dump area; maintenance and safety of residential buildings), public utilities (activities of general interest that are an irreplaceable condition for the lives and work of the citizens: water treatment and distribution, supply of hot water and gas, district heating, public transport, urban sanitation, maintenance of parks, green areas, roads, streets, public lighting, dumps, graveyards etc.); roads, street and squares; culture (operation, maintenance,

erection of cultural institutions - cultural centers, libraries, theatres and other; organization of cultural manifestations); education (erection, furnishing, maintenance of elementary and secondary schools; advanced training of professors, students transportation), medical care (monitoring the state of health of the population), social welfare (social welfare centers, help for the elderly, handicapped and unprovided-for persons), children care (preschoolers and students accommodation in institutions, erection and maintenance of those institutions); sports (erection and maintenance of facilities, organization of tournaments, work with talents and experts); development of tourism, catering, crafts and trade (planning of tourist places and facilities, tourist advertisement, working hours of facilities); protection of natural goods and environment (protection of agricultural and other types of land, protection of water and wells, preservation and use of curative places, protection of domestic animals and livestock; environmental protection); protection from natural disasters; public relations and media.

Beside the above tasks the local government can perform jobs assigned by the law (so called "delegated tasks"), subject to providing funds for these tasks from the Republic budget.

Regardless of the fact that listed competencies do not seem so small, in our opinion the local government in Serbia has limited functions and competencies which do not correspond to the scope of "essential part of public tasks" stipulated in the European Charter on Local Government, the basic document of principles and rights of local government, reached within the European Council.

By enactment of the Constitution of 1990 the scope of jobs and tasks of local government was drastically reduced in favor of the powers of the Republic. A municipality is deprived of essential competencies in many spheres of public life it had conducted till then in the areas of education, social welfare and medical care, keeping public peace and order - police, economic activities, catering, trade and tourism, culture. This should not be confused with the transformation of former, so called municipal system with its origins in the one-party communism, that was ideologically conceived as a system that accomplishes all human needs in a commune - municipality (even some classical state powers - court authority, for example) into a local government system, when it was natural that numerous former municipal functions vanished as public tasks. This is something else. Namely, enormous part of public tasks is centralized, "nationalized" (major part

of education, entire medical care, major part of social welfare and care, great part of culture, local development, entire police system), without any need for that in the transition from one-party to a multi-party, democratic system. On the contrary, the transition to a multi-party system as a path leading to a democratic society, should favor decentralization and larger participation of citizens on a local level in conducting the public tasks.

The competence of a local government in European countries is incomparably greater, and even with its competence is reduced there are no such radical changes. It requires quite a lot of time, serious preparations and government and political parties' programs, public discussions in order to remove certain areas from the local government management and shift them to the central or regional authorities. Even when this happens, as a rule, there is no full taking away of all competencies within a particular area from the local authority: it is more often the case that due to a powerful movement for regionalization and decentralization of governmental functions, some of them are "divided" between regions (where they are introduced, which rarely happens, and usually requires constitutional changes) or between particular regional departments of state authorities or governmental agencies and local government units. On the other hand, numerous local government authorities of second instance (for example, counties in England, provinces in Italy) lose the feature of an exclusively self-governing authorities and become bodies of regional character adopting with respect to the local authorities of lower instance (for example, districts in England, communes in Italy) certain functions of state authorities. Although, according to some authors¹³, regionalism leads to strengthening of centralist tendencies (having in mind former classical liberal principle of limited state and protected local government) since its reasoning is a planned and coordinated performance of specific public jobs and services. This is the reason why regionalization contributes to more efficient operation of those services in larger units than the local government units are. In most cases, regions are units established according to rational criteria (area, population, economical, developmental and area potentials) which is not the case with many units of local government.

Structure and territorial foundation of local government

The Law on Local Government did not tamper with the territorial division of the Republic of Serbia determined by the Law on Territorial Organization of 1991, where existence of 161 municipalities has been foreseen as single-level local

¹³ Ivor Jennings, Principles of Local Government Law, London 1960.

government units. Beside municipalities the Law also foresees the existence of four cities: Novi Sad, Niš, Kragujevac and Pristina. The Constitution of Serbia and the Law stipulates a special status of the City of Belgrade, as a capital of the Federal State and Serbia. The City of Belgrade, beside the municipal jobs also performs entrusted tasks that are within the competence of the Republic, that are delegated by special laws. Hence, in many proprietary and civil issues in an administrative procedure the authority of second instance is the city body instead of the republic ministry.

The only reason the Law states for the existence of other cities is the fact that cities have two or more city municipalities. Up to now two city municipalities are established in Niš and Novi Sad, while Kragujevac is threatened to lose this status since the one-year term from the enforcement of the new law has expired. It is unclear, however, what is gained, i.e. lost, by the acquisition of the status of a city?

In Serbia the local government structure was retained dating from the time of Reforms in 1995, when, by ideological argumentation, a so called communal system was introduced in the former SFRY, and the multi-instance local (districts and counties) government abolished. There was also a large and artificial expansion of the existing municipalities. Thus, out of approximately 3,900 municipalities established in the Federal People's Republic of Yugoslavia were created just 500 municipalities which was the number that remained at the moment of decomposition of former SFRY. Therefore, in Serbia the number of municipalities was reduced from somewhat less than 2,000 in 1878 to 190, counting in all municipalities of the City of Belgrade (it should be remembered that Serbia in 1878 was twice smaller in its area than the present territory of Republic of Serbia). Hence, an average municipality here has over 50,000 citizens, making it the largest municipality in Europe. The reform of the political-territorial division which many authors consider necessary and for which there are many serious reasons, would lead to a so called mean solution: abandoning of existing mega-municipalities, but not returning to a traditional, small municipality, what would mean to almost all places with any significance.¹⁴ In present municipalities there are places that are several of kilometers distanced from the municipal center. Interests and needs of citizens in different communities objectively vary greatly and they have no real chance to participate in the realization of local government considered as a form in which "the public tasks should be performed primarily by the authorities that are closest to the citizens" as stipulated in Art. 4, Item 3 of the European Charter.¹⁵ Having in mind

¹⁴ Miodrag Jovičić, *Regional State*, Belgrade 1996, p. 109.

¹⁵ *European Charter on Local Governments*, European Council Strazbur, 1985, Art. 4, para 3.

the stated principle of the Charter, a reform of the territorial organizations would mean an increase of the number of municipalities in such a manner that larger municipalities, especially those including numerous communities, would be divided into several new ones with appropriately grouped communities. According to some suggestions doubling of municipalities is necessary, hence after the reform Serbia would have about 420 municipalities. In this process establishment of mini-municipalities, such as existed before, should be avoided since they would not dispose with economical, financial, natural and human resources for communities to achieve the right of citizens to perform efficiently and freely the public tasks.¹⁶

It can be said that the true criteria for division of a country with respect to number, size and one-instance, i.e. multi-instance local government units can not be theoretically given precisely. There are three basic elements: territory, namely area, population and economical potential, that is to say level of development.¹⁷ Naturally, these elements are of a rational character when determining a division of a country. On the other hand, the reality in many countries, and even more the recent local government systems in the majority of European states have recognized another - much more convincing reason - historical and traditional foundations of territorial division. The first European legislature on this matter in the 19th century has just fixed the existing actual situation, arguing that municipalities established in such a manner are natural communities of citizens from a single place bound by mutual interests, needs, certain solidarity among its citizens and development of local pride and patriotism.¹⁸ An additional argument is usually made in favor of small municipalities that the term municipality implies something general that binds its population. The mutual needs and interests are general and they are far more present in smaller municipalities. Common interest should be specific for the local population since otherwise there would be no reasons for that area to have its own political organization according to the opinion of advocates of a traditional division. At the same time, in a small municipality the relations between the citizens and the local authority is much closer and direct. Hence, with good reason, the statement of a French jurist A. de Laubader can hold out that municipality is neither an artificial creation nor an administrative discovery, but one of the first communities in which civilized people come together.¹⁹

¹⁶ Jovičić, op.cit.

¹⁷ Miodrag Jovičić, *Structure and Territorial Basis of Local Governments in European Countries*, Belgrade

¹⁸ Jovičić, 1974, p. 103 and f.

¹⁹ A. de Laubader, *Manuel de Droit administratif*, Paris, 1955, quoted from Jovicic, 1974, p. 102.

On the other hand, small municipalities have serious disadvantages, of which the following are worth of mentioning: lack of sufficient financial means and, consequently impossibility to perform any of serious functions at all. Connected with this is poverty and difficulties of independent development without essential impulses and also supervision of the superior units of local government, namely state; lack of quality people and experts who should conduct self-governing public functions. In this sense a paradoxical conclusion is possible that citizens of small municipalities have practically nothing on what they can use their democratic rights they have at their disposal.

Concluding these considerations about the size of municipalities as basic units of local government it should be stressed that the conflict of the two groups of values is that whose solution can be a possible answer to the question of desirable size of a municipality. From an abstract point, any democracy has better chances for actual accomplishment if it is a question of a smaller political-territorial community. In that sense traditionalism in a local government, i.e. concept of municipality as a "naturally" and not artificially established human community may even be positive. On the other hand, the modern life and citizens' desire to satisfy their material and spiritual needs in the most cost-efficient and most complete manner leads to an efficiency value while satisfying their needs. In the attempt to find a balance in this seemingly unbridgeable conflict of opposite values, the modern age municipality should be large enough to have appropriate staff and advantages, but also small enough to preserve the atmosphere and spirit of a community in which a citizen feels that he has a chance to realize himself/herself politically.

Organization of local government authorities

In Serbia a municipal assembly is determined as body of representative with the greatest authority in creating the policy and a final decision-making body about the tasks of local government. It is a representative body of citizens consisting of councilmen elected in direct elections by secret voting for a four year term of office. The municipality statute determines the number of councilmen in an assembly, provided that there can be no less than 25 members and no more than 90 members. The assembly passes the statute (the supreme enactment of a municipality), decides on the budget and the development program. It passes the general enactment within the competence of the municipality (town planning project, program for the use of building land, general conditions for

development of communities, public areas, business activities, public utilities etc.). The president of assembly is the highest executive authority, chosen by the assembly among the councilmen. He is not a mayor, is not elected directly by citizens, neither has any special authorities, but according to the position and reputation he has among the citizens, he is, as a rule, the first man of the municipality. The executive board is the executive body of the municipality chosen by it. Its term lasts equally as the mandate of the assembly. It executes but does not motions enactments that are adopted by the assembly. The executive board monitors the operation of the municipal administration, but also of the public services established by the municipality. The executive board holds a position of the municipal government. The actual power in a municipality lies in the hands of the executive board for several reasons: assembly meetings are rare and it decides summarily on the agenda and issues that are, as a rule, motioned by the executive board. Assemblies do not have developed committee work, that is to say a continuous engagement of councilmen in the local government operation does not exist. At the very best the assembly is a "controlling body" that periodically controls the work of the executive board, the municipal management bodies and the president of assembly in the first place by the capacity of their removal from the office and replacement with new persons. In that sense it is well questioned whether the elected representatives of citizens actually conduct local authority, i.e. if "the councils or assemblies consisting of elected members on the basis of direct, equal and general right to vote determine tasks and manage the essential part of public works under their competence" - as stipulated under Art. 3, It. 1 and 2 of the European Charter. In that sense, the former insignificant influence of the highest representative bodies of FRY, i.e. Serbia (Federal and National Assemblies) with respect to creation, management, control and the course of political life in the country certainly can not be disregarded.

The European practice in solving this occurrence of repression of the significance of a representative body in favor of the executive authority can be interesting and useful. On the one hand, in many countries there are no executive boards as special bodies, but the work of the councilmen is conducted in committees that cover all the most significant tasks under the competence of local authority and in which beside the councilmen (usually making one half, plus the president of a committee) there are common citizens, i.e. experts in specific fields. These committees in England, for example, can make decisions on behalf of the local authorities, for which they are often authorized by law, and, as a rule, they are obliged to outline them for the confirmation by the municipal council

(representative body of citizens). Since committees are numerous and responsible for particular areas (police, education, public welfare, social welfare, environmental protection, housing, regional planning) too large concentration of power and natural tendency of executive authorities to arrogate too many authorities and power in their hands on account of the representative bodies (county, city or district councils) is avoided. Existence of a financial committee consisting exclusively of councilmen, on the other hand, contributes to efficient control of the work of all other committees, since they can not take over any public costs and expenses before approved by this committee. At the same time all councilors (committee members) are members of some committee and therefore their passive observance of the operation of executive body is neutralized. Once every three months (or more often) they are present at the local council meetings.²⁰

Highly developed operation through boards is stipulated in many other European systems of local government. Hungarian and Swedish system is very similar to English since it anticipates numerous boards of which some are determined by the law, while the other are independently established by the municipal councils. These boards are independent, directly responsible and exclusively competent for management of particular branches of local activity. The Swedish system stipulates existence of the execution board as a central executive body in local authority. It has insight into the operation of other boards, but with the existence and significant competencies of other boards it is limited in grasping too great a power.

The Swiss system also recognizes the executive board, but their election in larger cantons is not in the hands of the local councils. They are elected directly by citizens. In Switzerland, otherwise, there are just 10% of communes that have the communal councils. In majority of cases citizens themselves, through communal assemblies or referendum, directly decide about the most important issues of local life. Therefore, the control of work of the executive board is much more efficient, that is to say, the possibility of its arrogation of "total authority" is much lesser.

In many comparative systems the mayor conducts the function of the executive body. He is either elected by the citizens directly or by councilmen on the basis of a nomination submitted by the group of board members. The mayor is not obliged to be a councilman. In some countries the elected mayor selects later the

²⁰ The Law on Local Governments of the Republic of Serbia under Art. 87, para 3, foresees that the municipal assembly convenes once every three months.

executive board on his own. This board is subject in some countries, and in some not, to the authorization of the municipal council. There are also systems where beside the mayor, i.e. his deputies, there is no execution board, and the mayor alone selects the managers of particular local government services. This system exists in some German states (Baden Writenberg, for example), Hungary, Slovenia and in our country in Montenegro.

Very often, the mayor is not a member of a political group - party that has a majority in the municipal assembly and, consequently, a division of power in the local government takes place with the appearance of natural tendency for one or the other body to arrogate the power for itself. As a rule, except in cases when the division of power between a mayor and a council leads to a paralysis of the local government operation, this contributes to democratic character of the local government, since, naturally, either the council or the mayor desire to convince the public, namely citizens, that their proposals and measures are valid and are contributing to the prosperity and welfare of the local community.

The system of direct election of a mayor exists in many German states, France and majority of Switzerland cantons. It is also introduced in the new laws of Slovenia and Republic of Srpska. On the other hand, in England, Sweden, Italy, Austria, Hungary and some cantons of Switzerland the mayor is elected at the assembly meeting, and, except in England where this function is honorary and changeable each year, he is the executive body and selects his associates. In any case he has broader powers than the president of the municipal assembly and this system is applied today in Serbia. The reform of the local government in Serbia will surely aim at direct election of a mayor and his key role in proposing the municipal government.

Position of central authorities towards the local government bodies

The monitoring of local government by the central (state) executive authorities in Serbia is very broad. Ministries can demand reports, data and information from local government, both on the delegated and tasks that the local government is conducting as its own.

The Ministries are liable to inform the local authorities on observed faults and take measures for their remedy. The Ministry competent for local government suggests to the Government of Serbia to suspend the execution of general enactment of local authorities that is not in compliance with the law until the

Constitutional Court of Serbia evaluates the legality of the local government enactment. A particular deed of a municipal body can also be suspended till the final decision of the Supreme Court of Serbia. In cases when a local authority is not executing its own decisions related to the accomplishment of freedom and rights guaranteed by the Constitution, the ministry will warn the local authority and demand the execution of the deed maximum within a month. In case of failure this deed will be executed by the Ministry itself and will simultaneously instigate proceedings for the liability of the responsible person at the municipality.

If a municipal assembly does not pass any of enactments, namely does not work on some issues within its competence, the competent ministries will warn the municipal assembly accordingly. Should even after the warning the enactment fail to be passed, namely the work not be performed, the Ministry will suggest to the Government the dissolution of the elected local government authorities and introduction of "stop-gap measures". The same can happen to the local authority (i.e. entering of "stop-gap measures") in case of failure to take measures on time in case of extraordinary circumstances that can cause a large scale damage.

The Government will dissolve the local authorities and establish the municipal council that is authorized to operate for a year the longest, after which period new elections for municipal assembly must be announced. The new elections are announced in cases when local government bodies do not perform their tasks longer than three months; when they perform them in a manner that threatens the constitutional and statutory rights of citizens, or when they grossly damage the general interest.

The above reasons are given in general and they allow a possibility of flexible interpretation. The problem with such enactments is that their actualization and specifics must be executed through the administrative and court practice. The Government of the Republic of Serbia during the former regime did not give reasons for dissolution of local authorities. The Government has introduced those measures by passing decisions on establishment of municipal councils without reasoning. Eleven municipal councils were established in municipalities on the territory of Kosovo and Metohija before that Province was placed under the control of UNMIK. The reasons for their placing can be hinted in the lack of possibility to establish and execute local powers in areas where the large majority of population of Albanian ethnic community did not recognize the institutions and legal system of the Republic of Serbia. Those municipalities are: Srbica, Stimlje, Obilić, Orahovac, Glogovac (twice), Kačanik, Dečane, Djakovica and Vučitrn (twice).

Municipal councils had been established six times in municipalities with mixed nationalities which raises curiosity and opens numerous dilemmas. Have the ethnic requirements, ethnic majorization or some other problems led to the dissolution of local authority in Sjenica, Medvedja, Coka, Temerin, Novi Pazar and Titel - are questions that received various replies. Only in Stari Grad, Indjija, Mionica and Topola, the municipalities with more or less nationally homogenous municipalities with Serbian population, the Government has established municipal councils.

In its decisions on establishment of municipal councils the Government did not explicitly state that the elected local bodies are dissolved and, hence, a legal question was raised if, by these decisions, the bodies do not exist any more, i.e. have lost their mandate, or they have just ceased to perform the functions that are explicitly, by the decision, delegated to the municipal council.

The practice of the Constitutional Court of Serbia that the dissolved municipal assemblies addressed with a request to judge the constitutionality and legality of the Government decisions on establishment of municipal councils is interesting. Up to now the Court has rejected the requests to judge the constitutionality of decisions on dissolution of municipal authorities with various reasoning. In this way the Court considered that the Government had not breached the constitutional election rights and the rights of citizens to a local government by the dissolution of the municipal bodies. Also by these deeds, pursuant to the opinion of the Constitutional Court, the guaranteed basic human rights are not breached, as well as that "the Government, as a body of executive powers, according to the Constitution, is running the Republic policy and has a certain freedom of decision (discretion right) within the limits of authorizations stipulated by the law", while "determining if in each individual case the conditions have been met, i.e. if the reasons and facts exist, is within the area of appropriateness and enforcement of provisions stipulated under Article 45 of the Law for the concrete case, on which the Government decides". The Constitutional Court considers that the authority of Government "in the function of providing rights on local government that are guaranteed by the Constitution and law"²² is stipulated by the law.

Analyzing the decisions of the Court, it can be observed that it considers that the Government, *ex lege*, can determine at its discretion when the reasons for dissolution of local bodies stipulated by the law have occurred, and this judgment

²¹ Bulletin of Decisions of the Constitutional Court in Belgrade; Belgrade, Resolution IU 277/95 dated 25.02.1999 and IU 3/95 dated 01.04.1999.

²² Ibid.

of the Government belongs to the area of appropriateness and not lawfulness. This means, according to the judgement of the Court, that the Government is not even obliged to provide reasons, i.e. the facts on which its opinion that the municipal bodies threaten the constitutional and lawful rights of citizens or tend to harm the general interest is based. The Court did not give any closer attribute to these categories (what constitutional and legal rights of citizens are in question, what is and what is not the harm to general interests). To the Court, the Government, as a body of executive powers, according to the Constitution is responsible to conduct the policy and enforcement of the law, and it is free to judge the level of threat to the constitutional and legal rights of citizens and the scope of the harm of general interests caused by the municipality's operation or non-operation, i.e. its bodies. While doing so, the Court does not consider that the dissolution of local bodies leads to a breach of constitutional rights, to free elections of bodies for local authority and the right of local government. Instead of measuring the significance of these constitutional rights against possible other constitutional and legal rights that particular municipalities have breached, and due to the significance of those other rights to determine when and why the Government for one right (i.e. corpus of unnamed constitutional and legal rights) can breach the other right (constitutional right on free election of local authorities and the right to a local government), the Court has, up to now, acted more as the authority that defends the Government actions applying the general argumentation of free and discretionary judgement.

The former Government arbitrariness in jeopardizing the constitutional rights of citizens to a local government and freely elected representatives of citizens therein, raises serious doubts in this legal institute in compliance with the monitoring tradition of government and executive authority over the local government as known in comparative practice.

The new Serbian Government from the moment of its establishment has dissolved local bodies in one municipality (municipality Bosilegrad with prevailing Bulgarian ethnic population) and the use of this institute is announced for several other municipalities where the parties of the former regime have the council majority, but the municipal bodies are in crisis, namely where they are not even constituted either due to resigning or transfer by councilmen to the parties of the Democratic Opposition of Serbia.

In England and Sweden the central authorities do not have the right to dissolve the local government bodies.

In Switzerland, in certain cantons, the supervising authorities of specific cantons in certain cases can dissolve local bodies. The dissolution can be done in case of: a) failure to comply with the laws, edicts and decisions of superior authorities, as well as communal regulations; b) disorders or gross negligence in communal administration.²³ Local authorities are suspended (all or particular ones) and emergency administration has taken over. Measures of local government suspension are applied by the cantonal government, but, nevertheless, in majority of cantons it must submit them to the Cantonal Parliament for approval. In some cantons new bodies are elected in the shortest possible term, while in some the emergency administration conducts its functions as long as required by the circumstances.²⁴ In Switzerland the cantonal bodies are entitled while performing the supervision to be present at the meetings of the local councils, to convene these meetings, to fill up the vacancies in the councils. It seems that these rights are so extensive that they might jeopardize the local government in general. The only justifying reason is the fact that cantons constitute relatively small political-territorial units providing unusually great rights of citizens self-organization compared to their size.²⁵

In Austria, the republic government can dissolve a municipal council when it can not operate and make decisions, or if it fails to perform the municipal tasks prescribed by the law. With the dissolution all offices of elected national representatives are terminated and the government delegates its commissioner to conduct tasks within the competence of the council. The commissioner has its assistants nominated by political parties that had their representatives in the dissolved council and they can conduct their functions within six months in which term the emergency election must be held.²⁶

In Italy, the municipal and provincial councils can be dissolved by the President of Republic on the motion of the Minister of Internal Affairs, when those councils adopt enactments contrary to the Constitution, the Law and the Public Order, when they are unable to provide regular functioning of its services, when unable to choose the mayor or president of the province within sixty days, also when budget is not adopted within the expected term. A decree on dissolution is enclosed with the minister's report containing the reasons for such a measure. The report on passed decree is immediately submitted to the Parliament. A commissioner who will take over the authorities of the council is nominated by a

²³ Law on Communes of the Fribourg Canton, similar to the Law on Communal Administration of Geneva.

²⁴ Law on Communes of the Zurich Canton, Law on Communal Organization of Canton Bern.

²⁵ Jovičić, 1963, p.248

²⁶ Art. 86 of the Law on Civil - Municipal Law of the Republic of Austria.

decree. The new elections must be held within three months. Just exceptionally, when the Minister has instituted and initiative for passing a decree, the prefect, for reason of a serious need and emergency, can suspend the council, but maximum for a period of ninety days.

In the same manner the President of the Republic can suspend mayors and presidents of provinces.²⁷

In Hungary, in view of the high level of accomplishment of the right to a local government, it is stipulated that only the Parliament, based on the motion of the Government and upon obtaining the position from the Constitutional Court and in the presence of the local mayor, dissolves a local representative body for activity contrary to the Constitution of a country. At the same time, the Parliament calls for emergency elections within sixty days.²⁸ High level of protection of self-governing rights of local bodies stipulated by the Hungarian law is also expressed by the fact that the Commissioner of the Republic, nominated by the President of the Republic, at the motion of the Prime Minister, performing the administrative monitoring over the work of local bodies can not revoke and even suspend the execution of an enactment of local authorities before the competent court (regular or Constitutional) does not declare it unlawful or approves a suspension.²⁹

Concluding this analysis we can say that norms and practice on dissolution of local authorities in Serbia did not comply with the European Charter. This procedure especially is not in compliance with the Charter provisions dealing with proportionality that should exist between the intervention of monitoring authority (regional or central) against local government bodies and the significance of interest protected by the intervention (Art. 8, It. 3 of the Charter). The evasion by the Constitutional Court of Serbia to judge fully and validly the constitutionality of mentioned provisions of the Law as well as lawfulness of the Government's practice in establishment of municipal councils represents the case of nonexistence of effective and efficient court protection of local bodies against the intervention of central powers, stipulated in Art. 11 of the European Charter.

²⁷ Art. 39 and 40 of the Law on Regulation of Local Governments of Italy.

²⁸ Art. 93 of the Law on Local Government of Hungary.

²⁹ Ibid. Art. 98-100.

Elections for the local government bodies

Councilmen of municipal assembly are elected for four years on the basis of free, general, equal and direct electoral right, by secret voting in electoral units determined by the municipal assembly. Councilmen can be nominated by political parties or group of citizens and their residence should be in the electoral unit they are nominated for. A candidate is elected for a councilman if he gets the largest number of votes, i.e. simple majority of voters that have polled. In other words in Serbia is currently effective the so called majority single-round system. The former law on local government of 1991 stipulated that a candidate is elected for a councilman if getting majority of citizens' votes that have polled, which was rarely the case due to the dispersion of votes and many candidates. Therefore, at the repeated voting two weeks later, the citizens were choosing between two candidates with largest number of votes. This so called two-rounds majority system brought victory to the opposition at the local elections in the largest cities of Serbia held in 1996 (among them were Belgrade, Novi Sad, Niš, Kragujevac, Subotica, Zrenjanin, Pančevo, Vršac, Užice, Jagodina, Čačak, Kraljevo and so on). The former regime wished to avoid pooling of votes of opposing parties in the so called second-round at the next elections. Therefore it determined a system of simple majority (so called knockout system), since it considered that opposing parties will not go to elections united in a unique coalition. In spite of the fact that SPO went to the elections outside the Coalition of Democratic Opposition of Serbia, this electoral system has brought at the local elections in September 2000 a great victory to DOS and seizure of power in municipalities in Serbia, among them in all larger cities. It is characteristic that one of the principles adopted at the time of integration of opposing political parties in DOS was the introduction of a purely proportional system for election of local assemblies.

The electoral system for election of local authorities, as well as for election of central representative bodies, has been the topic of interesting public discussions and suggestions in the previous decade. Although a system similar to the former valid system for the election of municipal assemblies (i.e. majority - two-rounds) existed for the election of national members for the first multi-party assembly of Serbia in December 1990 it was changed after the protests made by the opposition and the round tables held at the federal and republic level in 1992. Thus for the elections for the Federal and National assembly held in December 1992 the proportional system was introduced which has not changed significantly to this date. However, the majority system remained for the elections for the local

assemblies. The fact that it was retained was defended by the claim that it is closer to the principles and nature of the local government, and that the citizens prefer to choose as councilmen well known persons from their communities and not the representatives of political parties and certain political programs. It was emphasized that this election model is present in developed democratic countries and has shown there to be successful. In spite of all these reasons, the regime did not have a true desire to have the municipal assemblies reflecting the actual diversity of political options. The opposition suggestions for a proportional electoral system were denied. The draft of the Law on local government submitted by the Republic government for adoption at the National Assembly in the summer of 1997 foreseen a system in which three candidates, instead of two, with the greatest number of votes would enter a second round of voting. This draft of the Law was not adopted at the National Assembly because of a successful parliamentary obstruction conducted by the councilmen of the Democratic Party. Only the new law on local government has foreseen the above described system which, it can freely be said, was one of the important reasons for uniting of opposition and creating of DOS before the local and federal elections in September 2000.

Public utility services

The group of most important activities performed in Serbia by the municipalities are the public utility activities. Their performance is one of the main functions of the local government since its creation, and the public utility activities today fall under the competence of the local bodies in all European countries.

According to the Law on Public Utility Services³⁰ they cover the activities of general interest, which an irreplaceable condition for the lives and work of the citizens and other subject on the territory of the municipality, the city, that is, the City of Belgrade. These activities are the production and supply of public utility products and rendering services: waterworks, sewerage, district heating and hot water, public transportation, sanitation in the cities and settlements, development and maintenance of parks, green and recreational areas, maintenance of street, roads and other public areas in the cities and settlements, public lighting, maintenance of dumps, development and maintenance of cemeteries.

³⁰ "Official Gazette of the Republic of Serbia" No. 16/97 and 42/98.

The responsibility of the municipalities in performing the public utility activities means to provide conditions for their permanent and continuous performance, adequate volume and quality of services subject to the economic conditions, providing material and technical conditions for construction, maintenance and operation of facilities and providing technical and technological integrity of the system, as well as supervising and control of their performance.

The municipality performs the public utility activities by way of public enterprises which it founds (or public enterprises that may be founded by agreement of two or more municipalities) for the activities of waterworks, sewerage, district heating, trams, trolley and rail transportation of passengers. The other public utility activities, as well as those mentioned, in case the founding of a public utility enterprise would not be feasible, could be entrusted by the municipality to some other enterprises of entrepreneurs that exist on the market. The law has foreseen that even the public community enterprises can entrust certain jobs to other companies or entrepreneurs if the municipalities give their agreement thereto. The municipal assembly entrusts the performance of public utility services at a public bidding which must contain the conditions and manner of performance of this activity, the period of time for which this activity is entrusted and manner of municipal control of its performance. This term cannot be longer than five years, however, when the enterprise performing the public utility service has had its own investment in the facilities or units, this term can be extended to a maximum of 25 years. Upon expiry of the term the public and other enterprises compete under the same terms for the performance of these activities. As an exception the Law allows the public utility services to be entrusted by collecting tenders or by direct bargain, but does not provide reasons for deviating from the public competition system. The funds for performance and development of public utility services are provided from their price achieved by sale, that is, rendered service, but also from part of the charge for development and use of the building land, voluntary financial contribution, other sources, as well as from the republic budget. The price of the public utility product and services is set by the public enterprise, that is, other enterprise with the approval of the municipality. The public enterprises founded by the municipality are owned by the state and can be privatized maximum up to 40% of the value of its capital.

The Law on Public Enterprises and performance of activities of the general interest adopted by the previous Government of Serbia³¹ has increased the Government control and its ministries over the operation of all public enterprises, even the public utility enterprise founded by the state³². According to that law a contract that regulates the performance of public utility services

entered between other enterprises or entrepreneurs and the municipality requires the Government approval. The Government of Serbia gives its agreement to statutes, to issuance of guarantees, sureties, collateral, liens and other means of security for jobs not within the activity of general interest, to the decision on prices and the tariff system, to the disposal of enterprise property of a significant value which is directly linked with the performance of the service of general interest, to an enactment on general terms for the supply of public utility products and services, capital investment, status changes, property transformation program, and enactment of capital evaluation, work and development plans and annual programs of operation, allocation of profit, founding of other companies, as well as other decision important for pursuing the activity of general interest. The extent to which the involvement of Government in the operation of public municipal enterprises (but not just them but all public enterprises in the Republic of Serbia) is stipulated can be seen from the mandatory granting of the Government approval before the payment of wagers and compensations to the president and members of the board of directors of the public enterprises, that is, any payments of the public enterprises for advertisement, promotion, expense accounts, sponsorships, donations etc.

This Law was made under specific conditions as a request of one of the political parties that formed the ruling coalition in the Republic in the past years (Serbian Radical Party) in order to strengthen and enforce its influence in the management of state property performed by large public enterprises founded by the Republic. It is not enforced presently and will certainly be changed in the course of the realization of the reform program by the new Serbian Government.

There is rarely anyone satisfied with the public utility services in Serbia today. Dissatisfied are consumers, public utility enterprises rendering services and the local government responsible for rendering services. The public utility

³¹ "Official Gazette of the Republic of Serbia" No. 25/00.

³² On December 28, 1995 the Republic of Serbia passed the law on Assets owned by the Republic of Serbia, whereby the natural goods (land, forests, water etc.) and the goods in general use (public areas, road etc.) goods of general interest established by the law, assets acquired, that is, acquired by the state bodies, bodies of the units of territorial autonomy and local governments, public services and public enterprises, facilities built, i.e. acquired by assets owned by the state, assets, i.e. revenues realized on the basis of investment of state capital in the companies, as well as other assets, are proclaimed the property of the state. It had thereby "abolished" the existence of any other public property, except the state property, and has "nationalized" any real estate and movable assets, pecuniary and other property rights that had been used, managed and disposed with, in the previous system, by the municipalities as "social-political communities". With this Law the local governments in Serbia remained without any property of their own, with a limited right of managing the property. How fragile this right of management was is best illustrated by the provisions of the law by which the Government of Serbia can take away the real estate used by the municipality if it evaluates that "it is not used for the purpose of realization of competence of the local government authorities, is not used directly for the realization of these functions or is used contrary to the law, nature and purpose".

companies practically have a monopoly in performing all public utility services. In general they do not operate on a commercial basis, there is no incentive to cut down the expenses and resemble by their behavior part of the state administration rather than an independent company. The prices of public utility services are controlled, whereas the control is two-phased. The new prices are proposed by the enterprise itself, and the proposed price is approved by the executive bodies of the local assemblies. Finally, the Republic government, under the justification of protection of the standard of living of the population in the end approves or does not approve the already approved prices. The investments into new public utility facilities are financed from public revenues - the local budgets or special funds, but not also from the revenue of the public enterprises which are low.

It is quite clear now that the reforms in performing public utility activities will foresee their demonopolizing and reduction of number, as well as the volume of activities of, mainly, non-profitable public enterprises. It is anticipated that their efficiency will rise through proven forms of modern market operation and without changes in the regulations such as: agreement on results, agreement on management, contracting services and entrusting work. The entrusting of public utility operations to other companies which are equipped for it, except the public utility companies, could be realized through: contracting out, franchising, concession, BOT contracts. Privatization of public utility activities (over the present limit of 49%) as a long-term measure would mean: attracting fresh foreign capital which can also bring completely new methods of management, organization, marketing, and significant increase of their economic efficiency. Privatization of public utility companies should be preceded by the public utility service price policy reform.³³

Local government financing

In the total public expenditures in Serbia, the expenditures of the local governments, together with the public utility expenditures, makes 13.5% whereas at the level of FR Yugoslavia it is 9.9%. Such a small share is the result of excessive centralization of competencies and revenues at the Republic level in the past decade. The local expenditures in the democratic countries of Europe goes up to, and sometimes even exceeds 30% of the total public expenditures. The municipality receives the tax revenue as follows: part of the income tax - tax on revenues from agriculture and forestry and just 5% of the personal income

³³ Boris Begović, Ph.D., *Economic Aspects of Governing the Local Community - towards raising the economic efficiency*, Belgrade, 2000.

tax, inheritance and gift tax, real estate sale tax, land tax and 25% of the tax on other property and the largest of the mentioned taxes - part of the tax on sale of products and services. Every year the Republic passes a special law whereby it determines part of this tax that belongs to the municipalities. According to the law for the year 2000, the share of the municipalities in the sales tax ranges from 4.7% and 4.8% in Belgrade and Novi Sad to over 90% in small and underdeveloped municipalities.

Beside the income tax the municipalities are entitled to: part of the residence tax, part of the charge for the use of estates of general interest and natural curative factors, local communal tax (for the use of public areas, holding games, putting up company name, use of advertising billboards, etc.), revenue from renting real estate, charge for the use of city building land. The municipality can introduce a self-imposed contribution for the erection of facilities of public importance. A municipality that cannot cover its needs from the revenues it is entitled to is provided with additional funds by the Republic.

The municipality has its own budget which is effective one calendar year. The budget draft is determined by the executive board and adopted by the assembly. However, does not determine the extent of its budget freely but must reconcile it with the projections set previously by the Governments in the General balance sheet of public revenues and expenditures in the Republic. The control of legality of the local budgets is performed by the budget inspectors of the Ministry of Finances. The municipality does not collect its revenues itself. This is performed for the municipality by the Republic Public Revenue Administration. The municipalities do not have insight in the cash inflow to the Administration accounts. There was a well known case when the previous Government did not wish to transfer to the City of Belgrade the revenue from the 3% local tax without any justifiable reason. The municipality revenues are also revenues realized by the public utility enterprises from the services rendered to the population.

In Serbia today the public revenues are a great burden for those that have to pay them, but insufficient to meet the common and general needs in a high quality manner, as well as for those that live from them. In view of the outstanding centralization of competencies and functions at the republic level, that is, small competence of the local bodies, almost all the important activities are financed from the Republic Budget and the budget funds. This means as well that the decision-making is also at the Republic level and that the municipal and city budgets are also relatively small. Since the Republic has defined from which

revenues are financed the local government the municipality, practically, cannot introduce a single revenue at its own discretion. In the majority of revenues all the relevant decisions (tax rates, charge and compensation rates, reliefs and exemptions) are made again by the central authorities. This means that the local bodies cannot lead any revenue policy not adjust them to their needs.

The necessary reform of the entire system of public finances in Serbia that is forthcoming must bring an increase of revenues of local communities. With the increase of the number of functions they perform they would also have to have more stable and generous financial sources. The municipalities would have to have freedom to set the size of their budget alone, according to their needs and abilities. They should be granted the right to determine themselves certain taxes they are entitled to today: real estate sales tax and property tax, for example. The entire revenue from the property tax, charge for the use of estates of general interest and the residence tax should be the revenue of local communities. According to some suggestions they should have the right to introduce alone the excise duty.³⁴

Minorities and local governments

Centralized and nationalized Republic of Serbia with a limited local government does not suit the majority ethnic communities, but even less the members of the minority communities. Great influence of the central government in the authority, revenues and everyday work of the municipalities creates dissatisfaction of the ethnic minorities and their political parties that participate in the work of the municipal bodies. Characteristic in that sense are the provisions of the current law which requires approval from the competent ministry for defining the symbols (coat of arms and flags) and holidays of the local communities, as well as names of streets, squares, city blocks and settlements in a community, which in the practice of the previous regime meant that the proposals with the names of ethnic minorities, adopted at the municipal assemblies, have mostly not been approved. The identical system of elections for the municipal bodies and the form of their organizing left many ethnic communities outside the effective participation in the work of the local bodies which influenced their distancing from the Republic and participation in its legal and political system. In the Republic of Serbia the ethnic minorities make almost one third of the population, when counting in the Province of Kosovo and Metohija. Formally speaking this is perfectly legitimate, in view of the Resolution 1244 of the Security Council, according to which this territory falls under the

³⁴ Boško Mijatović, Ph.D. Financial Aspects of Governing the Local Community, Belgrade, 2000.

sovereignty of FR Yugoslavia. On the other hand this Resolution foresees that this territory is under the administrative control of the United Nations (UNMIK) and that the legal system of the Republic of Serbia is implemented on its just indirectly. The permanently neglected and disordered ethnical problems in this province were the very cause of revolt of the ethnic Albanian population in the course of 1998 which led to the military intervention of NATO in the spring of 1999. This intervention had resulted in the arrival of the KFOR forces - and passing of the subject Security Council Resolution which had established the international protectorate in the Province for a longer period of time.

The effective law on local governments, in spite of the fact that Kosovo and Metohija are not directly in the legal system of Serbia, has foreseen a special system of organization of local governments in this Province which would be implemented two months after termination of UNMIK mission. This system has foreseen in the Province three equal councils at the municipal assemblies (ethnic Albanians, Serbs and Montenegrins, as well as nationally uncommitted) that need not have the same number of councilmen, but decide equally on all major issues under the competence of the assembly on a consensus principle. If the consensus is not reached on each individual issue decided on, then, on the motion of one of the councils in the assembly, the Government of Serbia makes the decision that replaces the municipal assembly decision which shall be valid one year, during which time the councils have to work out the difference. If the councils do not reconcile their views within that period the Government deed will be implemented further on. Instead of the assembly president there is a three-member presidency which also makes decisions by consensus. The chairman of this presidency rotates every three months. The executive board is constituted on a parity principle of representation of members of other nations that are entitled to separate councils. The proposal of a majority in a council is put without voting on the agenda of the assembly session with the reasoning of "importance for the realization of constitutional freedoms and rights of citizens, that is, national communities", that is, such a issue on the agenda can be postponed, without voting, for the next session. The identical procedural mechanism is implemented for the items of the agenda reviewed by the Executive Board.

Just for a small number of issues (tourism, sports, working hours of trade, craft and catering shops, conditions for holding domestic animals, measures in case of natural disasters) is decision making foresee by a two-thirds majority of all members of the council of national communities in the assembly, whereas on the issues of culture and similar fields each council decides independently.

This mechanism of collective ethnic rights is foreseen for the first time in the legal system of Serbia. It is identical to the model present in the proposal of the Serbian delegation at the negotiations in Rambouille with the representatives of the Albanian Kosovo community, which it did not accept. Today, after the bloody war clash and practical disappearance of the multiethnic communities on greater part of the Kosovo territory, still present violence and great mistrust of the Albanian and the remaining Serbian community, such a concept of the system of protection of collective rights, i.e. rights protecting minorities from the domination of the majority community, will hardly be acceptable for the domineering community of ethnic Albanians.

On the other hand such a model of protection of minority communities can be a hint of the future solutions in some municipalities of Vojvodina and other multinational municipalities in Serbia.

The political parties of ethnic minorities are not satisfied with the present degree of independence of local governments in the ethnically mixed environments. The last decision of the Constitutional Court in Serbia that have proclaimed as unconstitutional the decision of certain municipal assemblies whereby the languages of the minorities are foreseen in official use on the territory of these municipalities beside the official Serbian language, have met with criticism and denial not just among the members of these minority communities. In the concrete cases it is the official use of the Hungarian language in the municipalities at the north of Vojvodina where the members of these communities make an absolute or relative majority, that is, significant minority of the population. These decisions are one of the main reasons why the Executive Council and the Assembly of the Autonomous Province of Vojvodina has officially moved the issue of the official use of the language of minority communities in the local and provincial bodies and public names of the cities, inhabited places, streets and squares and the proposal that this province organizes these, but also other issues, in a specific way with respect to the effective Republic laws.

The unsatisfactory position of the ethnic Albanians in the three municipalities at the south of Serbia (Presevo, Bujanovac and Medveda) is one of the causes of the current crisis whose form takes on very dangerous proportions. Regardless of the fact that the municipal power in Presevo, since the beginning of the multi-party elections in 1992, is in the hands of the Party for Democratic Action that gathers ethnic Albanians, the ethnic participation of this minority community in the local

bodies on that territory was not proportional to its share in the population. Hence the Plan of the Government of FR Yugoslavia and Serbia contains for the solution of the subject crisis a specific section dealing with the integration of ethnic Albanians in the political, state and social system of the Republic of Serbia. It has foreseen specifically the reconciliation of national structure of the municipal assemblies, executive councils and local community administration bodies. The change of the current Law on local governments is foreseen in that sense within a very short period of time.

Conclusion

There is a common understanding in the liberal and democratic theory today that the local government is a "school of democracy" because by exercising their right to take part in the forms of local governing by election of their representatives to the representation bodies, or directly at local assemblies of the basic local units, the citizens gain experience and habit of participating in governing the entire community. On the other hand, the people elected by the voters, executors of local power, participate in the work of these authorities, learn to govern in general, so that very often this is the beginning of their political career that may end with the election to the national parliament or central executive bodies. Within the European Council was adopted in that sense a Charter on Local Governments in 1985 which emphasizes in its Preamble that "local authorities are one of the basis of any democratic system" as well as that "the right of the citizens to perform public work is one of the main democratic principles which can be realized most directly at the local level". The Charter is open to signature by any state member of the Council and has a character of an international agreement, therefore, it is to be expected that it will be signed by FR Yugoslavia as well after the democratic changes and the current statuses of associated member in the European Council.

The forthcoming reform of the local governing in Serbia must bring a new concept which is inseparable from the stipulation of the constitutional status and form of internal organization of the Republic itself. It cannot be said with full certainty at the moment which direction will it take: whether a significant increase of competency, functions and revenues of local communities, whereby the local government would basically remain single-instance, with preserving the current constitutional model of state organization, or, which seems to be more probable, a transformation of Serbia will be made into a regional state where the regions will take over many of the former central competencies. One thing that

may be said with certainty is that the future model of local governing must observe all the principles of the European Charter, which means: independent and clear functions and competencies of the local bodies; their free performance with a strong delimitation of the administrative control by the central, i.e. higher executive authority; efficient and unbiased court protection in case of dispute with the control authorities; independent, broad and adaptable financial assets by which the functions can be performed independently; internal organization which will be democratic but also efficient, with a broad participation of the representation bodies and introduction of the principle of division of power, transparent and efficient model of performing public services and satisfying the needs of the citizens, with the full participation of minority communities with the possibility of preserving but also developing their needs, culture and tradition.

LOCAL SELF-GOVERNMENT IN MONTENEGRO

Electoral system at the local level

The Constitution of the Republic of Montenegro defines that the citizens in the local self-government vote directly and through the representatives they have elected of their own free will. This issue is elaborated thoroughly in the Local self-government Act which states that local population has the right to participate in decision making concerning their own needs and interests through their representatives in municipal assemblies, by a referendum, at political gatherings or by other methods of expressing personal political attitude, in a way regulated by the statute in compliance with the Constitution and the law.

The electoral laws of the Republic of Montenegro define that the citizens elect the members by ballot on the basis of free, equal, and direct suffrage. In the representative system as a form of democracy, the members mandate shows the relation between the citizens and the elected members who perform certain functions within the parliament while its original holders are citizens. We have to look into the reasons that justify the current electoral system for the parliament in its normative function and the mayor in their executive function as well as into the drafting of the system that will enable democratic elections of officials and a greater participation of citizens in the direct administration of the local self-government affairs. In this sense, it is necessary to estimate whether the uniform system for the election of representatives in the Parliament of the Republic and the members in the municipal assemblies is valid or there is a need for defining the electoral system and outlining a new model for the elections at the local level. It is necessary to take into consideration the fact that there is a great difference between the competence of the Parliament and the municipal assemblies. Besides the electoral bases, it is also important to define the number of the assembly members i.e. criteria for their election in order to make for a more efficient operation of this representative body.

The most important task is to find the most adequate model of the electoral system for local self-government which will provide free and direct elections and

election by ballot as well as the valid criteria for the election of municipal assemblies members that will have both political and interest bases. This implies that the structure of the municipal assembly should correspond not only to the political but also to the interest criteria.

The Electoral law for delegates and deputies establishes the beginning and end of the mandate in the Local Parliament in the Administrative Capital and Cultural Capital. Local Parliaments of the Cultural and Administrative Capital delegate 30 deputies and one more per every five thousand electors, but the number of deputies must be announced by Local Parliaments not later than the elections are called . The deputy is elected on the basis of the electoral lists of political parties, coalitions of political parties, or groups of citizens, and the four-year mandates are divided proportionally to the number of the votes obtained.

Electoral campaigns in the public media and public meetings stop 48 hours before the election day. Bodies for the realization of local elections are electoral committees and electoral commissions which, together with the Constitutional Court of the Republic of Montenegro and the Competition Court, have the function of protecting the right to vote. Resources needed for the realization of elections are provided from community budgets. The right to choose and be chosen belongs to every citizen of Montenegro who is at least 18 years old, who is capable of work, and has resided on the territory of the republic at least 24 months before elections and has been resident of a municipality, as an electoral district, at least 12 month prior to elections.

A person can be a candidate only in one electoral list and only in one electoral unit; on the other hand, a voter can with his signature support only one electoral list for the election of deputies. Since Montenegro is territorially divided into 21 municipalities, it has 21 electoral units. Voting is carried out in polling places which are limited to the maximum of 1,000 votes. Members of the police and other uniformed persons are not allowed access to the polling places during the vote. The mandates are divided only between the electoral list that got at least 3% of the votes, if not otherwise stated in the Electoral Law. After the elections, the municipality bodies are formed (Local Parliaments of the Administrative or Cultural Capital, executive bodies, secretary of the Parliament and the bodies of local government). The Parliament elects the president and vice-president and appoints the secretary. The President of the Municipality as the inocosmonocratic model appoints and relieves heads of the bodies of local Government. Particular interest should be given to the election of Governors

who are generally representatives of certain political parties, and not real representatives of the citizens in the Municipality, who are familiar with their problems.

The mandate of a delegate can be terminated prematurely under the following conditions: if he resigns, if he has been tried and sentenced to an effective prison sentence of at least 6 months or for a crime which makes him unfit for the continuation of the execution of his function, if he is legally declared unfit for his job, if he has abused his authority, if his Montenegrin or Yugoslav citizenship has expired, if he dies, or stops being a member of the political party or has been prohibited to carry out his duties by the same political party.

Territorial organization

The organization of local communities is determined both by the Constitution of the Republic of Montenegro and by certain laws. Article 8 of the Constitutions of the Republic of Montenegro states that the territory of Montenegro is integral and inalienable, and that Montenegro is territorially organized into municipalities.

In accordance with this statement, the territorial organization of the Republic of Montenegro is regulated by a special Law on the Division of the Socialist Republic of Montenegro, while the conditions and procedure of the foundation, abolition, integration or changes of the municipalities residence are defined by the Local self-government Act.

Article 2 of the Law on the Division of the Socialist Republic of Montenegro into Municipalities states that SR of Montenegro is divided into municipalities. Article 3 of the same Law states that the municipalities' borders are determined by the borders of places and urban settlements, and Article 4 states that municipalities' territories may be changed only by law. This Law has established a unit of local self-government: 19 units have the status of municipalities, one has the status of a Residence (Cetinje), and one of them has the status of the Capital (Podgorica).

Concerning the territorial organization of the municipality, the regulations of the Law on Local self-government are also important since they state the conditions and the procedure of the foundation, abolition or integration of municipalities. It is necessary to mention here that a municipality may be

founded, ended or integrated with other municipalities only by the Law, and that it can be founded in the areas where there are conditions for the realization of rights and duties of local inhabitants and their immediate and mutual interests and their material and social development. In establishing a municipality, the starting-point is historical development and tradition, whether a municipality represents a geographically and economically integrated entity for the local people, which is reflected in the integration of urban areas, the number of inhabitants (population size), the organization of the services of immediate interests for local people, gravitation towards the center, the developmental and ecological conditions of the area and other questions important for the citizens of a certain area and for the realization of their mutual interests and needs.

The foundation of new municipalities, the abolition or the integration of the existing ones and the change of municipality residence can be done after a local community has declared its willingness to do so. A certain urban settlement of a municipality may be separated and joined to some other municipality by the Law, and through a previous initiative and a declaration of local community's will at a referendum, and with the agreement of the Assemblies of both municipalities.

When examining the system of local self-government, the question of territorial organization deserves serious attention. Thus, we may conclude that local self-government is based on the previously established territorial organization which certainly may slow down the level of development of local communities. Comparatively, most of the municipalities in Montenegro are proportionally large compared to the local communities in West-European countries; thus certain municipalities and especially the capitals of European countries may also be the second-level units. Territorially, the area of local communities ranges from 46 square kms in Tivat to 2,065 square kms in Niksia. Demographically, the differences in the number of inhabitants of local communities are also indicative, from 3,280 in Savnik to 166,9535 in Podgorica. In addition to this, it is also necessary to have in mind that some urban settlements in certain municipalities, especially at the seaside, have developed significantly in urban, economic and demographic terms (Sutomore, Bijela, Petrovac, Perast); certain urban settlements are even territorially separated from the capital (center) of municipality (Bijela, Perast, Petrovac), which emphasizes a need for a more detailed inspection of the status of these settlements and for establishing new municipalities. The third factor which influences territorial organization is the level of development of a local community. Depending on this cording to the parameter of public product per capital of the municipality, the situation varies.

For example: the public product per capital ranges from 2,900 thousand dinars in Savnik to 14,800 in Budva.

Since there is no ideal political/territorial division of a certain country, even concerning the administrative tasks, the legislator has offered the possibility to local communities to co-operate in the domain of local self-government, to design and realize mutual plans and programs aimed at resolving certain questions of interest for the local community, especially in the areas of environmental protection, urban planning, communal services, water usage etc. Besides, in order to provide for a more immediate and efficient local self-government, the right of local inhabitants living in a municipality to establish immediate forms of local self-government to which the municipality entrusts certain activities has been established.

Competence of local self government

With the changes and the supplements of the Law on local self-government and with a number of material laws concerning certain spheres of social life, significant decentralization of activities has been accomplished, that is, the sphere of competence and jurisdiction of local communities has been expanded.

There are two types of authorities of local self-government: their own affairs and those of the delegated jurisdiction, that is the devolved activities with different levels of autonomy in their performance. However, it is not clear which of the activities were part of the original jurisdiction and which have been delegated. The activities of local self-government are established by the law, but these activities may be their own and delegated. An analysis of the system laws and material laws has shown that they serve only for regulating local self-government affairs, but not for distinguishing between the delegated and the original ones, despite the fact that this distinction is very important from the aspect of legal authority and financing. This vagueness is further deepened by a lack of constitutional regulations on the competences of local self-government, which their original authorities are while other activities envisaged by law would be delegated affairs. The original jurisdiction is established by the Law on Local Self-government, while the Law on Delegating Activities of State Administration to Local Self-government establishes the bodies and the activities that are delegated to local self-government. The Regulation on Devolution of Activities of State Administration to Local Self-government lists the activities that are delegated to local self-government.

Article 16 of the Local Self-government Act, and with the combination of the system of the positive enumeration and the general clause, states that a municipality, through its bodies and in accordance with law, designs: developmental programs of activities, regulation which is the condition for their development; urban plan of the municipality, general urban plan, urban plan for smaller urban settlements, detailed urban plans etc.; budget and the annual financial report; it also arranges and provides performance of communal activities, overlooks electoral lists, birth registry; it also gives approval for opening stores, recording and rental of films, it also closes them down; it collects public revenues established by municipalities; it gives licences to private shops and firms, except those of interest to the Republic; it determines space for establishing temporary and movable objects; it determines the relations in the residential areas; it provides material and other conditions for arrangement, rational usage, and assignment of the city construction area; it arranges the usage of business space; it maintains local roads, streets and other public objects of significance to the municipality, as well as local and non-categorized roads; it regulates and provides public transport, taxi cabs, public parking; it funds institutions and organizations in the fields of tourism, education, culture, technical culture, social and children's protection, public informing etc.; it funds reserves of goods, it establishes its size and structure in cooperation with the responsible ministry and it performs number of other activities in its jurisdiction. Municipalities are also responsible for the following activities: creation of the bodies, organizations and services, establishing their structure, personnel policy in the bodies of local self-government and public firms and institutions of local significance, etc.

Taking into account the fact that the changes and supplements of the Law on Local Self-government have expanded the scope of local self-government activity, and consequently that a significant part of the delegated and entrusted activities has been delegated to local self-government, these categories of activities have been reduced to a minimum. In accordance with the categories of activities performed by local self-government, the legislator has determined different supervisory authorities for their performance, with stronger supervision over the delegated and entrusted activities compared to the activities under municipalities original jurisdiction.

When talking about the competence of local self-government it is necessary to stress that it is not limited to system regulations on local self-government. A great number of material laws also establishes competence of local communities.

An analysis of material regulations from certain areas of social life shows that in 53 material laws from the area of agriculture, forestry, waterpower engineering, economy, system of public revenues and expenses, ecology, general administration, citizens' decision-making, social protection and material security, health, education and schooling, culture and sport, health, urban, communal, residential areas, informing, publishing, etc., 176 activities are performed by local self-government. An analysis of material laws also shows differences in legal techniques in determining the competence of local self-government. Hence, in a number of material regulations municipal competence in a certain activity has been established by other groups of laws, and the municipal bodies that perform these activities have been determined.

Besides, the competences of local self-government are significantly limited by the activities connected to certain revenues, for example the activities concerning natural resorts in a local community's area, as well as the activities connected to privatization, in which municipalities, apart from the investment in the corporate infrastructure, have not participated in the capital of the firms.

Reviewing the manner and scope of local communities' competence, we may conclude that even with the decentralization brought about by the changes and supplements of the Law on Local Self-government of 1995, there is still a significant degree of centralization of the activities at the state level which stresses the need for a more detailed re-examination of all competences of state administrative bodies by the competent Ministries and their delegating to local self-government either through the original or the delegated, entrusted, activities. By delegating state activities to local self-government, the principle of the European Charter on Local Self-government - that local self-government performs activities that are closest to the citizen - would also be respected.

In the practical application of the Law, we often come across the situations when local self-government has a need to resolve certain relations that are not regulated by the Law or any other regulation, and that are of interest to local self-government; in such situations it heavily interferes with the resolution of these and similar problems. All of the given circumstances point out a need to contemplate on the method of establishing the local self-government competence. Hence, parallel-legal practice shows that the powers of local self-government are established by the method of negative definition, according to which local self-government is authorized for all the activities that are not in the competence of the state and other bodies. Conceptually, it is more efficient and

rational to move from the existing system of centralization and concentration of the activities at the state level, and from the governmental performance of activities to the concept of decentralization and de-concentration; the state would not directly perform activities, but would provide for their efficient performance through a system of supervisory functions over local self-government.

Local public services

Citizens' administrative relations are established mainly at the local level. This means that the status of citizens is manifested best through the organization and execution of "local administrative relations". Therefore, a strict application of the legality principle in the activities of administration at the local level has special importance. Besides the principle of legality, the efficient realization of the law and the citizens' responsibilities has been gaining value. Local administration is organized and uses modern means to enable citizens to satisfy their needs easily and simply, and to fulfil their public duties. Studying local administration from a non-legal aspect is also gaining importance. The danger lies in the misunderstood legality. In essence, as some theorists say, legality and efficiency are not on the opposite sides, because real legality means efficiency.

Historically, a local community is the origin of most public services, born in order to satisfy the needs of the existing settlements. Slowly, the state has taken over some of the services, usually when they are more general, outside the limits of local units, and when the state can perform them more economically. In this way the state is not exclusively or predominantly the apparatus for carrying out authoritative activities. Its bodies, especially administration, show certain dualism in their functions and organisation. Carrying out public services becomes a unique or an accompanying activity of some agencies or organizations that are controlled by or are part of the state apparatus.

When these activities are concerned, citizens are not a subordinate party. Instead, in most cases they try to make use of the offered services as much as possible. Therefore, the respect for the legality principle is manifested somewhat differently, as a duty of public services to provide equal accessibility to all citizens in order to satisfy public needs, at approximately the same time and at the same cost. The role of local administration in performing public services is on the increase, especially in highly urbanized areas. Because of the cost-benefit principle and the need for unique planning, carrying out these activities is

becoming more and more centralized, with the dislocation of some units (points) in order to cover the whole area and enable citizens to use these privileges in a simple way.

The position of the local self-government in the system of its further development depends on an adequate regulation of the relations between the bodies and the citizens, the public institutions and the enterprises, founded by municipalities as well as public institutions and enterprises founded by the state. They run affairs within local communities (Post Office, forest management, electric power supply, child- and social-care institutions etc.)

According to the current normative prescriptions, a municipal assembly has the right to regulate independently the relations which are relevant to its citizens in various aspects of social life such as public service, culture, education, etc. Due to its autonomy in normative sphere, relative financial autonomy as well as some powers concerning elections and appointments are possible.

It is relevant to consider the ways and forms of the relations and cooperation between the local self-government bodies and the public institutions founded by local communities. A particular attention should be paid to the analysis of the extent of the founding powers mutual rights and responsibilities as well as the supervisory power of the local self-government bodies. All this would provide organizational, personnel, financial and other conditions for their unimpeded operation and satisfy the citizens' needs within the areas they were established in.

It is necessary to consider the following issues: defining of the relations between the local self-government bodies and public service, keeping the citizens informed through the media and the other issues related to unimpeded operating and satisfying of the citizens needs. It is also important to determine the legal status of the public service, their rights and responsibilities towards the local self-government bodies and the citizens as well as to define the supervisory power of the local self-government bodies over the public services.

The objective would also be to define the public affairs that should be administered and paid by the local self-government and the affairs executed by the public services provided that the local self-government should not subsidize. Taking into account the normative advantages of the new local self-government system, it is necessary to put them into practice. It is the main task of local self-government units. As far as social relations in local communities are concerned, there are certain implementation problems, particularly in the areas such as public services, zoning, ecology, tourism etc.

Financing local units

In the former communal system, the financing of government expenditures in the Republic of Montenegro was significantly decentralized, so that there were almost 3 independent subsystems:

- a) the subsystem through which general needs were financed (the budget of the Republic and the budgets of the municipalities):
- b) the subsystem through which mutual needs were financed (social activities, child and health care, social protection)
- c) the subsystem for financing the needs of general interest in the areas such as material production, water resources, forests, roads, geological research, etc.

This system of financing needed a number of centres of fiscal decision-making. There were about 140 holders of fiscal decision-making in Montenegro: the Republic, 20 municipalities, 119 republican funds as well as municipality funds and 432 fiscal instruments (different kinds of taxes, etc.)

These are the characteristics of the former fiscal system:

- it was overdecentralized
- it was not united
- it was inefficient
- it was not sufficiently distinct from the monetary system.

All of this required that a new system be defined, appropriate for the market as well as the transitional economy. Also, the abolition of the communal system and the definition of the model of local self-government made for a clear distinction between the competences of the government and the competences of local self-government. All of this required the changes in the way of financing local units, appropriate to the needs and to the volume of activities performed by them. The financing of local self-government is defined by the Local Self-Government Act and by specific material laws which define the area of governmental revenues. Also, the System of Governmental Revenues Act of 1996 carries out the codification of local governmental revenues. Also, this Act defines the types and the amounts of revenues belonging to local units.

The sources of financing local units are provided from:

- a) own revenues (local communal tax, local administrative tax, compensations for the use of communal property of general interest, compensations for the use of land, revenues collected by the administrative bodies, the fees, etc.):

b) renounced revenues within the municipality, collected out of different kinds of taxes, such as:

- part of the property tax
- part of the sales tax concerning the real estate and the rights
- part of the residence tax
- legacy duties and gift tax
- part of the income tax (citizens' income)
- revenues from the fees and other benefits, collected out of criminal procedures conducted by local administrative bodies
- revenues collected out of compensations for construction, maintenance and use of local roads and streets and other public objects of general social importance
- revenues collected out of the interest on bank deposits and other revenues according to a specific law.

c) additional resources (municipalities which cannot provide the resources necessary for their activities receive extra resources from the republican budget, the so-called "Governmental Support").

The structure of total revenues of the municipalities' budgets for the first 10 months of 1998, shows the following:

a) their own revenues take part in their total revenues and budgets with 43,2% (in 1992 that percentage was 18,5%). This share of local revenues is different for each municipality and directly depends on the material resources as well as on the level of economic development of each municipality. For example, in Savnik local revenues participate with only 10%, in Podgorica with 30.5% and in Budva with 72%.

b) renounced revenues take part in total revenues of all municipalities with 49%. The income tax takes part with 78%, the property tax with 17,35% and the residence tax with 4,7%. These revenues are also different for each municipality, and they are determined by the number of employees in companies and by the regularity of their income payments. For example, in the budget of Kolasin municipality these revenues participate with only 12%, in Podgorica with 70%.

c) "Governmental Supports" participate in total revenues of municipalities with only 7,73%. According to this, these additional revenues are provided for 11 undeveloped municipalities.

An analysis of the financial system of local units indicates the numerousness and variety of financial sources. However, taking into account the needs of local units and particularly the current economic situation, this system does not provide for

a proper financing of local needs. This is the universal opinion of local units. Therefore, an insufficient amount of most revenues, particularly those based on personal incomes, exerts an influence on the financial security of local units. In that sense, it is necessary to search for more secure financial sources and also to determine real expenditures in the municipality budgets that correspond to the actual possibilities and circumstances of a municipality and the Republic. It is also necessary to raise the rate of payment of their own revenues introduced by local communities and to enable local units to introduce certain revenues on their own. Apart from that, it is also important to provide the conditions for local bodies to determine, supervise and pay local revenues on their own, which has been enabled by the changes of the System of Public Revenues Act.

Situation concerning minorities at local level

In the field of the protection of the rights of the members of national and ethnic groups, Montenegro has continued with the good tradition of the ex-SFRY and can boast of a high level of their realization and guarantees. It would be a great pleasure to organize a seminar in Montenegro on this subject.

In the Constitution of the Republic of Montenegro, Montenegro is sovereign in matters that have not been passed on to the SRY. Sovereignty belongs to the citizens; Montenegro is a citizens state. The official language is the Serbian language with the "ijekavian" pronunciation. The Cyrillic and Latin alphabets are equally in use. In the municipalities in which the majority or a considerable number of inhabitants belong to a certain national and ethnic group, its language and alphabet are in official use. Religions are equal and free in observing their religious rituals and affairs.

The members of national and ethnic groups are guaranteed the protection of national, ethnic, cultural, religious identity as well as their language, and the protection of their rights in according with the international protection of human and civil rights. Members of the national and ethnic groups have the right to a free use of their language and alphabet, the right to education and the right of information in their language, as well as to the use of their national symbols. They have the constitutional right of forming educational, cultural and religious societies with the material support of the state. Educational programs in educational institutions include the chapters on history and culture of the members of national and ethnic groups.

To the members of national and ethnic groups are guaranteed the use of their language in procedures in front of state bodies, and the right to proportional participation in public services, the bodies of state and local self-government. They have the right to make and keep contacts with the citizens outside Montenegro with whom they share the same national and ethnic origin, cultural and historical heritage, and religious beliefs without any damage for Montenegro; they also have the right to participate in regional and international NGOs, the right to seek from international institutions the protection of their rights and liberties guaranteed in the Constitution. These special rights of the members of national and ethnic groups cannot be exercised against the constitution, the principles of international law and the principle of the territorial integrity of Montenegro.

In the matter of preserving the national, ethnic, cultural, religious and linguistic identity of the members of national and ethnic groups and the realization of their rights as guaranteed by the Constitution, a Republican council for the protection of the rights of the members of national and ethnic groups has been established, which is run by the president of the Republic; the structure and competence of the Republican council is defined by the Parliament. The Ministry for the protection of the rights of national minorities is formed for a more dynamic and full protection of these rights by the government.

Apart from this great number of constitutional regulation, it is interesting to mention Article 43. of the Law on the election of the delegates and deputies which offer some privileges to the Albanian minority in the sense that only 200 voters need to support their electoral list, while in other parts of the country 1% of the number of the voters in an electoral unit are needed.

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Ilija Todorovski

LOCAL SELF-GOVERNMENT AND DECENTRALIZATION IN THE REPUBLIC OF MACEDONIA

Introductory notes - Brief history of the Macedonian local government system

The Macedonian system of local government is in a process of reform. The former system (effective from 1974 to 1991) possessed the following characteristics: (1) A broad range of local government competencies including those of economic and national defense, which could not be seen in any other local government system in the world (2) Almost complete financial autonomy of the local government units (3) A very extensive system of administrative and executive organs structured as the Republic and Federal (Yugoslav) government each of them being in charge of separate competencies. (4). Election of local representatives by popular local vote and appointment of local officials and other staff by local authorities without interference of central authorities; (5) One-tier local government system (6) Large municipalities.

This system had both its positive and negative tendencies or aspects. A very positive tendency of the system lied in full involvement of municipalities in the developing processes in many social fields like economy, education, health, culture, social care, infrastructure, etc. Consequently, the higher local involvement necessarily led towards rise of the level of political culture of local population and their familiarization with relevant data, information and knowledge on the situation and trends in the above mentioned fields.

But, the negative tendencies of this process were prevailing, considering the following arguments:

1. The extremely high level of local government autonomy that was reached reduced the beneficial influence of the state in the process of coordination of economic activities. Thus, the opportunity for any municipality to carry out its

own economic policy led to many parallel economic enterprises being established both in the Republic (of Macedonia as a federal unit of Yugoslavia) and Federation producing slower and uneven economic development and disloyal competition of the enterprises especially in the foreign markets. Besides, municipalities as fiscal subjects undertook measures contradictory to those of the central authorities.

2. The almost complete financial autonomy of the local government units deprived the state from efficient instruments for support of the underdeveloped municipalities or/and underdeveloped parts of the more prosperous ones.

3. The broad range of competencies implied huge administration, it resulted in creation of large municipalities in order to provide more tax-payers for such an apparatus. The contact between the local officials and ordinary citizens was very poor, especially in one-party system, where the status of local officials depended much more on loyalty to their party leaders than local population. Bureaucratization frustrated the citizens to put much more of their energy in local development.

4. Large municipalities could not be an intimate part of life of their citizens.

Yugoslavia was disintegrated in 1991/1992 and Macedonia became a sovereign and independent state. The reflex to survive facing some unfavourable domestic and outside trends led towards centralization or dramatic reduction of local government competencies and local autonomy. Their impact on local government functioning will be described in the following chapters.

Internal structure of local government decision-making

In order to provide a better idea about the structure of the Macedonia's local government system, as contained in the Local Self-Government and Decentralization project document, we must insert another small chapter dealing with distribution of functions within municipalities, between the Council and the Mayor.

The Municipal Council

The Council is the legislative body of the local government unit. The Council shall:

- adopt the Statute of the municipality and Rules of Procedure of the Council;
- adopt the budget and the annual balance of accounts;

- adopt working programs and plans in conformity with law;
- make decisions implementing the local government competencies;
- establish public services, public institutions and public enterprises and supervise their work in conformity with law;
- appoint and dismiss managers of the public services, institutions and enterprises established by itself, on proposal of the Mayor;
- establish municipal administrative organs;
- establish inspections for issues within the competence of the local government unit;
- determine sanctions applicable when municipal regulation is violated;
- supervise the work of the municipal organs it has established;
- establish Commission for appointment and dismissal of municipal administrative officers;
- appoint and relieve of duty its President and secretary;
- carry out other work determined by law.

Mayor

Mayor is the representative and executive organ in the local government unit.

The Mayor shall:

- represent the local government unit;
- take care of and secure the implementation of the decisions of the council;
- take care of the implementation of the work entrusted to the local government unit by the central authorities;
- propose to the council adoption of decisions and other general acts within its competence;
- publicize the acts and decisions passed by the Council of the local government unit in the municipal official gazette;
- issue individual acts if specially entitled to do so in conformity with law and the Statute of the local government unit;
- manage the municipal administration;
- manage the municipal property in conformity with law and the Statute of the local government unit;
- appoint and dismiss the main architect (in urban municipalities);
- appoint and dismiss the heads of the municipal administrative departments;
- appoint and dismiss members of the Town (City) Council for Architecture;
- hire and dismiss the officers in the municipal administration after acquiring the opinion of a special commission of the local council;

-carry out other work determined by law and by the statute of the local government unit¹.

Local Government Elections

Every citizen of the Republic of Macedonia upon reaching 18 years of age acquires the right to vote. This right is equal, universal and direct, and is exercised in free elections by secret ballot. Besides, a citizen must be a permanent resident in a particular municipality where he/she votes.

Councilors or members of the local councils and mayors are elected by popular vote. The number of the councilors in the municipalities depends on the size of their population and is determined by law, more precisely by the Local Government Act.

Number of residents in the municipality	Number of councilors
less than 10,000	13
10,000 -30,000	17
30,000 -50,000	19
50,000 -100,000	23
more than 100 000	25

The only exception of this rule is the Council of the City of Skopje which consists of 39 members -25 elected directly by the citizens and 14 delegated by the seven Councils of the municipalities (two of each) covering the area of the City of Skopje.

Both the proportional and majority electoral systems are applied at local elections.

Councilors are elected by proportional voting, according to the D'Hondt method. The following procedure will be applied:

Lists of municipal councilors' candidates may be presented by officially registered political parties and groups of at least 200 citizens. The candidates and the citizens supporting them must be both Macedonian citizens and permanent residents in the municipalities where they are nominated.

¹ Local Government Act, Macedonian Official Gazette, Skopje, 52/1995.

The citizens do not vote particular candidates, but lists. In accordance to the applied Proportional Electoral System, more precisely the D'HONDT's method, the number of elected councilors of any particular list is in proportion to the votes gained for the list. It means if about 30 % of the citizens in a particular municipality give their votes to the list of candidates of the Liberal Party, 30 % of the candidates of this party's list will be elected councilors.

The nomination procedure and legal conditions for **mayors** are identical to those regarding the councilors. It means the mayoral candidates must be both Macedonian citizens and permanent residents in the municipalities where they are nominated; as well they may be nominees of officially registered political parties or groups of at least 200 citizens.

In this case, the Majority Electoral System will be applied. A mayor is elected by the majority of the votes of the citizens, if at least a half of the entire constituency in a particular municipality took part in the elections. If not, there will be a second round of elections for those candidates obtaining more than 10 % of the total number of votes in the first round. If there is only one or none candidate with more than 10 % votes obtained in the first round, than the two most voted candidates in the first round (although with less than 10 % votes) will participate in the second round of elections. The winner is the candidate who has obtained the majority of the votes in the second round of elections.

The organs in charge of conducting the local elections are the State (National) Electoral Commission, the municipal electoral commissions and the Electoral Commission of the City of Skopje and electoral boards.

The State (National) Electoral Commission appoints both the members of the municipal electoral commissions and the Electoral Commission of the City of Skopje for a mandate of four years. They are composed of five members each, two of them belonging to the ruling parties and the next two belonging to those opposition parties which obtained at least 5 % of the total votes at the National Elections in 1994.

The municipal electoral commissions are in charge of preparation of the elections from a technical point of view: the preparation of the lists of candidates, the appointment of the members of the electoral boards, that are directly involved in the voting procedure, the decision on the parties' or citizens'

complaints against the work of a particular electoral board and verification and public announcement of the election results in the municipalities.

The electoral boards are composed of three members: one of them belongs to the ruling parties (or coalitions), and the other is a member of the opposition parties. They are in charge of implementation of the voting procedure in the voting districts; this means both to explain the voting technique to the citizens and follow whether they obey the voting rules. The opposition parties are entitled to supervise directly the regularity of the elections².

Parties play an extremely important role in the electoral campaign. They:

- organize, coordinate and financially support the public promotion of their representatives and programs;
- make coalitions in order to provide political advantage for their candidates;
- participate in the work of the State and municipal commissions and electoral boards.

1. The basic election principles and electoral system may be evaluated in positive terms³. The arguments for this statement lie in the nomination procedure which is democratic, since both political parties and groups of 200 citizens can nominate their candidates. Next, the right all citizens aged 18 to vote in free elections by secret ballot is in compliance with the modern voting principles.

The combination of two basic electoral systems -the proportional for councilors and majority for mayors is the other advantage of the system. The former is fair since it provides proportional distribution of votes in accordance with the political strength of all political participants and gives opportunity for minor political parties to take some seats in the local councils. The two-round majority system for election of mayors provides legitimacy, since only the two best candidates in the first round of elections can reach the second one, and the one obtaining the majority of votes will be elected.

2. All local officials and officers are elected and appointed by local bodies and organs. It means that the central authorities can not interfere in local personnel affairs which is one of the basic prerequisites for real local government, that gives more freedom to local people in resolution of local problems.

² Law on Local Elections, Macedonian Official Gazette, Skopje, 46/1996.

³ Local Elections '96, Institute for Sociological, Political and Juridical Research, 1996, pp. 157.

According to the Draft Local Government Act, the only change in the field of local government elections will refer to the number of councillors. Thus in the first version their number varies from 9 to 43, in the other from 9 to 35 taking into consideration the number of inhabitants in particular municipality /in contrast to the current regulation in which the number of councillors varies from 13 to 25/.

Local Government Territorial Organization

Creation of new local governments

Macedonia has one-tier system of local government. There are 123 municipalities and the City of Skopje, which is a community of seven municipalities.

A municipality is founded on the territory of one or more settlements linked by common needs and interests of the local population and where conditions exist both for economic and social development and for participation of the citizens in the decision-making process.

The territory of a municipality should represent a natural, geographical and economically linked entirety, with communication networks between the settlements and gravitation towards a common centre, as well as with built infrastructure facilities and public objects.

Founding of new local government units and change of their areas and seats shall be performed by law after a prior consultation of local population in the respective area through citizens' gatherings or referendum⁴.

The territorial division of the Republic and the area administered by each municipality are defined by law, more precisely **Law on Territorial Division of the Republic of Macedonia and Demarcation of the Municipal Boundaries**⁵ passed in 1996. Both urban and rural municipalities form local government units. The former consist either of a sole town or a town and a number of villages gravitating towards it; the latter consist either of a sole village or a group of villages. It means that every settlement does not necessarily represent a local government unit. The existence of the *Town* or *City Architect* in the urban municipality structure of organs (bodies) makes the only distinction between the urban and rural municipalities. The City of Skopje is a specific unit of local

⁴ Local Government Act, art. 11-15

⁵ Macedonian Official Gazette, Skopje, 49/1996

government, the organization of which is regulated by a specific law, of the same name. It actually covers seven municipalities and divides its functions with them. The City of Skopje is not a superior authority to municipalities.

Status of cities. The capital

None of the cities in the Republic of Macedonia has a special status and organization but Skopje. It is the capital of the Republic of Macedonia and is specific local government unit since it has a huge concentration of many administrative, University, cultural, economic and other objects of national relevance and by its size of territory and population is much larger than any other local government unit in Macedonia. Thus, it is the unique case in the Macedonian local government where the local responsibilities are strictly distributed between the authorities of the City of Skopje, as a community of seven municipalities and the authorities of these seven municipalities. The City of Skopje has no right to interfere in the duties of its municipalities.

1. The last territorial division reducing the size and population of municipalities and creating rural ones is basically positive solution, since it produces smaller local government units in which there is much more in common among the population from various areas that is a basic condition for solidarity and joint action. In the other hand, smaller local government units provide opportunities for governing in a less bureaucratic way, since people in a smaller area know each other and have freer access to local institutions.

2. Creation of rural municipalities is a very constructive step towards the even local development, since after the territorial division the rural areas were provided by the historically unique opportunity to dispose with their own money in contrast to the period before when all local revenues were centralized into the large municipalities and used mainly for urban needs, since the urban representatives were always a majority in the municipal assemblies and could easily outvote the rural representatives.

3. The territorial division, mainly positive both by its general tendency and some of the existing practical results, could not produce the best effects due to its inconsistency and lack of real solution concerning the tiny municipalities. More precisely, one of the basic motives for the territorial division was villages to be separated from the towns and cities in order to provide more room and capacities for satisfaction of their own needs. But, this conception was inconsistently carried out and many urban municipalities, although reduced, kept many villages in their surrounding.

Legal Competencies of Local Self-Government

At the very beginning of this chapter, in order to provide a better idea about local competencies, we shall make a small survey of division of powers between central and local authorities.

Central authorities or Ministries with their territorial administrative departments or offices are in charge of maintaining, development, staff hiring and financing of

- a) education,
- b) social welfare,
- c) health services,
- d) culture,
- e) sports
- f) environmental protection
- g) police
- h) some economic services like gas and electricity.

The local offices of the Ministry of Finance, collect taxes and fees, with exception of the municipal construction land fee, on behalf of the local government units. It includes tax collection, transfer of the money to local authorities and making periodical reports and payment balances;

State urban authorities

- a) produce an approval prior to municipal adoption of the general urban plan
- b) produce an approval prior to municipal adoption of the detailed urban plan and urban documentation for the inhabited areas on the territory of the municipality

Local government competencies

In units of local self-government, citizens directly and through representatives participate in decision-making on issues of local relevance particularly in the fields of urban planning, communal activities, culture, sport, social security and child care, pre-school education, primary education, basic health care and other fields determined by law⁶.

⁶ Constitution of the Republic of Macedonia, Macedonian Official Gazette, Skopje, 52/1991.

The municipality shall:

- adopt developmental programs;
- adopt budget and balance of payment;
- adopt programs arranging building zones within the municipal territory;
- adopt a general urban plan after the approval of the state urban authorities;
- adopt detailed urban plan and prepare urban documentation for the inhabited areas on the territory of the municipality after the approval of the state urban authorities which are obliged to consult some other organs and organizations in this respect;
- collect construction land fee.

The municipality shall regulate and organize:

- construction and maintenance of local roads, streets and other infrastructure facilities of local relevance;
- drinking water supply, drainage of rainwater and sewerage in conformity with law;
- settlement cleaning, garbage collection;
- lighting;

The municipality shall regulate, within the framework of the law:

- maintenance of parks, greenery;
- local transport;
- maintenance of street and traffic signals;
- maintenance of public cemeteries;
- maintenance and utilization of the riverbeds;
- maintenance and usage of green markets;
- cleaning of chimneys.

The municipality shall:

- give names to the streets, squares, bridges and other infrastructure facilities of local relevance in conformity with law;
- give opinion when primary schools are established (that is in competence of the Ministry of Education)
- undertake initiative, give opinion and proposals for extension of the network in the field of culture, sport, social security system and children's care, preschool education, basic health care, protection of the natural and man-made environments;
- participate through representatives in the work and decision-making of the authorities of primary schools and the institutions in the field of culture,

sport, social security, children's care, health care and protection of natural and man-made environment;

-encourage and create conditions for the development of the handicrafts, tourism and catering;

-perform civil defense duties in conformity with law;

-establish municipal administrative bodies;

-establish municipal inspections;

-establish public communal enterprises;

-determine sanctions when municipal regulation is violated.

In addition municipalities may also organize following functions:

-Municipalities may establish mass media of local relevance in conformity with law;

-Municipalities may establish secondary professional schools;

-Municipalities have the right to provide additional funds to improve the conditions in some fields which are in charge of the central authorities, such as primary schools and the institutions in the field of culture, sport, social security, children's care, health care and protection of natural and man-made environment;

-Municipalities may financially support economic enterprises.

-Municipalities may accept an entrusted work by the central authorities.

Municipalities may:

-undertake initiative, give opinion and proposals for extension of the network in the field of culture, sport, social security system and children's care, preschool education, basic health care, protection of the natural and man-made environments;

-participate through representatives in the work and decision-making of the authorities in the above fields institutions;

- provide additional funds to improve the conditions in the above fields which are in charge of the central authorities⁷.

Division of powers between the City of Skopje and its seven municipalities

The city of Skopje is entitled to perform the duties of relevance for the whole area, which are presented in the previous sub-chapter on local competencies, including adoption of general and detailed urban plan, public traffic, water supply, sewerage, etc. The division of powers between the City of Skopje and its

⁷ Local Government Act, art. 17-19.

constituent municipalities is more evident in streets where the former is in charge of construction, maintenance and repair of the trunk and main streets and the latter of all others⁸.

Conclusion

Local government competencies are very narrow to meet the requirements of the local population. As it can be seen from the above survey, the local government has almost full competencies in local infrastructure (streets construction and maintenance, water supply etc) but very limited in the field of education, health, social security, culture etc. It causes two main problems: the central authorities or ministries for education, health, culture etc are involved in operative local activities, like appointment headmasters, providing teaching aids for schools etc. neglecting their strategic or conceptual tasks. On the other hand, the system makes both local authorities and citizens relatively inactive and indifferent to participation in local affairs knowing that all basic decisions in the former fields will be made by the central authorities.

The competencies contained in the Local Government Act are not in conformity with the Constitution's ones, because the former do not include the citizens' decision-making in any other field but infrastructure, public transport and secondary vocational schools.

There is a provision in the *Local Government Act* according to which the local units may encourage and create conditions for the development of the handicrafts, tourism and catering. This is not a very clear provision, because the national organs are in charge of economic development and there is not any explanation or clarification how local government will perform this task, i.e. participate in this process. Anyway, at the time being, probably as a result of the budget restrictions and unsettled property relations, municipalities, burdened with infrastructure problems, focus local priorities to their resolution, so none of them pays any attention to local economic development. The first initiative of a kind was a scientific gathering held in an underdeveloped municipality at the beginning of December, supported by foreign sponsors, discussing the role of municipalities in local economic development.

Pending reform project in the field of local government competencies

Draft Local Government Act is still in the governmental procedure. There are several novelties that makes it different to the already existing one (passed in 1995).

⁸Law on the City of Skopje, Macedonian Official Gazette, Skopje, 49/1996

One of these is the scope of local competencies. The law-giver proposes their extension in the following more substantial elements:

a) The municipalities are entitled to establish and finance construction, equipment and maintenance of facilities in the fields of preschool education, culture, sport, social security and child care, protection of animals and plants, protection and promotion of man-made environment, etc. **/in contrast to the current regulation where they may only provide additional funds to improve the conditions in the above fields which are otherwise in charge (of establishment and financing) of the central authorities/.**

b) The municipalities are entitled to finance construction, equipment and maintenance of primary school facilities and provide funds for current expenditures necessary for primary school work **/in contrast to the current regulation where they may only provide additional funds to improve the conditions in the primary schools otherwise in charge of the central authorities Ministry of Education/.**

c) The municipalities make decisions on urban planning and determination of construction conditions and general and urban plan **/in contrast to the existing Local Government Act where municipalities can make their plans after former consents of the urban planning state authorities/.**

d) Social care would be included in the local competencies. The line 22 of the Article 17 of the Draft Local Government Act (dealing with Local government competencies) is worded as: "Provision of social protection to the population (social help to the poor families and socially endangered persons; lodging old people in old people care institutions; sheltering orphans and children without parent care into educational institutions";

e) Fire Protection would be included in the local competencies.

Generally, we may conclude that the Draft Local Government Act represents a step forwards towards decentralization, since some of the competencies will be transferred from central to local authorities. But, even in case of this Act passing as drafted the Republic of Macedonia will remain a centralized state, since still a lot of competencies in education, health care, etc. that in the developed countries are almost completely in the domain of local units, will remain in the domain of the ministries. Next, the Local Financing Act is not being drafted parallel with the Local Government Act, and we do not know whether sufficient amounts of money will be provided for the increased number of local competencies or local activities.

Local Public Services

Communal activities (water supply, garbage collection, electricity supply, park maintenance, etc) may be performed by established public companies, by issuing concessions and licenses. It means communal activities can be performed by physical persons or legal entities, as well as public companies. The latter may be established both by municipalities and the Government. They may become companies with limited liabilities or joint stock companies if physical persons or legal entities invest capital in them in conformity with law⁹.

Most of them are traditionally public utility companies, established and controlled by the local governments, it means there is still inertia or unchanged relations between them and municipalities. There are some exceptions among the newly-established municipalities that engage private companies according to temporarily concluded contracts.

Another very grave problem is that the most of the public utility companies operate only within the urban territories due to lack of good roads to and good streets in the villages, lack of good will to subsidize some services in rural areas with small population etc. Thus, according to the data from some empirical research there is only water supply service in many villages, but the sewerage, garbage collection service etc. are not performed in almost all villages of the Republic of Macedonia.

Local Government Finances and Economic Resources

In the sections dealing with distribution of powers between central and local authorities we mentioned that the central authorities are in charge for financing health care, education (but municipal secondary vocational schools), social care, culture etc. In that respect, since the local competencies include mainly local infrastructure and local public transport, the bulk of their funds are intended to finance these purposes. Besides, if local governments revenues afford it, they can finance municipal secondary schools and provide supplementary funds for infrastructure, facilities, equipment and staff in the fields of education, health care, social care, culture, etc. It means that unlike their western or East European counterparts, Macedonian local governments have not the duty (and opportunities) to finance the development in the former fields.

⁹ Law on Communal Activities, Macedonian Official Gazette, Skopje, 45/1997.

The local revenues are stipulated in the *Local Government Act*¹⁰ as follows;

- a share of sales tax on goods and services or tax on economic activities (as shared revenue with the Republic);
- tax on property;
- tax on transfer of property, copyright and other rights,
- tax on inheritance and legacies;
- land fee, communal fees and revenues from services;
- profits of public enterprises established by the municipality;
- a share of the profit of the public enterprises located in the municipalities;
- fines for violation of the municipal regulation;
- revenues from taxes granted by the Republic;
- other sources in conformity with law.

In reality not all of the above financial sources serve as local revenues, that will be commented later on. Thus, at the time being the following ones are used by the Macedonian local government units:

State grants

There are several state grants or grants by the government and some governmental funds and agencies:

a) Fund for economically underdeveloped areas, administered by an Agency, within the Ministry of Development. According to the special regulation passed by the Government, the beneficiaries of the Fund can be both physical persons and legal entities in underdeveloped areas that include both the rural settlements in underdeveloped municipalities and villages in the other municipalities, provided they are located in hill and mountain regions, as well as in border and entirely backward areas.

This fund is mainly intended for investment in local infrastructure, such as: construction and reconstruction of roads; waterpipes, facilities and equipment conducting electricity, post network facilities, primary schools, health centres, veterinarian stations, training, etc. The Agency participates up to 80% of the value of particular investment¹¹.

b) Fund for communal activities and roads which serves mainly for construction, repair and modernization of roads and streets in all local units.

¹⁰ Articles 62-67

¹¹ Law on Incentives for Development of Economically Underdeveloped Areas, Macedonian Official Gazette, Skopje, 2/1994.

c) **Fund (Programme) for Water Pipes and Sewerage** which serves for construction, reconstruction and maintenance of waterpipes or water supply systems and sewerage networks in all local government units.

d) **Budget transfers** which can be mainly used to strengthen the capacity of local administration.

Independent or original revenues

a) Taxes:

- tax on property;
- tax on transfer of property, copyright and other rights,
- tax on inheritance and legacies.

The amount of these taxes is determined by law, it means the respective regulation is prepared by the Government and passed by the National Assembly. The taxes are collected by the local offices of the Ministry of Finance and transferred to local government units afterwards.

b) Communal fees

- Fee on Construction land utilization

There is not private property land in the urban areas that implies the territories of the town or cities and the neighboring areas designated as building or construction zones. Thus, all buildings (private or public) erected in these areas must pay communal fee for using such land.

The local authorities are entitled to determine the amount of the fees according to the previously designated urban building zones. As well, they are in charge to collect the fees.

Other communal fees, like fee on usage of streets, that is paid by owners of vehicles and for public lightening are determined and collected by territorial administrations and distributed to local government units according to criteria established by the Government.

c) Delivery of local services like public local transport, water supply, sewerage, garbage collection are in charge of the communal enterprises, and the consumers pay their services directly to them.

Donations

There are foreign and domestic donations that serve as a source of local government revenues. The foreign ones are more numerous -some of them occur

once, the other are permanent, like PHARE, Dialogue Development (Denmark), etc.

Local contributions

The contributions of local population can accrue the local revenues. The local authorities do not issue bonds at the time being, but they can mobilize the local population to participate in some public works as a free labour force on voluntary basis or can use their money as local donations.

Municipal borrowings

The local government financing is the most complicated, most acute and gravest problem at the time being since the local financial sources are insufficient and restricted, due to the following:

a) The Local Government Act passed in 1995 enumerates the sources of local revenues, one of which was the sales tax on goods and services or tax on economic activities (as shared revenue with the Republic). But the percentage of the local share has never been determined by a subsequent law and this source has never been used by the municipalities, in which way the local revenues remained very limited.

b) Municipalities have not the right to collect the taxes and fees determined by law, but the construction land fee. It is executed by local departments of the Ministry of Finance. This causes problems, since the state tax collectors are not directly motivated to collect the local taxes, and they fail to identify all tax payers, producing shortage in local revenues. Besides, the local authorities depend on reports on the former departments, that according to them are never on time.

c) The rural municipalities do not use their own sources but depend entirely on external sources such as state grants, donations, etc

Local Situation of Minorities

Official use of the languages in the local government units

The local government units in which the population of other nationalities (ethnic Albanians, ethnic Turks, ethnic Serbs and all other but ethnic Macedonians)

exceeds 50 % of the total number of population according to the last census (1994) are considered local government units with a majority of other nationalities.

The local government units in which the population of other nationalities (ethnic Albanians, ethnic Turks, ethnic Serbs and all other but ethnic Macedonians) exceeds 20% of the total number of population according to the last census (1994) are considered local government units with a considerable number of other nationalities.

At the sessions of the councils and other organs in the local government units with a majority or considerable number of other nationalities, their languages and alphabets are also in official use, in addition to the Macedonian language and its Cyrillic alphabet.

The statute, decisions and other general acts will be written and officially published both in Macedonian language and its Cyrillic alphabet and the languages and alphabets of the nationalities which form a majority or considerable number in particular local government unit. The same will apply to the official use of the languages in the public services, public institutions and public enterprises established in such local government units.

In a local government unit with the majority of the inhabitants belonging to other nationality, the signs of the settlements, public services, institutions and enterprises established by the local government unit will be written both in Macedonian language and Cyrillic alphabet and the language and alphabet of the nationality. The same will be done in a unit of local government with a considerable number of inhabitants belonging to another nationality if the Council of the local government unit decides so.

The signs with the names of the cultural and educational institutions which serve to promote and develop the cultural identity and education of the nationalities will be written both in Macedonian language and alphabet and the language and alphabet of the nationality even if they are in areas where there is a small number of inhabitants of the respective nationality¹².

Other provisions

The first is the provision of the Local Government Act saying that endeavours will be made in order that the proportional representation of the nationalities in

¹² Local Government Act, art. 88-90.

their election and appointment in the organs of the local government units with mixed ethnic population will be provided.

The law provides that in the municipalities with a mixed population, more precisely where all other nationalities but ethnic Macedonians represent the majority or considerable number of the total population, a Commission for Inter-Ethnic Relations should be established, including representatives of all nationalities living there. The statutes of these local government units will operationalize this legal provision in respect of the composition and election of committee members, etc.

The existing regulation endeavours to set the inter-ethnic relations on sound and fair basis by proportional representation of nationalities in local organs and bodies considering their number in respective local government unit, by establishment of Inter-Ethnic Commission and stipulation of the right the languages of minorities in municipalities where they are the majority or live in a considerable number to be in official use together with the Macedonian language. In spite of this, the relations between ethnic Macedonians and ethnic Albanians in the western part of Macedonia are tense. The reasons for these tensions or the roots for the discontent of the ethnic Albanians do not come from the local affairs but are much deeper. They are dissatisfied by their social status, their lack of opportunities to find jobs in governmental and social services, as well as in many economic activities, difficulties in enrollment secondary and tertiary schools (faculties), etc. i.e. their disproportional representation and frustrations mainly in the fields of state administration, police, army, economy, education, etc. the fields in which the local authorities and population had no real impact¹³.

General Conclusions

The general conclusion is that the local government development in the 1990's is characterized by strong centralization and the effects of that can be estimated as mainly negative.

In spite of adoption of some contemporary political achievements at local level such as the Electoral System, the horizontal distribution of power between legislative (Council) and executive (mayor) bodies, etc. the Macedonian local government system can not be estimated as an effective one, mainly as a result of

¹³ For instance, the Albanians that constitute 22,9% of the total population in the Republic of Macedonia, cover 10,4% of the total labour force in R.Macedonia; 14,04% of the total number of students in secondary schools, etc. Source: Draft Report on Minority Rights in the Republic of Macedonia 2000, Helsinki Watch Committee, Skopje.

the very narrow competencies and lack of real financial autonomy. In addition, the local government system is a small part of the entire social system and is affected by its unfavourable trends. More precisely, the Macedonian economy is still in recession and its poor output reduces dramatically the opportunities for an introduction of an effective local government system, because in spite of all local government reforms, local units, having poor financial sources for satisfaction of their needs, will achieve very humble results.

The question can be raised here why the Macedonian local government system does not function effectively, when contemporary solutions of other models are incorporated in it, such that have a big tradition of successful functioning.

The answer is complex but can be summarized as follows:

The Macedonian system is based partially on foreign systems and experiences, but accommodated to the internal circumstances. Thus the foreign principles and institutions are partially introduced in the Macedonian local government system. More precisely, the principle of division of power on both vertical and horizontal level is borrowed from the Anglo-Saxon local government systems. The practical repercussions of this principle are that all local organs -members of local councils and mayors will be elected by local population, and no state authority can interfere here. In that way, local organs do not depend from central authorities' support and focus their energy to the local electorate. That is a positive characteristic. Next, there is a strict division of powers between the legislative body, the council and the executive one, the mayor¹⁴. According to the research results, this is a functional solution. But, some of the solutions raised from the specific Macedonian circumstances in the period of transition -the Macedonian local governments have very narrow competencies, only in the fields of local infrastructure and public transport, in contrast to the developed local government systems which stretch their competencies in the fields of primary and secondary education, primary health care and hospitals, social care, culture, housing, environmental protection, etc. Next, the financial resources intended for local purposes are very limited in Macedonia in contrast to the Western ones that include various taxes, fees, etc. Next, there are a lot of problems with the cadastre in Macedonia, that means existence of a lot of plots whose property can not be easily determined due to missing and contradictory records and there are many unsettled law-suits dealing with property relations that aggravates the legal traffic and transactions with properties.

¹⁴ Joseph. F. Zimmerman, *State and Local Government*, Barnes and Noble Books, New York, 1976.

Of course, the local government system is a part of the overall social system. The basic prerequisite for satisfaction of local needs is existence of a prosperous economy, because only such economy and citizens with high living standards can be in a position to give sufficient amounts of money for the common local needs. The Macedonian economy is with a low output, analogously the citizens are mainly focused to their individual existence and can not contribute with high extent to the local development. Next, the level of information of local citizens pertaining the local competencies and situation is not very high due to the frequent legislation changes and lack of transparency, in that way their political participation can not be assessed as high

The Anglo-Saxon, Scandinavian and German¹⁵ models to which the Macedonian manifests highest similarity, has been unchanged in their basic principles and setting for a long time, and that enabled the citizens to become familiar with their systems and in atmosphere of democracy to participate actively in their processing. So, their system are characterized by a wide range of competencies, high financial autonomy, high local participation of citizens and their effective control of local authorities' activities. In that way these systems produce good results in meeting with the local requirements.

Annex

A list of major specific laws on public administration and local government

Constitution of the Republic of Macedonia, published in the Macedonian Official Gazette, Skopje, 52/1991, articles 114 -117

Local Government Act, Macedonian Official Gazette, Skopje, 52/1995

Law on Local Elections, Macedonian Official Gazette, Skopje, 46/1996

Law on Territorial Division of the Republic of Macedonia and Demarcation of the Municipal Boundaries, Macedonian Official Gazette, Skopje, 49/1996

Law on the City of Skopje, Macedonian Official Gazette, Skopje, 49/1996

Law on the Voters' Lists and Voter's Identity Card, Macedonian Official Gazette, Skopje, 49/1996

Primary Education Act, Macedonian Official Gazette, Skopje,

Secondary Education Act, Macedonian Official Gazette, Skopje

Budget Law, Macedonian Official Gazette, Skopje, 79/1993

Public Enterprises Act, Macedonian Official Gazette, Skopje, 38/1996

¹⁵ Wolfgang Gisevius, Guide through Communal Policy, Friedrich Ebert Foundation, Skopje, 1998.

Decision on Establishment of Public Enterprise Designing Territorial and Urban Plans, Macedonian Official Gazette, Skopje, 30/1996

Law Regulating the Relations Among the Existing and Recently Established Municipalities, Macedonian Official Gazette, Skopje, 59/1996

Law on Voting Districts, Macedonian Official Gazette, Skopje,

Law on the Government of the Republic of Macedonia, Macedonian Official Gazette, Skopje, 38/1990

Law on General Administrative Procedure, Yugoslav Official Gazette, Belgrade, 32/1978

Law on Communal Activities, Macedonian Official Gazette, Skopje, 45/1997

Law on Incentives for Development of Economically Underdeveloped Areas, Macedonian Official Gazette, Skopje, 2/1994

Law on Criteria, Amounts, Conditions and Purposes for Distribution of the Resources Serving as Incentives for Development of Economically Underdeveloped Areas, Macedonian Official Gazette, Skopje, 33/1994

Decree for Determination of Economically Underdeveloped Areas in the Republic of Macedonia in the Period 1994 -1998, Macedonian Official Gazette, Skopje, 16/1994

Decree for Distribution of the Resources for Water Pipes Construction in the Republic of Macedonia in 1994, 1995, 1996, etc

Law on Construction Land, Macedonian Official Gazette, Skopje, 10/1979; amendments 21/1991

Law on Public Attorney, Macedonian Official Gazette, Skopje, 7/1997

LOCAL SELF-GOVERNMENT AND DECENTRALIZATION: CASE OF ALBANIA. HISTORY, REFORMES AND CHALLENGES

Background

Albanian State has a relatively short history:

- Declaration of Indipendence on 1912 and the first Government
- Protectorate 1913-19-14
- Lac of government instituion 1914-1920
- Parlimentary Republic 1920-1928
- Constitutional Monarcy 1928-1938
- Diferent Governments during 1939-1944
- Comunistas State 1994-1990
- Parlimentary Democracy 1991-currently

Having as a priority to set up a moder state over the fractonised society and regions the dominant aproach followed by the political class during each historical periodes was the centralisation.

Period of state foundation: 1920 - 1930

The main feature of local governance bodies was the low level of political independence as opposed to the high level of economic and social competencies and functions.

The territorial division was composed of Prefectures and sub Prefectures, districts, municipalities and communes. The local authorities got appointed based on a combined system of appointment and selection where appointment played the major role. Whereas, while elections were held for the members of the district councils, the mayor/ or the commune chairman were appointed by a royal decree at the proposal of the government. In villages there was in force the

system of elder that also got appointed. The level of administrative autonomy was moderate. However, the authority of state through prefectures was very strong. The governmental body that controlled the activity of local authority was the Ministry of Interior.

The competencies of an economic and social nature were very broad. The local bodies, especially municipalities carried out several public services, administered a budget substantially financed by local taxes and possessed properties/assets or administered natural resources.

The local administration was few in numbers, but efficient. The recruitment and career system and that of compensation/remuneration were improved and grew during the years.

Communist period: 1944 - 1990

The centralizing and vertical features of governance became fully dominating. The legal and constitutional framework considered them as "local bodies of government" rather than "local government bodies" and included them as part of the compact state pyramid. Therefore, this was basically a deconcentration of the executive functions, whereas decentralization and self governance were extremely weak.

Local bodies of government included district councils as the first level and town/village councils as a second level. In the towns there existed even smaller units known as councils of the quarters. Local authority councils were elected through formal voting once in four years, but they had no political or administrative autonomy whatsoever. The various economic and social functions carried out by these bodies were part of the vertical division of executive duties in a centralized state in relation to decision taking and policies. Their budget was entirely transferred from the state budget and strictly detailed and allocated in items and procedures as well as the manner of usage. Local authority bodies among themselves have dependency relations. The highest authority and which carried out many functions was the executive committees of the district council. The CM appointed the chairman of this council. The town/village council was considered as the lowest level of authority. Among the main duties of the district council were implementation of production plans of state owned enterprises and state cooperatives in the relevant district.

Transition period: First Decade of 1991-2000

The current status of LG is a product of the dynamics of the political, economic and social factors of transition, as well as historical, traditional, cultural and social psychology. Notwithstanding the overall two-sided impact/action of these factors, they have played more of a restraining than a promoting role in decentralization of power and strengthening of local self-governance during the period of 1991-2000.

The early steps for decentralization were based dominantly on centralized political objectives. In recent years, the increase of experience at the local level and the fostering of a local political/managerial class have brought to the game a new active decentralization actor.

In the 1990s, the system began to shift to a more decentralized LG system. The first LGs were created at that time (Law on Functions and Organization of Local Governments, August 1992). The reform of 1992 set up for the first time politically autonomous LGs. This must be considered a very important achievement. Some of the services and functions from which the public could benefit directly were passed to the local bodies that, though politically autonomous, still lacked real administrative and fiscal autonomy.

The main structural change was the modification of the role of the two levels of LGs, by (i) strengthening the functions of municipalities and communes as the primary level of LGs with direct responsibilities and more authority, and (ii) modifying the role of District Councils to include a coordination function.

In the first years of transition, the focus was mainly on central reforms to build the key institutions (parliament, government, judiciary) based on democratic models as well as on basic economic reforms (macroeconomic, banking, privatization, etc.) As a result, there was less attention to LG reforms. Nevertheless, a number of laws and governmental decrees, which defined the competencies and authorities of local bodies, were approved.

The legal status of LGs was characterized by:

- **General definitions of responsibilities/functions.** The system is designed in such a way that it is not possible to draw a clear division of responsibilities between the local and National Government. Overlapping of responsibilities or

mismatching of responsibilities and functions is evident in many fields. This limits the self-initiative of local governments in these areas.

- **Mismatching between responsibilities and the authority to act.** The law considers that LGs are responsible for a broad share of public services but it does not grant the adequate authority and instruments to carry them out.

Administrative authority

LGs had formally the authority to define the structure of local organizations and the number of employees financing from its own resources the added cost over the central financing but they had not authority for deciding their salaries. In the condition of extreme limited own resources the exercise of administrative authority by LGs remain, in practice, very constrained.

Investment authority

While LGs had responsibility for ensuring the normal functioning of public infrastructure, they had not any relevant authority for planning and executing new investments, rehabilitation and renovation. The line ministries planned and decided the details of investments and their funding. These investment funds were distributed through the conditional budget. In other words, LGs worked as agents of a CG agency.

Service maintenance authority

Since 1998, LGs have had the authority to plan and execute expenditures for maintenance of local institutions under their authority. But, even this new positive experience is limited by the fact that funding from the national budget was limited, while the local budget was too weak to support the overwhelming needs.

Regulatory authority

The capacity of LGs to exercise any regulatory authority was limited even for their own responsibilities. The national authorities and their specialized bodies define almost all standards and procedures of services.

Fiscal and budget authority

The fiscal authority and autonomy of LG was very limited. A national law defined for all local taxes and fees, the base, rate level, sanctions and collection agent. From 1999, the law established the right of the LGs to decide the rate of local taxes and fees within +/- 20% of uniform national rates decided by law. Central fiscal agents collect the majority of local taxes and fees. Few LGs have a local fiscal administration; as a result, the capacity of LGs to collect own local tax and fees remained very limited. Some large municipalities have strengthened their capacity to collect local taxes, an argument for further fiscal decentralization reform.

The expenditures of LG have been largely financed by the state budget, and the expenditure structure was strictly controlled by MF and the line ministries, with the exception of a new block grant for recurrent expenditures of LGs implemented in 1999.

The result is that expenditures that LGs had any control over represent a very small share of total public expenditures in the country, as shown by the following Table 1. The share is one of the smallest among the countries of central and eastern Europe that are going through a process of decentralization similar to that in Albania.

Table 1. Macro economic context of LG (in million of Lek)

	1995	1996	1997	1998	1999 ¹
GDP	229.700	281.000	341.700	460.600	
State Budget Expenditures (SBE)	77.134	87.596	100.730	141.628	111.312
% SBE to GDP	33.6 %	31.2 %	29.5 %	30.7 %	
Total Local Expenditures (TLE)*	20.705	20.691	19.989	25.927	21.199
% TLE to SBE*	26%	23%	19%	18%	19%
Own Local Expenditures (OLE)	221	625	628	722	992
% OLE to TLE	1%	3%	3.1%	2.7%	4.6%
% OLE to SBE	0.28 %	0.71 %	0.62 %	0.51 %	0.89 %
% OLE to GDP	0.096 %	0.22 %	0.18 %	0.15 %	
Bloc Grant (BG)	-	-	-	-	3.465
% BG to TLE					16.3%
Conditional Transfers*	20.484	20.066	19.361	25.205	17.842

Note (*):

The share of total LG expenditures to the state budget expenditures, which appears to show a high ratio (26% in 1995, now down to 19%) does not in fact represent autonomy of LGs in their expenditures. For example, in 1999, own local expenditures account for only 4.6% of

¹ Data for 1999 represent the actual results for the first nine months.

total local expenditures, the block grant, 16.3%, and conditional transfers, the largest share of local budgets, 79.1%. Two types of expenditures are mostly included in the Conditional transfers: transfers for salaries and transfers for investment. At least 80% of the conditional transfers is for payment of salaries, such as for education, and the LGs serve only as the paying agent, with no other role and no possibility for decision-making. For investment projects, conditional transfers are transferred directly by the line ministries, to be used for previously determined and approved projects and types of expenditures.

Property rights

In relation to the local public ownership rights, no substantial initiatives was taken to provide any property to LGs. They only had some limited administrative rights to some public properties.

Final conclusion

As a result of the general definition of responsibilities and the insufficient authority given to carry them out, LGs were prevented from carrying out their important role in serving the needs of their community. This impairs the democratic participation of local communities, creates inefficiency and retains the centralized character of governance in Albania. The need for reform in this field of governance is currently considered very high.

Decentralisation-After 2000

The decentralisation is currently going through a comprehensive strategic reforme. It is based in the

- Basic constitutional principles adopted in the Albanian Constitution (Nov. 1998)
- European Chart for Local Autonomy (ratified by Albanian on 1999)
- Strategy For decentralisation (Legal policy Document adopted in Nov. 1999)

The goal of the decentralization strategy is to implement the provisions of the Constitution of Albania regarding decentralization, in a manner consistent with the principles of the Charter of Local Self-Government of the Council of Europe.

The main provision of constitution establishes that: "LG in the Republic of Albania is founded upon the basis of the principle of decentralization of power and is exercised according to the principle of local autonomy"²

² Article Nr.108 of Constitution.

The objective of decentralization reform is to take full advantage of the opportunity provided by the new Constitution to create, promote, and implement a new vision of local government.

Based on the Constitutional provisions for LG, this strategy aims to combine Albanian tradition and the vision and goals of local and central officials with the best international experience and models of democratic societies.

The ECLSG defines common standards and principles for the protection and promotion of local autonomy rights in all signatory countries.

One of the main principles of the Charter states: "Local self-governments denotes the right and ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interest of the local population".³

The Charter is both a model and an objective for Albania. It is a model of how to establish modern, democratic and effective governance based on the principles of local autonomy. At the same time, Albania is a signatory party and has agreed to adopt and fully respect the principles and standards of this document.

The Constitution as well as the ECLSG is the base on which LG were the basic pillars for the decentralisation strategy.

The decentralization strategy was drafted and discussed in an open and participatory process.

The two main actors, the CG and the LGs, came to the political agreement to set up together:

- **The National Committee for Decentralization (NCD)**, whose members are representatives of both the central and local level, with the authority to establish the political guidelines and principles, to approve the document by consensus, and to politically spearhead its implementation. The NCD was formalized by a government decree. The NCD has approved the guiding principles of the strategy and the task description for the GED.
- **The Group of Experts for Decentralization (GED)**, proposed by the NCD and formalized by government decree is composed of the highest technical and

³ Article No. 3.1 of the European Charter for Local self-government.

policy level experts, appointed by associations of local elected authorities and national government ministries, as well as independent researchers. The GED acts as the Task Force for drafting the strategy and monitoring its implementation. The GED has held 16 regular meetings in which was discussed and formulated a large range of topics and issues regarding decentralization. During the GED meetings, additional experts from the ministries contributed to the discussion on specific topics of decentralization. Independent Albanian and foreign experts also were invited to give their opinions

From a political point of view, the process brought together for discussion and consensus-building interest groups (such as local communities), political groups and local elected officials, political parties and the government, parliamentarians, NGO's, as well as international donors and organizations. A number of regional meetings were organized that contributed to strengthen the participation, the shared vision and the ownership of the strategy by all these actors.⁴

Such approach still is used for drafting and approving every single legal or policy instrument linked with the decentralisation reforme. So participatory and consensus building approach is the based even for the implementation of the decentralisation strategy.

The first product of Strategy implementation was the Law OFLG .The law has defined almost in details the rights, duties, organization, functions, authority and accountability of local governments units. The law is directly applicable for the majority of rights and duties. It has also has established even an agenda (chapter XI of the law) for formulating and approving the necessary laws and by-law which will make possible the implementation of the other aspects of rights and duties.

PA is discussing the draft-law on "Transferring of immovable properties to the LG units" This law once approved will regulated in details the property rights of LGs as well as will be the base of the effective transferring of immovable properties to LGs within a period of two years.

Task Force is drafting the law "On inter-governmental Relation". This law will regulate all the aspects of relations between the CG and LGs for issues linked with performance of functions, financial and budgetary aspects (financial transfers, budget preparation and execution), external control, trial resolution, policy adopting for further decentralization in the future etc.

⁴ See Volume 2 of Decentralisation Strategy.

The descriptions and analyses done in the following chapters are based on the current legal frame of L G. As it is a very new legal frame we don't have sufficient evidences to give opinions on the successes and failures but we tried to give some considerations on opportunities and risk to be faces in the coming years.

Local government elections

According to election code, LG elections are held three years by general direct elections and secret voting. Mayors and heads of communes as well as members of Councils of Municipalities and communes are elected by the inhabitants with the right to vote.

LG election date is announced by a decree of the President of the Republic. First round is held 60-30 days in advance from end of present local organs mandate, or not later than 45 days from the discharge of existing organ.

The candidates are proposed by political parties or their coalition. Independent candidates can also compete for Mayor/Head of communes or member of Council. Political parties have the right to be presented by mutual candidates as well as mutual candidates' list for local councils.

Documentation accompanying a candidate is delivered to Election Commission for LG not later than 22 days before the election date. Commission approves the candidature and not later than 19 day before the election date, it publishes the name address and political party of the candidate.

A candidate should fulfill some certain conditions clearly determined in law on Constitution (article 45).

1-every citizen older than 18 year old, even 18 years old in the election date, has the right to elect and to be elected.

2- Citizens defined mentally ill by a court decision does not have the right to be elected.

3-Citizen who have been punished to life imprisonment have only the right to elect.

According to the law on "Election code", the candidate must be inhabitant of the respective unit he/she is aspiring for. He/she mustn't be a deputy or candidate for deputy of the AP.

Mayor and head of commune is called the candidate who wins more than 50% of eligible valid votes. In any other case a second round of election is held between the two candidates who won more votes in the first round (EC, article 75/1). In this case the mayor and head of commune is called the candidate winning the majority of eligible votes of the second round. If even after the second round candidates have equal votes, a random selection between them is applied.

Members of Councils of municipalities/communes are selected in ascending order from the candidates' list of political parties, political coalition and independent candidates. The number of members for each party is proportional to the total numbers of votes every political party or/and coalition win during the election. (EC, article 75/2)

Number of members of Council of Municipality /Communes are determined according to the inhabitants of units as showed (Law OFLG, article 24):

No of inhabitants of local unit	No of members of Council of municipality/commune
5000	13
5000-10000	15
10000-20000	17
20000-50000	25
50000-100000	35
100000-200000	45
Tirana Municipality (capital city)	55

Council of region is composed of representatives of communes and municipalities included in the region. Mayor and heads of communes of the region are always members of Council of region. (Law OFLG, article 49).

Number of representatives of municipalities and communes in the Council of Region are in proportion to the number of inhabitants of the municipal/commune member of the region as showed. (Law OFLG, article 50):

No of inhabitants of the municipality/commune	Nr. of it representatives in Council of Region
Up to 5 000	1 representatives
5 001-10 000	2 representatives
10 001-30 000	3 representatives
30 001-50 000	4 representatives
50 001-100 000	5 representatives
over 100 000	5 + 1 representative for each 1-50 000 inhabitants above 100,000

According to Law OFLG, (article 25) function of councilor is incompatible:

- a. With the function of Chairman, Deputy Chairman of Commune and Mayor or deputy Mayor of a municipality;
- b. With the function of the Council Secretary;
- c. With the function of employee of the executive organs of the respective commune and municipality;
- ç. With the function of a member of Parliament.

In the same article is determined also that no person can be elected at the same time in more than one Commune or Municipality Council., as well as no two persons who are immediate relatives as a parent, a spouse, a child, a sibling or the immediate relatives of a spouse may serve simultaneously on the same Commune or Municipality Council.

In order to eliminate conflicts of interest the same law determines the application of disqualifying provisions set forth in the Code of Administrative Procedures of the RA as well as the fact that the Councilor does not take part and vote in any meeting where the case being considered is of personal interest to him, his spouse, parents, children, brothers, sisters, in-laws (article 30).

Law determines also the case of earlier expiring of the mandate of councilor or the mayor/commune chairman. (Law OFLG, article 27/4), in the following situations.

- a. change of residence;
- b. resignation
- c. creation of conditions of incompatibility as defined in Article 25 of this Law;

- ç. mandate is taken by him in an irregular manner;
- d. loss of juridical competence by a court decision;
- dh. death;
- e. absence from the council meetings for a period of six months; (for the mayor it is three months)
- ë. condemned for a penal act by a final decision of a court;
- f. dissolution/dismiss of the council by the competent organ.

Local government territorial organization

According to the law OFLG that entered in force in 1 October 2000 (local government election day), The Albanian LG is organized in two levels: communes/municipalities and region. According to the Constitution (article 108/1) the other units of level government may be established by law.

First level

The basic units of local government are communes and municipalities, which are considered its first level. They have the same public responsibility and possess the same types of authorities/competencies. The only difference comes from the fact that they act respectively in rural and urban areas.

- **Commune**, represent a territorial-administrative unit and community, settled as a rule in rural areas and in specific cases in urban areas. Territory, name and center of commune are determined by law. Subdivisions of commune are called villages and in some special cases they are called towns. Council of Commune determines every subdivision's territory. (Law OFLG, article 5/1)
- **Municipality**, represent a territorial-administrative unit and community in urban area and in specific cases in rural areas. Divisions of municipality in urban areas are quarters. Territory and name of municipality are determined by law No 8653 (explained in follow). Urban sub-divisions of municipality are called quarters. A decision by Council of Municipality determines the quarters that must have more than 15000 inhabitants. Rural sub-units of municipality are called villages. A village must have more than 200 inhabitants. The town is established by law. (Law OFLG, article 5/2)

The organs municipalities/communes are representative authorities and executive authorities. The representative authority of commune/municipality is the Council of Commune/Municipality and the executive authority is the Mayor/Head of Commune.

The second level of local self-government: Region

Region is the second level unit of LG. It represents a territorial-administrative unit compound from some communes and municipalities with geographic, traditional, economic, social ties and joint interests. The borders of region fit with the borders of communes and municipalities that compound it. Subdivisions of region are called districts.⁵

The representative organ of region is the Council of Region, that is created with the representatives from elected organs of communes and municipalities in proportion of inhabitants number, but in any case at least one representative. Mayor and heads of communes are always member of council of region. The other members are appointed from each municipal/communal council among the counselors. (Constitution article 110). The number of members of CR are shown in chapter one of the paper shows Board of council is composed of Head of CR, vice head and 1 up to 9 members. The Chairman and vice/chairman Council board are elected and dismissed with the majority of votes of the members present in the meeting. (Law OFLG, article 58/1-2). They are performers of executive functions.

Actually, the organization and functioning of Tirana Municipality (capital city) is based on a special law (No. 8684, dt. 31.7.2000), which defines the division of Tirana in 11 sub-municipal units, whose Mayors and councils are elected directly by the peoples vote. The structuring of this units is the same as that of municipality - Unit Council and Unit head. All these units are under the authority of Mayor of Tirana.

Law on "Territorial-administrative division of local government units in Republic of Albania" No.8653, dated 31.7.2000, defines all the regions, municipalities and communes in Republic of Albania in a specific format. A sample of it is given in the example below. According to the same law the total number of regions in Albania are 12, districts (sub-division of region) 36, municipalities 65 and communes 309.

⁵ Up to October 2000 the second levels were the districts and the local organ was the district council which was composed of a number of councilors proportionally directly elected. The district councils are abolished while the district, as a territorial administrative sub-unit of the Region will remain. In the district the region can set up different bodies for supplying its services. On the other hand the district is the minimum territorial level in which the Central Governmental Bodies has set up their branches.

Table: Region Berat

No	Units of local government		District	Name of center	No	towns and villages included	
	Region	No					Name of Municipality/ Commune
1	2	3	4	5	6	7	8
I.	Berat			Berat			
			Berat	Berat			
		1	Munic/Berat	Berat			Town/Berat
		2	Comm./Ura Vajgurore		1		Town/UraVajgurore
					2		Bistrovice
					3		Guri i bardhe
					4		
					5		
					continue		continue

According to the Constitution (article 108) territorial-administrative divisions are established in a specific law, based on mutual economic interests and needs as well as historical tradition. Those borders can not be changed without having the opinion of inhabitants settled in them.

This principle is further developed in Law OFLG. The existing administrative-territorial division can be reorganized either with or without a change in boundaries, in compliance with the local economic, social interests, tradition, culture, and other local values for the efficient provision of functions to the benefit of the local community and the implementation of local, regional and national policies.

Reorganization with border change (article 64)

Reorganization with border changes can take place when:

- a) A unit of LG is divided into two or more units of local governments;
- b) Two or more units of LGs are merged to form a territory of a single unit of LG;
- c) A part of the territory of one local government unit is transferred to the territory and administration of another local government unit; or
- d) A combination of the cases listed above is necessary.

Reorganization without border change (article 65)

Reorganization without changing the borders can happen in the cases of a Change of the name of the local government unit or a Change of the geographic center of a local government unit.

Legal support and the initiation of the reorganization (article 66)

The reorganization of the existing territorial - administrative division with or without changing borders can be made effective only by a special law.

Final decision on territorial reorganizations belongs to PA. Based on Constitution, the CM, every deputy as well as 20000 electors have legislative initiative (or the right to propose a draft law to parliament). In other words who ever will be the initiator of a territorial-administrative reorganization's process must:

- Promote or convince the action on his favor of one of the subjects having the right to initiate draft laws
- accompany the proposal for reorganization of one or more units of local governments for each case submitted to the Parliament, by the following facts and justifications (article 67, Law OFLG):

- a) The economic, social, cultural, demographic, administrative reasons in favor of the need and advantages of reorganization proposed;
- b) The methods, materials or documents used to inform the public on the reorganization and the issues related to it;
- c) The opinion of the community that lives in the local units that shall be affected by the reorganization as well as the opinion "For" and "Against" expressed directly or indirectly by various interested subjects or groups in this reorganization;
- d) The methods used to collect the opinions of the community such as public hearings, open meetings, surveys and referenda if it is possible;
- e) The administrative territorial maps, in which are reflected the changes which would result from the reorganization;
- f) The expected economic, financial, social, demographic impacts that will result from the reorganization, as well as the civil and administrative liabilities or obligations which will result, will be inherited or will be shared;
- g) Agreements and proposals for existing liabilities and assets and the way they will be administered after the reorganization.

Legal competence of local self-government

The current legal framework defines clearly the rights and duties for each of the local government levels. **The law contributes to strengthening local autonomy** through granting to local governments a series of rights that enable it to exercise its authority in the interest of the community.

Right of governance: LG units based on the Constitution, laws and normative acts, and to carry out their functions and exercise powers, they can issue directives, orders and ordinances, which are obligatory for all its entities within its jurisdiction. They can take any necessary measures for carrying out their functions and exercise their authority. LGs can create administrative structures to carry out their functions and exercise powers, in compliance with the laws in force. They can establish economic units and other institutions under their authority. Each LG may create committees, boards, commissions as it deems necessary for exercising specific functions. Each LG may create any administrative-territorial sub-division within its jurisdiction to perform its governing functions, in the manner as set forth in the Law.

Property rights

LGs have the right to purchase, sell or rent its movable and immovable property or use its property, as well as to exercise other rights in the manner as set forth in the law. LGs may exercise the right of eminent domain for the purpose of acquiring any movable and immovable property for the public interest in accordance with the procedures set forth in a special law. The property rights are exercised by the respective council, and they may not be delegated to anybody else.

The right of fiscal autonomy: a. LGs may obtain revenues and make expenditures related to the execution of their functions. They have to set taxes and fees in compliance with the legislation in force and the interest of the community. LGs have the right to adopt and execute their budget. There will be only a unified local budget as compared with two budgets as it was the case before the approval of the law (independent and conditional budget). The unconditional and conditional transfers (see chapter 5 of the paper) will be reflected in the unified local budget.

Economic development right: LGs have the right to undertake every initiative for economic development in the interest of their residents, provided that these activities do not contradict the fundamental direction of economic policies of the State. The major part of revenues from economic activities of local governments shall be used to support the execution of public functions. The economic activity of the local government units is regulated by legislation on economic activities.

The reality shows that Albanian LG units do have modest experience in managing such economic activities. Up to now they have dealt only with some small

activities regarding different transactions for executing some of their exclusive functions. But that is not a big deal.

The right of cooperation: LG units have the right to carry out specific functions on behalf and in the benefit of their inhabitants, two or more units of LG may exercise any competence given to them by law, through implementation of mutual agreements or contracts, delegation of specific competencies and/or responsibilities to one or the other, or contracting a third party. LGs may collaborate with similar units of LG in other countries and are represented in international organizations of LGs, in accordance with special legislation in force. LG units have the right to be organized in associations in conformity with respective legislation for associations.

The right of being a juridical person: LGs are juridical persons and may exercise all the rights set forth in the Civil Code of the RA and in the legislation in force.:

LG units have the right to make contracts, to establish other juridical persons, to bring a civil accusation; the right to keep accounts, other rights to carry out functions, in compliance with the laws and normative acts

Other rights: LG may grant honorary titles and moral and material stimulus, each LG may determine the denominations of territories, objects and institutions under its jurisdiction in accordance with the criteria set forth in law.

Local public service

Local public services otherwise called functions of LG units appear in the following categories: exclusive, shared and delegated functions

In order to exercise these functions they have full *administrative, service, investment and regulatory competencies* (these competencies are explained in the boxes below)

Law OFLG defines clearly the meaning Exclusive functions, which is: they are functions given by law to the LG unit, for the realization of which it is responsible and has the authority to make decisions and use means for their realization, within the norms, criteria and standards generally accepted by law. LGs shall exercise full administrative, service, investment and regulatory authority over these functions. Following are the four main categories of them:⁶

⁶ Regarding functions' implementation, every unit of first level of LG (municipalities and communes) has the right to exercise its own functions from January 2001, except the functions of: Water supply; Sewage and drainage system and [flood] protection canals in the residential areas: Urban planning, land management and housing and functions of civil security, which implementation will start on January 2002. While the region starting from January 1st 2000, has the total responsibility in exercising its own functions granted by law.

Infrastructure and public services:

- Water supply;
- Sewage and drainage system and flood protection canals in the residential areas;
- Construction, rehabilitation and maintenance of local roads, sidewalks and squares
- Public lighting
- Public transport;
- Cemeteries and funeral services
- City/village decoration
- Parks and public spaces;
- Waste management,
- Urban planning, land management and housing according to the manner described in the law.

Local economic development

- The preparation of programs for local economic development;
- The setting and functioning of public market places and trade network;
- Small business development as well as the carrying out of promotional activities, as fairs and advertisement in public places;
- Performance of services in support of the local economic development, as information, necessary structures and infrastructure;
- Veterinary service
- The protection and development of local forests, pastures and natural resources of local character.

Social cultural and recreational functions

- Saving and promoting the local cultural and historic values, organization of activities and management of relevant institutions.
- Organization of recreational activities and management of relevant institutions
- Social services including orphanages, day care, elderly homes, etc.

Civil Security

- The protection of public order to prevent administrative violations and enforce the implementation of commune or municipality acts;
- Civil security

Shared functions⁷

"Shared [Joint] functions" are functions for which the LG unit has its share of responsibility, distinguished from the share of responsibility granted to CG, and the functions are accompanied proportionally with competencies, which are exercised autonomously.

Communes and municipalities may undertake any of the following shared functions:

- 1-pre-school and pre university education
- 2-primary health service and protection of public health
- 3-social assistance and poverty alleviation and ensuring of the functioning of relevant institutions
- 4-public order and civil protection
- 5-environmental protection
- 6-other shared function as difened by law.

Delegated functions

"Delegated functions" are functions of CG or other CG institutions that by law or by a contractual agreement between the CG and the LG unit are assigned to a LG for performance in a manner and to a degree which is determined by the CG or other CG institutions.

In any case, the CG guarantees necessary financial support to the LG units to exercise delegated functions and powers (article 12/6).

The LG units may, at their own initiative, commit their own financial resources to the performance of delegated functions in order to achieve a higher level of service in the interest of the community (article 12/7).

Central institution may authorize commune/municipality or region to undertake specific functions of central institutions, determining the procedures for carrying these functions and the manner in which it will control its provision.

According to law, delegated function can be mandatory or nonmandatory. If they are mandatory they should be explicitly described as so in a law. The law that will delegate to the communes and municipalities a function of CG should also

⁷ Beginning on January 1, 2002, the manner of carrying out the following shared functions and competencies will be determined by specific laws.

- a) The functioning of pre-school and pre-university education;
- b) The functioning of the priority health service system and the protection of public health;
- c) Social assistance and poverty alleviation and ensuring of the functioning of relevant institutions;
- d) Public order and civil protection;
- e) Environmental protection.

clearly and fairly determine the necessary funds for carrying out this function and the way these funds are going to be transferred, disbursed to the LG account.

In the case of non-mandatory delegate functions there should be a mutual agreement between the commune/municipality/region and the CG authority

Functions and competences of region

Region, as a LG unit, has its own functions that consist on developing and implementing regional policies and their harmonization with the national policies at regional level, as well as other exclusive functions given by law.

In addition each region may perform any functions that are delegated to it by one or more communes or municipalities within the region, according to an agreement between parties as well as by CG.

The region can also perform functions that will be delegated to it by the CG. The CG may delegate a function to the region provided that it guarantees the region financial support for the provision of this function. The function cannot be delegated without a law or a mutual agreement.

Implementing subsidiary principle the law has assigned more functions to municipalities and communes rather than to regions. Therefore it can be said that municipalities/communes have strengthen enough their position. On the other hand regions are very new units of LG, therefore they will need some time to define their profile.

Local government finances and economic resources

Actual legal framework gives the right to local authorities to fix local taxes as well as to determine fees in accordance with the law. Also communes and municipalities and regions have an independent budget. This new situation seeks a long process of changing the existing laws and designing ones. According to the Law OFLG, the LG units are financed by revenues yielded from:

- 1-locally derived sources
- 2-Funds from national sources (funds transferred from the CG and funds derived from shared national taxes)⁸

⁸ See table 1: The revenues of municipalities by forms (in %) in anex 1.

Based on the defined principles of the decentralization Strategy and the Law OFLG, it is being worked on a complete law that would regulate the financial relations between LG and CG. However this law is a bit late according the strategy.

The own revenues

Communes and municipalities may derive revenues from local sources through local taxes, local fees as well as other sources defined by law.

Local taxes⁹

- local taxes and levies on the mobile and immobile property, as well as on the transactions conducted on them
- local taxes and levies on economic activity of small businesses and on hotel residency, restaurants, bars and other services
- local taxes and levies on personal income derived from donations, inheritances, testaments and from local lotteries
- other taxes and levies given by law.

A new tax that is expected to be very important in increasing financial capacities of LG units is the tax on small businesses. However, this tax is not included in the potential local sources for the current fiscal year (2001). (see table 3 annex 1).

User charges

Law defines clearly that LG units have the right to derive revenues from local fees for:

- Public service they provide
- The right to use local public properties, assets or public spaces.
- The issuance of licenses, permits, authorization and issuance of their documentation, at the discretion of LGs.

Beginning on January 2001, they have full authority to set local fees, the manner of their collection and administration in compliance with general national policies and principles. (see table 4 annex 1).

⁹ Before this law's approval number of local taxes was 14(see table 2 in annex 1). The main part of them (for e.g. tax on collection and transportation of wastes) classified as local taxes before now are turned to local tariffs (article 73).

The right to take loans for local public purposes

The law gives LG the right to receive loans for public purposes, in conformity with respective laws. Beginning on January 2002 the LG units will have the right to borrow funds for investments projects.

Other sources of LG revenues

According to law OFLG, LG units are entitled to generate revenues from their economic activity, rent and sale of property, gifts, interests, fines, aids and donations. A source of revenues for LG is its **economic activity** or local businesses, financed from the own local organ. Despite the fact that this is one of the possibilities determined by law, the up to now reality does not present such practices. Other sources of revenues are gifts and aids or donations. These kinds of revenues are not directly linked with local inhabitants (taxpayer) and are not a permanent source, therefore they do not have any important effect in the total revenues of LG units.

Revenues from national sources

Funds transferred by CG

Unconditional transfers

According to NSDA the unconditional transfer will be:

- Transfer of vertical compensation based on the ratio of responsibilities and functions between the central authorities and local ones, for general and untargeted support of expenses for public services and functions of LG.
- Equalization grants to support those LGs that have an insufficient local revenue and resources base.

The total amount of unconditional transfers will be defined every year in the state budget. It is the target of negotiations between CG and LG. Actually it is thought to set up a fixed percentage on amount for unconditional transfers, but it is too early for that. It will be subject of discussion in the coming couple of years.

Based on LIR and FDS (GoA) unconditional grants will be distribute in this way:

- **A%** of the sum that is reserved in the national budget for unconditional grants shall constitute a fund for municipalities and communes that shall be distributed for vertical compensation.

- **B%** of the sum that is reserved in the national budget for unconditional grants shall constitute a fund for equalization of revenue of municipalities, communes and regions that shall be distributed by the CG to achieve the above mentioned purposes
- **C%** that is reserved in the national budget for unconditional grants shall constitute a fund for regions.

A% is going to be distributed according to the following criteria:

- a. shall be divided equally among all municipalities and communes.
- b. shall be divided among municipalities and communes based upon their relative population.
- c. shall be divided among municipalities and communes based upon their relative geographical area.

C% of the sum that shall be distributed as follows (article 10.4):

- a. shall be divided equally among all regions.
- b. shall be divided among regions based upon their relative population.
- c. shall be divided among regions based upon their relative geographical area.

All the coefficients necessary for the distribution given above are still under evaluation.

Revenues from shared taxes

Shared taxes, consisting of a portion of certain CG taxes, such as the personal income tax and the company profit tax. These taxes shall be collected and distributed to communes and municipalities by the CG on a regular basis not less than three times a year during the fiscal year. The part of the tax and levy which goes to their favor, as well as their collection and administration will be determined by law for each shared tax or levy (Law OFLG, article 17/1.a).

Based on NSDA is thought that

- 15% of total annual incomes from personal income tax and
 - 5% of total annual revenues yielded from company profit tax
- will be transferred to LG units unconditionally, based on the criteria given below (LIR, article 9/1):
- a. around (80%) of revenue from shared national taxes shall be divided among municipalities and communes based upon the relative size of their populations.

- b. around (20%) of revenue from shared national taxes shall be divided among regions based upon the relative size of their populations of the regions.¹⁰

Conditional transfer

They are funded by CG to achieve regional or national objectives at the local level. Conditional transfer will shift gradually from strict conditions and small projects to more general conditions and larger projects and sectors. Existing conditional transfer for specific expenditure items such as salaries and investment can take the form of block conditional transfers (not specified per item).

LIR determines the purposes of conditional grant use (article 11/1):

- a. The construction and rehabilitation by LGs of specific governmental facilities.
- b. The performance of functions that are performed by LGs by mandatory and non-mandatory delegation.
- c. To accomplish specific national purposes through efforts of LGs.
- d. To assist specific LGs in performing services in unusually difficult circumstances, such as in response to a local disaster.

(see table 5 in annex 1)

Second level of local self-government (Region)

Regions shall obtain their financial resources from regionally derived revenues and from national sources, in the same way as communes and municipalities and applying all criteria and norms described in law for the last ones.

Local government budgeting (fiscal planning)

The budget of LG units includes (article 19/7, law OFLG):

- Revenues and expenditure tables with the following indexes:
 - Its own revenues of LG units, revenues from national sources.
 - Detailed expenditures in accordance with the functional and economic classification
 - Reserve fund that doesn't exceed 3% of total expenditures.
- Forecast of revenues and expenditures for the next two budget years
- Forecast of expenditures for investments with the following information
 - Finance purpose
 - Finance plan, including ways and sources of financing
 - Annual expenditures that serve to pay the loan, if it is used
 - Cost estimation of operative expenditures that rise as a result of investment fulfillment.

¹⁰ Here the % are still under discussion for being defined. These number are suggested by the Fiscal Decentralisation of Urban Institute/USAID and ISB/LGI.

The budget structure consists of the operating expenditures, capital expenditures and other ones. For fulfilling its functions, it is strictly defined in the law that LG units can not fund capital expenditures by those predefined to be used for the current ones, and vice versa. The revenues for both current and capital expenditures come from the own sources of LG units, block grant and conditional transfers by the central budget. But, there is a big difference on how they are used. The great part of operating expenditures are financed by the own revenues and the grant (its definition makes clear that grant could be only used for operative and maintenance expenditures), whereas the capital expenditures are funded directly by the central transfers.

- **Operating expenditures** consists of: salary fund (expenditures for salaries, rewards bonus), social contribution, maintenance and furnishing, expenditures for goods and services etc.
- **Capital expenditures** include expenditures for capital investment, and reconstruction. However, it doesn't appear to be clear definition of what constitutes investments nor of the distinction between new investments, rehabilitation and renovation.

Law OFLG determines two types of financial control (article 21 and 22).

Internal Financial Controls

1. Each communal, municipal and regional council shall appoint a Finance Commission that shall act during the council mandate.
2. The Finance Commission (FC) controls the revenues and expenditures made by the executive body, in compliance with the budget adopted by the Local Council. The executive of the LG shall report to the FC regularly during the year and shall provide all documents requested by it. The executive organ of the LG or its administration may not be a member of the FC.
3. In order to perform its functions, the FC shall have full access to all accounting documents, including the tax rolls. The FC may request an external audit of the accounts be carried out by a certified accountant

External Finance Controls

1. Each unit of LG shall be subject to external control by the HSC which is based on the principle of legality of use of financial resources.
2. Each unit of LG shall be subject to external finance control by the organs of CG, in the manner as stipulated by law. This external control will be based only on the legality of operations and on the use of conditional funds.

Finally, based on the Constitution (article 115), the direct elective organ of LG because of severe violence of constitution and laws may be dismissed by CM. The dismissed or dissolved organ may complain to CC within 15 days and in this case the decision of CM is dismissed. In case of non-exercising the right of compliance within 15 days, or in case of approval of CM's decision by CC, the President of Republic decides the election date for the respective local unit.

Local situation of minorities

Ethnic minorities in Albanian have not and do not pose a security threat. Consequently their political participation, employment in local/national or the military and police has not been conditioned or influenced by the ethnic criteria. The situation of Greek minority is very illustrative.

Greek minority people actively participate in Albanian politics as members of the Union for Human Rights, other Albanian parties like Socialist and Democratic parties, and hold different positions as technocrats. Their participation is similar to the rest of the population. Union Rights won 2 deputies in 1992 election while there were 4 deputies from Greek minority belonging to Democratic and Socialist parties respectively. The presentation of Greek minority for the period 1992-6 in the local government is very well shown in the following statistics. From the Greek minority there were 13 chairmen of communes, 59 communes council members, 32 city councilors, 53 district councilors.

In the present coalition government, the Minister of Finance and Minister of Health are from the Greek minority from the Socialist and Union for Human rights respectively.

Regarding local government, actually 50% of communes in Saranda district have minority governance, while in Gjirokastra district 4 communes from 11 have majority in minority.

As a practical general rule we can say that the minorities' areas almost have ethnic minority governance¹¹.

¹¹ According to latest Albanian census conducted in April 1989, 98 % of Albanian population are Albanian ethnic. The remaining 2% (or 64816 people) belong to ethnic minorities: the vast majority is composed by ethnic Greeks (58758); ethnic Macedonians (4697); 100 Montenegrins and Serbs 1261 others. Communes of Albanian whose chairman and council members come from Greek minority represent 2% of all communes in Albania.

Final conclusions

Decentralization process of local government in Albania is going through a large and comprehensiveness reform based on a strategic view and in the experience build during the first decade of transition.

The next 3 years 2001-2003 will be the phase of completing the legal reform in issues linked with functions and respective authority, fiscal/financial authority, and regulation of the relation with the Central Government.

On the other hand the implementation in practice of the decentralization means in the same time some hard challenges. The difficulties to be faced are linked with the low governance capacities at local level, lack of sufficient resources in a big number of communes, specially in mountain rural areas, tendencies of concentration of wealth in some large but few urban areas, weak citizen participation in community affairs, strong dominance of political interests rather than the community interest, a strong tradition of a centralized state. In such conditions the level of decentralization in practice will take a long time

Some questions can be raised such as

- Is the local administration professionally capable of implementing the law, especially the part regarding revenues raising? What are the costs of a bad financial management in local units? Does the local units' administration need some training course on financial management and specifically on revenue raising? Should any central authority or independent specialist subject set up some general rules on revenue raising?
- What will be the impact of low efficiency and the level of corruption among the civil servants, and especially the lack of a municipal police?
- How the opinions and priorities of beneficiaries of public services (taxpayer) are or will be involved in the decentralized local governance, assuming that Albanian electors mostly vote for the political affiliations, without considering political parties/candidates programs?

Such questions are addressed in the Decentralization strategy. They are also finding echo to some Government and Donor's program which aims to strengthen the local capacities for effective local governance.

Annex:

Table 1: The revenues of municipalities by forms (in %)

No	Revenues and Transfers	1996	1997	1998	1999
	TOTAL	100,00	100,00	100,00	100,00
A	Own Revenues	3,80	1,73	2,75	3,72
B	Transfers by central government	96,20	98,27	97,25	96,28
1	Conditional	96,20	98,27	97,25	86,58
2	Unconditional	0,00	0,00	0,00	9,70

Table 2: Revenues from local taxes and fees (in %)

No	Revenues	1996	1997	1998	1999
	TOTAL	100,00	100,00	100,00	100,00
A	Revenues	3,80	1,73	2,75	3,72
I	Taxes	0,5	0,72	0,43	0,92
1	Land Tax	0,00	0,00	0,00	0,00
2	Building Tax	0,22	0,16	0,26	0,62
3	Turnover (1%) fee	0,12	0,05	0,06	0,06
4	Hotel fee for foreigners	0,16	0,11	0,11	0,29
II	Local Fees	2,57	0,78	1,95	2,51
3	Carriage collection	0,27	0,25	0,26	0,45
4	Advertisement fee	0,01	0,00	0,01	0,03
5	Fee on local lotteries,	0,00	0,00	0,00	0,00
6	Market stalls fee	0,71	0,59	0,84	0,76
7	Various registration fees	0,46	0,17	0,34	0,58
8	New construction Fee	0,02	0,01	0,02	0,20
9	Hunting fee	0,03	0,00	0,00	0,01
10	Other fees on services	0,06	0,01	0,06	0,07
11	Livestock slaughter fee	0,03	0,01	0,02	0,02
12	Public signs fee	0,03	0,01	0,01	0,01
3	Nursery Charges	0,10	0,05	0,11	0,10
5	Kindergarten charges	0,00	0,00	0,15	0,00
6	Own local govt. fees	0,09	0,04	0,10	0,17
7	License renewal fee	0,03	0,00	0,01	0,01
1	Other fees	0,71	0,03	0,03	0,08
III	Other revenues	0,73	0,23	0,37	0,24
2	Rent on Land	0,34	0,22	0,35	0,21
4	Sponsorships	0,39	0,01	0,02	0,03

Table 3: local taxes based on strategy of decentralization

Type of taxes	Tax base	Tax rate	Administratio	Collection	Sanctions	status
Categoria A	Decided by law	Local discretion within a national uniform interval of discretion with a +/- % around a fix national level	Local tax administration	Local tax administration or authorized agent	Local tax administration	Beginning on January 1, 2001, communes, municipalities and regions shall have the authority to impose local taxes and tariffs, defined by special law.
A.1. Tax on buildings						Actually a local tax
A.2. Tax on						Actually a local
A.3. Tax on small business						tax is not included in the potential local sources for the current fiscal year (2001). Expectation for 2002.
Categoria B	Decided by law	Fixed nationally	Either national or local tax authority	Either national or local tax authority	Local tax authority based on information provided by the national tax	
B.1. Tax on testament						Still unapplicable
B.2. Tax on heritage						Still unapplicable
B.3. Tax on donations						Still unapplicable
Categoria C	Decided by law	Local discretion above national minimum	Either national or local tax authority	Either national or local tax authority	Local tax authority based on information provided by the national tax	
C.1. Tax on real estate						Still unapplicable
C.2. tax on incomes from lotteries						Still unapplicable
C.3. Vehicle tax						There is an effective law , but the tax is

Table 4: local tariffs/fees (actually in force)

Local tariffs	Tariff algorithm	Tariff level	administration	collection	Decision for sanctions	status
Public service tariffs (water, sewage, solid waste, heating services (if local), public transport, public lighting.	Uniform national basic standards	Full discretion	Service provider or other agent authorized by local government	Service provider or other agent authorized by local government	Service provider with support of local tax authority and police	These incomes often are not on the budget of local units. They are used and collected by respective municipal companies.
Tariffs for the right to use a public good (markets, cemeny parking, sign in public areas, use of public spaces for celebrations or shows)	Uniform national principles	Full local discretion	Local government	Local government	Local government	These are always present in the budget.
Tariffs for issuing licenses and documents (construction permits, vehicle registration, land development, certification and other documents)	Uniform national principles	Full local discretion	Local government	Local government	Local government	These are always present in the budget.
Finishing or hunting licenses		Local discretion above a national minimum				These are always present in the budget.

Table 5. The conditional current grants by functions

Nr.	Sector/Ministry	Conditional transfers				Block grant	
		1997	1998	1999	2000	1999	2000
1	of agriculture and food	0.0	0.0	0.0	0.0	0.2	0.0
2	of public works	10.1	11.1	9.7	3.8	18.6	0.0
3	of Economic coop. and trade	1.7	1.7	0.6	0.7	0.0	0.0
4	of Finance	0.0	0.0	0.0	0.0	0.0	0.0
5	of Education	44.4	43.1	43.8	64.9	24.7	0.0
6	of Culture, Youth and Sports	2.6	2.3	1.7	2.2	2.4	0.0
7	of Health	9.5	8.7	7.6	12.6	9.6	0.0
8	of Labor and social Affaires	0.0	0.1	23.5	0.0	0.0	0.0
9	of Local Government	9.7	8.6	13.1	15.8	44.6	100.0
10	Social assistance	22.0	24.3	0.0	0.0	0.0	0.0
11	Total	100.00	100	100	100	100	100

Table 6. Total expenditure by functions

Functions	1996		1997		1998		1999		99/96	
		%		%		%		%		(%)
Education	6268070	47,59	7564826	32,65	8174879	41,51	8932314	39,78		42,51
Health & Social	4600444	34,93	4843702	20,91	7172043	36,42	7727170	34,41		67,97
Public Services	872109	6,622	1491775	6,439	2072948	10,53	2129161	9,481		144,14
Administration	1086821	8,252	8839757	38,16	1788195	9,081	3419294	15,23		214,61
Culture & Sports	342687	2,602	426139	1,839	483451	2,455	248653	1,107		-27,44
Total	13170131	100	23166199	100	19691516	100	22456592	100		70,51

Table 7. Cross classification of local expenditure

Table 7. Municipal expenditure by functions and economic categories, 1999 (in thousands leks)

Functions	Salaries&Contrib		Operating&maintenance				Investment				Transfers					
	1998	%	1999	%	1998	%	1999	%	1998	%	1999	%	1998	%	1999	%
Education	7452613	71,5	8377113	71,7	709805	34,2	516144	25,6	11641	2,2	32264	2,4	820	0,0	6793	0,1
Health & Social	969331	9,3	1412541	12,1	218560	10,5	494884	24,6	14095	2,6	6539	0,5	5970057	89,6	5813206	78,5
Public Services	598097	5,7	496877	4,3	863672	4,16	481231	23,9	218433	40,9	212726	15,8	392746	5,9	938327	12,7
Administration	1063055	10,2	1163819	10,0	167440	8,1	519307	25,8	260345	48,7	1087582	81,0	297355	4,5	648586	8,8
Culture & Sports	336869	3,2	239813	2,1	116597	5,6	4174	0,2	29870	5,6	3992	0,3	115	0,0	674	0,0
Total	10419965	100,0	11690163	100,0	2076074	100,0	2015740	100,0	534384	100,0	1343103	100,0	6661093	100,0	7407586	100,0

Christian Pirvulescu

LOCAL PUBLIC ADMINISTRATION IN ROMANIA

Local government elections

The local elections are held in Romania in accordance to the Law 70/1991, modified by Emergency Ordinance 28/ April 2000. (The Emergency Ordinance is an exceptional legal procedure, which allows the Government to issue laws that came into force at the moment of their submission to one of the Parliament's Chambers. The respective law will be discussed and eventually modified in an indefinite period of time, ensuring in this way to the executive power an authentically legislative function. Since 1997 the Emergency Ordinance has become a current practice in Romania).

According to the law 70/1992, local and county councils are elected on the basis of the list system through direct suffrage, while mayors are elected on the basis of uninominal system in two rounds.

The local councils, the county councils, the mayors and the General Council of the Bucharest Municipality are elected by universal, equal, direct and freely expressed suffrage. For the local election at the level of commune, town or municipality (administrative-territorial units corresponding to a locality) a constituency corresponds to a locality. For the election of the County Councils a constituency corresponds to a county.

The eligibility conditions for the position of local councillor, county councillor and mayor are:

- to have the right to vote,
- to be of a minimum age of 23,
- to be a resident of the administrative unit in which he/she is a candidate,
- not to have positions in army or justice,
- not to be convicted through a final legal decision for abuses in political, legal or administrative positions, for human rights infringements or for other deliberately committed offences.

- not to have contracts for papers or services delivering in relationship with the administrative sector administration where he/she is a candidate.

The independent candidates should issue a list of supporters representing 1% of the total number of voters but not less than 50 signatures.

When a candidate fulfils the conditions of eligibility and becomes a councillor, they must respect the rules concerning the incompatibilities. According to law 69/1992, the position of a councillor is incompatible with:

- Prefect and sub-prefect position and other public positions;
- Mayoral position;
- The existence of the once- or twice-removed relative who is councillor in the same council.

The voting process requires the existence of polling stations, which are "cut up" from the territory of the constituency whose voters will exercise their right to vote. Local councils organize polling stations in the 20 days after the date of the elections has been announced. Law 70/1992 stipulates that polling stations have 1000-2000 voters in the localities where the population is bigger than 2000 people. Polling stations can be set up in the villages (the territorial subdivision of a commune) with population under 1000 inhabitants. The distribution (division) of the polling stations groups the inhabitants of a commune or town in villages, streets or neighborhoods so they can practice their right to vote in a proper place, represented by a polling station.

Law 70/1992 allows soldiers serving their compulsory military service in the locality to vote in the same place even if not residents of the same community.

The lists of voters represent a directory of the citizens who have the right to vote and live in an electoral constituency. The lists can be **general (permanent)** or **special (supplementary)**. The permanent lists contain all the citizens with the right to vote, who have their residence in the electoral constituency where the elections are organized. The supplementary lists are prepared for the soldiers in military bases and signed by their commanders, and for the citizens with the right to vote who moved to a constituency less than 6 months before the elections.

The organization of the elections at each level requires the institution of electoral bodies that should ensure the application of the electoral laws. These bodies are named **Electoral Bureaus**. For the elections in communes, towns and counties the following bodies are formed: Central Electoral Bureau, electoral bureaus for county constituencies, electoral bureaus for local constituencies and

electoral bureaus of the polling stations. In Romania there is no permanent electoral body, so the experience gathered is lost from one electoral cycle to another.

The electoral campaign starts on the same day when the date of the elections is publicly announced and ends two days before the elections. In the first period of the electoral campaign, the participants define their options, programs and the lists of candidates. These lists are handed to the electoral bureaus of a constituency at least 30 days before the date of the electoral round. The proposals of candidates are written in 4 copies, by political parties, political alliances or electoral alliances that are participants at the elections, and in case of independent candidates on the basis of lists of partisans.

The voting lasts between 6:00 and 21:00 o'clock of the elections day and can be prolonged with the approval of the president of the constituency till midnight. When the voting process is finished, the unused ballots are cancelled, the ballot boxes are opened and the votes counted manually. **The legal procedure is very hard and impossible to apply.** The president of the polling station must read loud, when he/she opens the ballot, the name of the candidate or the list that was voted for. Taking into account the large number of candidates at the local elections, especially in big localities, the ballots are the size of brochures, with tens of pages. The electoral outcomes are recorded in a proceeding.

The local elections results are established at the level of electoral constituencies where the proceedings from the polling stations are gathered. The distribution of councillor mandates is established on the basis of the biggest rest. In the first period, the electoral coefficient is the result of the number of valid votes divided by the number of councillors who must be elected. To define the number of places for each list, the number of valid votes on a certain list is divided by the electoral coefficient, the result being the number of councillors that was obtained on each list.

In the second phase, the results that were obtained in the first phase are added and verified so that the sum of the mandates that were added in this way is the same with the number of councillors mandates that will be distributed according to the law. If the sum is the same, the proceedings are concluded. If the final sum is different, in order to cover the difference, the results of each list are ordered decreasingly and the rest of the mandates unassigned in the first phase are assigned now.

Mayors are elected on the basis of the majoritarian uninominal suffrage in two electoral rounds. If in the first round 50% + 1 of the voters do not participate, or if none of the candidates obtains at least 50% + 1 of the valid votes, the second round is organized, when only the two first candidates compete. The winning candidate is the one that gets more than half of the valid votes.

Legislative modifications

The procedure of amending the Law 70/1991 has been the object of new political negotiations. The Romanian Government, through the Minister of Public Function, organized a series of meetings with the participation of the Parliamentary parties representatives, the meetings that had a common result such as the modification of the Law 70/1991 through an Emergency Ordinance 28/2000. The procedure proposed by this Law is a controversial one. The Organic Laws cannot be modified through a Governmental Emergency Ordinance. This happened because The Elections Law was ignored for four years and its modification was done in a very short period of time.

Although ten articles were modified through this Ordinance, we shall discuss the most important articles from the Local Elections Law:

Article 11/second paragraph modifies the Law in the sense of organizing the polling stations in the villages and groups of villages with the population under 500 persons located at a bigger distance from the main village of the commune. This modification was adopted because of the absenteeism in remote small villages.

Another important modification is emphasized in paragraph 3, article 11. Soldiers in military bases are allowed to vote in their place of residence or in the town where their military unit is located (according to the stipulations of the Law 70), regardless of the moment of recruitment. The polling stations are organized within military units only if there are at least 50 voters.

The problem of soldiers in military training compounds is still unsolved. They have to vote at the military unit for mayors and local councillors in places their military units belong to, even though they will leave as soon as the military service ends.

One of the important novelties of this law, article 76, refers to the validation of the councillor election, regardless of the number of voters. According to 76/1991

law provisions, councillors are validated only when 50% plus one of the total number of voters with the right to vote voted. In this way the extra cost related to the organization of the supplementary election round were eliminated. Regarding the town hall candidates, the 70/1991 Emergency Ordinance stipulates that, only when at least half plus one of the total number of voters on the list from an electoral constituency voted, and one of the candidates obtained the majority of the valid votes, that candidate becomes mayor. On the other hand, if the number of persons who voted is less than half plus one of the total number of voters on the list or neither of the candidates obtained half plus one of the total number of valid votes, a second round will be organized. The elections in the second round are valid regardless of the number of people who voted.

An electoral threshold of 5% was introduced for the constituencies in which the electoral coefficient is bigger than 5% (20 councillors or less are elected). In other localities the threshold is represented by the electoral coefficient (the number of valid expressed votes/number of councillors to be elected). The parties who do not reach the electoral threshold cannot obtain a mandate on the basis of the rests obtained after the first division. On the basis of these rests, the number of the mandates obtained by the parties that reached the threshold is completed.

June 2000 local Elections

The accumulation of all the elections within a single year (local, parliamentary and presidential) started in 1992 and continued in 1996 and 2000. The organization of local elections just a few months before the parliamentary and the presidential ones gave the Romanian political confrontation a special rhythm and logic: the role of the local elections as the main test on the eve of the parliamentary ones. Without being predictors in any of the three components - the election of mayors, local councils and county councils - local elections contribute to the configuration of alliances for the parliamentary elections. The combination between the majority system in two rounds for mayoral election and the proportional system for the election of the local and county councillors personalizes the confrontation and makes the influence of the parties rather relative. In this particular sense, the comparison with the influence of the presidential candidates is definitely justified. Local elections make politics dynamic in the sense of positioning and repositioning regarding the top and influential positions.

From this perspective, the electoral outcomes have a relative value, the orientation toward the state and the general elections becoming a priority. The hierarchies resulting from local elections contribute to the revitalization of negotiations for pre-electoral alliances and possible governing formulas. The victory of PDSR was anticipated by each and every opinion survey. After the first round at the level of the local councils, PDSR got 25.57% of the total number of mandates, PD - 10.46%, ApR - 8.05%, PNL - 7.81%, CDR - 7.28%, PRM - 6.19%, and UDMR - 6.35%. But if one tries to convert these scores into actual political influence, the situation looks different: 28 presidents of County Councils belong to PDSR, which means 68.2%. After the second round, the same party got 35.4% of 2,950 mayoral positions, out of which 19 county capitals municipalities, which means 47.4% of the total number of county capital municipalities. The impact of the majority elections on the results of the first round is responsible for the difference between the predictions of the opinion polls and the final outcome. The focusing on candidates made relative the role of parties and their lists of candidates, the tendency to vote for a candidate and together with him the entire list being more important. In Iasi, the party of the Moldavians (0.95% at the national level) led by mayor Constantin Simirad got a significant number of votes at the local level; the same happened in Cluj with PRM and Gheorghe Funar, Sibiu with Klaus-Werner Johannis and FDGR or Constanta with Radu Mazare and independent candidates. From another viewpoint, the tendency to concentrate the votes became more and more obvious. While in 1996 258 independent candidates won mayoral positions, in 2000 only 159 such candidates became mayors.

In June 2000 local elections were organized in 40 county capitals, 25 municipalities, 178 towns and 2,687 communes, plus Bucharest and its six sectors. Taking into account the effect of "contamination" that the urban vote exercises upon the rural one, the situation of mayoral mandates in municipalities represents an interesting indicator. Thus, PDSR has 42 out of 65 mayoral mandates in municipalities, as compared to only 17 in 1996; PD has 11 such mandates (the same as in 1996), CDR - 5 (whereas in 1996 it got 23), PNL - 6, ApR - 4, PRM and UDMR - 1.

The Organization of 2000 Local Elections

The 2000 local elections were held in an unstable legislative framework, the law of the local elections modified only one week before the start of the electoral campaign, through an Emergency Ordinance (EO 28/2000) issued by the

Romanian Government. The procedure to modify electoral laws through emergency ordinances continued in May and June for the parliamentary and presidential elections. Being issued without a preliminary consultation with civil society institutions, the emergency ordinances for the modification of the electoral laws create in this way a dangerous precedent, transforming the politics of the accomplished fact into a method of governance. The governmental practice of transforming the Parliament in a mere legislative institution - an appendix of the Government - the massive use of emergency ordinances deepened the gap between the parties and political institutions on the one hand, and the civil society on the other. Using this type of procedure concerning the electoral laws, which should only be modified after long debates and democratic consensus, is a serious cause of worry. In this context, one can also approach the issue of the transparent regulation of the electoral campaigns funding, which could be extended also to pre-electoral periods. The problem of political recruitment, of modifying electoral legislation and of campaign funding, represent challenges to which civil society can answer with maximum promptness. Focusing the government on economic issues and the political debate only on the Government created a series of technocratic/authoritarian tendencies. The practice of consultations to create convergences and to ensure extensive participation in the decision-making process, especially in sensitive issues such as the political ones, should undoubtedly be resumed.

The electoral participation rate dropped in comparison to the preceding elections, but this decrease could not be qualified as catastrophic. At the level of electoral participation one can notice the appearance of the urban/rural cleavage. The electoral participation in urban areas is significantly lower. Especially in cities, participation was much below 50%, whereas in towns and communes it exceeded 50%. Another cleavage, this time an ethnic one, was also obvious. The regions with a large concentration of the Hungarian minority (Harghita, Covasna) registered a turnout bigger than the average; the ethnic potential stimulated in Tirgu Mures an exceptional 70% turnout in the second round, 20% higher than in the first round. The turnout thus becomes an indicator, although an indirect one, of local democracy and the communitarian spirit. In those places where semi-direct forms of democracy can be used, voters respond much better to electoral stimuli. As a matter of fact, the increased number of candidacies in rural areas was an indicator of the interest in administrative problems and decentralization. In cities like Bucharest, Timisoara, Craiova, Iasi, Constanta or Cluj the lack of transparence of administrative activity, the suspicions of corruption, the social issues affected the electoral appetite of voters.

The coincidence of the elections for mayors, local and county councils has a contaminating consequence. The tendency to personalize local elections is thus high and contributes to the transformation of local councils into mayors' appendages. The oligarchic tendency of the administration through the mayors' control over the councils is one of the causes of the weakness of local democracy in many areas. Representing a different type of community and a different institution, the county council experiences the direct influence of accumulating the three types of elections. In order to stimulate a stronger communitarian and electoral behavior, it is preferable that, at this level, the county elections be separated from the municipal and communal elections.

The absence of a permanent electoral body (institution that exists in almost all European states) led to the approximations and improvisations in the organization of local elections. The inadequate training of the county electoral bureau members, but especially of the persons in charge of the polling stations bureaus, led to a high degree of confusion during the election day, especially in the process of counting the ballots and registering the results for each station, thus increasing the risk of irregularities.

The results of the local elections involve both the acceleration of the tendency to restructure the political space, but also an urgent need to reorganize the electoral process. The effect of the majority system over the proportional one largely contributes to the current structure of the Romanian political class. The parties' weaknesses, the organizational deficiencies and the political personnel crisis find their causes in the majority mayoral and presidential candidacies. The Romanian politics is now faced with a test necessary for access to a higher stage; the transition toward democratic government forms and the sharing of power with the society or the limitation to only basic exercise of authority and the oligarchization at the level of political institutions are possible outcomes of this exam. Between the two extremes, there is a multitude of intermediary points whose importance lies only in the general tendency.

Local government territorial organization and legal competence of local self-governement

The Romanian Public Administration is structured on two main levels: the central public administration and the local public administration.

The central public administration includes:

- The Presidency;
- The Government;
- The Ministries.

The territorial public administration unites all the institutions representing the state authorities at the level of the territorial - administrative units. They are the following:

- The Prefecture - a decentralized unit representing the Government in each and every county and the Bucharest municipality;
- The County departments (which are decentralized public services of the ministries and of other central institutions or services undergoing decentralization).

The local public administration includes:

- The Local Council;
- The Mayoralty;
- The County Council.

The Romanian legislation regulates the structuring and functioning of the public administration within the administrative-territorial units on the following principles:

- **Local autonomy,**
- **Decentralization of public services,**
- **Eligibility of local public administration authorities,**
- **Legality and consultation of citizens** as regards the local issues of special interest.

At the present moment, the Romanian administrative authorities are organized and function on the basis of the **Law of Public Administration (Law no. 69/1991)**. The leading principle, the one of local autonomy, presupposes **the right and actual capacity of the local administration authorities to solve**

and manage, under their own responsibility, an important segment of public issues, in the interest of the local community. From a legal point of view, the local community represents "the totality of citizens from an administrative-territorial unit" (article 1, paragraph 3).

The law considers as administrative units the communes¹, towns and counties whose limits are legally settled. The communes, towns and counties are **legal entities** and due to this quality they own a patrimony and have initiatives regarding the management of all local public issues, exercising, under legal stipulations, their authority within the settled administrative-territorial limits. As civil legal entities, they own goods from the private domain, and as public law legal entities they own local public domain goods, according to the stipulations of the law.

Between the county public administration and the local one there are no subordination terms. The relations between them are based on autonomy, legality and cooperation in view of solving the issues of common interest.

The local administration units through which local autonomy is implemented in communes and towns are the **local councils**, as deliberative authorities, and the **mayoralties**, as executive authorities (Article 5, paragraph 1). The implementation of the local council decisions and the solving of the current issues of the local community fall within the attributes of the **mayoralty**, which is a public institution with a continuous activity and with a mayor, deputy mayor, secretary, plus the technical apparatus of the local council.

The Local Council

The councils of the communes and towns are formed of councillors elected by universal, equal, direct, secret and free suffrage, in accordance with the stipulations of the local elections law (Law no. 70/1991), for a term of four years.

The number of councillors is established on the basis of the population size of the respective commune or town, the number which is reported by the National Commission of Statistics on January 1 of the election year or, if the case may be, on July 1 of the year preceding the elections, according to the following ratio:

¹ In many Western countries the legislation uses the term "commune" for both rural and urban settlements, which was also the case in Romania between the two World Wars. According to the territorial-administrative division of the country, the current Constitution operates with the term "commune" as a rural settlement and "town" as an urban settlement. (Antonie Iorgovan and Doru Costea, Principles of Local Autonomy and of Administrative Trusteeship in Romania. Theoretical Examination of Administrative and Judicial Practice, in: www.cecl.gr/RigasNetwork/databank/REPORTS/r13/Ro_13_/Iorgovan.html)

Size of commune or town	Number of councillors
Under 3,000	9
Between 3,001 and 5,000	11
Between 5,001 and 7,000	13
Between 7,001 and 10,000	15
Between 10,001 and 20,000	17
Between 20,001 and 50,000	19
Between 50,001 and 100,000	21
Between 100,001 and 200,000	23
Between 200,001 and 400,000	27
Over 400,000	31
The General Council of Bucharest Municipality	55

The Attributes of the Local Council

The Local Council has initiative and decides, within the limits of the law, on issues of local interest, except the ones legally attributed to other public authorities. Its main authorities include:

- To elect, from among the councillors, the deputy mayor;
- To approve the statute of the commune or town and the regulations of the Council, on the basis of the statute and the guiding frame regulations elaborated by the Government;
- To approve the studies, guiding prognoses and programs of economic-social development, organization and arrangement of the territory;
- To approve, following mayor's proposal, the organization chart, the number of the persons to be part of the council technical staff, as well as its internal regulations; it also approves the organization charts and size of staff for the autonomous services and the ones under its subordination;
- To approve the local budget, its design, administration and execution; to approve transfers of credits and the manner of using the budget reserve, as well as the borrowings;
- To establish ordinary local taxes, as well as special taxes as prescribed by the law;
- To administer the public and private property of the commune or town and to exercise its legal rights as regards the autonomous services that it established;
- To establish institutions and economic agents of local interest; it makes

decisions regarding the leasing or renting of goods and services of local interest, as well as regarding the participation with capital or goods in commercial companies to obtain the services of local public interest, in accordance with legal stipulations;

- To employ and dismiss, as prescribed by the law, the managers of economic agents and public institutions in its subordination; it also monitors, controls and analyzes the activity of these economic agents and institutions;
- To issue specific norms for public institutions and economic agents that are not under its authority, in accordance with legally established general criteria;
- To efficiently organize public utilities, ensuring their appropriate functioning;
- To ensure, within the limits of its competences, the conditions for a good functioning of education, health, cultural, youth and sports institutions, in accordance with the law;
- To take measures in order to create the necessary conditions for citizens to spend their free time and to ensure the existence of scientific, cultural, artistic, sports activities;
- To act for the recovery and protection of the environment in order to increase the quality of life; to contribute to the protection and maintenance of historical and architectural sites, parks and natural reserves;
- To contribute to the implementation of social protection measures;
- To ensure the free character of the trade and the loyal competition; to encourage the free initiative, under legal stipulations;
- To establish and ensure the functioning of charities of local interest;
- To maintain public order and the observance of citizens' fundamental rights and liberties;
- To organize fairs, markets, entertainment places and to ensure their appropriate functioning;
- To decide upon the association, under legal conditions, with other local or county public administration institutions, in order to implement services of public interest, as well as upon the collaboration with economic agents from Romania or abroad, in order to make activities of common interest;
- To establish collaboration, cooperation or fraternity agreements with Romanian or foreign localities.

The Functioning of the Local Council

The Local Council meets monthly, on the initiative of the mayor. Whenever necessary, it can also hold special meetings, at the request of the mayor or of at least of a third of the total number of councillors.

The councillors are obliged to participate in the sessions. The council meeting is legally constituted only when the majority of councillors are present. The agenda has to be made public for the inhabitants of the commune or town through mass media or other means.

The sessions of the Local Council are **public**, except in the cases when the councillors decide otherwise, with a majority of votes. There are restrictions to this option, in the sense that the law stipulates that the issues linked to the local budget always be discussed in public sessions.

Exercising its authority, the Local Council adopts **decisions**, with the vote of the majority of councillors present at the session, apart from the cases when the law or the internal regulations of the Council requires a different type of majority. In case of parity, the decision is not adopted and the debates are resumed during the next session. The decisions regarding the local budget, as well as the ones through which local taxes are determined have to be adopted with the vote of the majority of councillors. If the budget cannot be adopted in two consecutive sessions taking place in an interval of maximum 5 days, the last year's budget will be used as the basis of activity.

The drafts of decisions may be initiated by both the councillors and the mayor. The writing of the decisions is made by the initiators. The councillors may decide that some decisions be made by secret vote. The law stipulates that the decisions affecting human beings be always made by secret vote.

The normative decisions become obligatory from the date of their being made public, and the individual ones from the date of their adoption. The public announcement of the normative decisions is made only after the expiration of the deadline until which prefects can appeal before administrative courts (30 days from their adoption), or after the pronouncement of the final court decision through which a prefect's act would have been denied.

The councillor who, through his/her spouse or four-removed relatives, has a patrimonial interest in a problem under debate cannot participate to that debate.

After its constitution, the Local Council organizes its own special commissions in the main domain of activity. The quality of membership of these commissions depend on the quality of councillors, and the organizing, functioning and competences of the commissions, settled through the internal regulations of the

Local Council. The role of the special commissions is to make reports on the drafts of decisions from their domain of activity, through the majority vote of their members.

The Responsibility of the Local Council

The councillors are solidarily responsible for the activity of the Local Council whose members they are and for whose decisions they have voted. Likewise, each councillor is responsible for his/her own activity during the term. At his/her request, the vote of one councillor may be registered in the session proceedings.

The Mayor

The Law no. 69/1991 stipulates that each commune, town and municipality have a mayor and deputy mayor. The municipalities that are county capitals and the sectors of Bucharest have two deputy mayors, and the Bucharest municipality has one general mayor and four deputy mayors, elected in accordance with the law.

Within local public administration, mayors represent the **executive authority**. He/she is the one representing the commune or town in relation to natural bodies or legal entities from the country or from abroad, as well as before a court of justice.

The Authorities of the Mayor

Through a decision issued in 30 days after his/her confirmation, the mayor may delegate a part of his/her competences to the deputy mayor or mayors, as it were. There are, however, a series of authorities that cannot be delegated, for instance the ones linked to the trusteeship, the implementation of the tasks mentioned in the legislation regarding the census, the organization of elections, the public announcement of laws - authorities through which the mayor acts also as a representative of the state in the commune or town where he/she has been elected.

The mayor fulfils the following main functions:

- Ensures the observance of citizens' fundamental rights and liberties, constitutional and other laws provisions, presidential decrees, governmental

decisions and of the acts issued by ministries and other authorities of the central public administration, as well as by the County Council;

- Ensures the execution of the decisions made by the Local Council;
- May propose to the Local Council the consultation of the population, through referendum, concerning special local issues and, on the basis of the Council's decision, takes the necessary measures to organize this consultation;
- Gives in front of the Local Council, annually or whenever necessary, reports regarding the social and economic status of the commune or town;
- Designs the draft of the local budget and submits it to the approval of the Council;
- Exercises the rights and ensures the implementation of duties belonging to the commune or town as a civil legal entity;
- Exercises the function of ordering the transfer of credits; verifies, ex officio or on demand, the cash and other expenditures from the local budget;
- Takes measures to prevent and limit the consequences of disasters, catastrophes, fires and epidemics, together with special state institutions. In this view, the mayor can order the mobilization of the population, while businesses and public institutions from the respective commune or town are obliged to execute the mayor's orders;
- Guides and supervises the activity of the public guards, in accordance with the contractual stipulations;
- Takes measures to ban or suspend all the shows, representations or other public manifestations that are not in accordance with the law or are against the morals and represent a violation of public order;
- Controls the hygienic and sanitary conditions of public businesses and the food to be sold to the population, together with specialized institutions;
- Ensures the elaboration of the regulations concerning local town planning and the subsequent documentation, submitting them to the approval of the Council;
- Ensures the maintenance of public roads, road signs and the appropriate flow of road and pedestrian traffic;
- Supervises fairs, markets, amusement parks, and takes operative measures for their good functioning;
- Manages the public services; ensures the functioning of registrar's office and trusteeship; supervises the implementation of the social protection norms;
- Ensures the quality of registrar's officer;
- Elaborates the draft of personnel statute; proposes the organizational structure, the number of employees and their reimbursement and submits them to the approval of the Council;

- Controls the activity of the personnel from the staff of the Local Council; appoints and dismisses the managers of the enterprises and public institutions of local interest that are under the authority of the Local Council;
- Supervises the inventoring and administration of the goods belonging to the commune or town.

Exercising his/her authorities, the mayor issues **dispositions** that have to be executed from the moment of their announcement to the persons in case.

The County Council

The competence of the county council is linked to the function of coordinating the activity of commune and town councils, in view of performing the public services of county interest.

The number of the county councillors is established through the order of the prefect, the function of the county population reported by the National Commission of Statistics on January 1 of the respective year or on July 1 of the year preceding the elections, according to the following ratio:

Population size of a county	Number of councillors
Under 350,000	31
Between 350,001 and 500,000	33
Between 500,001 and 650,000	35
Over 650,000	39

In order to fulfil its functions, the County Council has the following authorities:

- To organize and manage the county public services;
- To adopt programs and prognoses of socio-economic development;
- To establish the guidelines regarding the urban planning of the territory;
- To administer the public and private property of the county;
- To ensure building, maintaining and modernization of the county priority roads and the ones ensuring links with the neighboring counties.

The County Council elects from its ranks president, deputy president and a permanent delegation, adopts the internal regulations, the statute of the personnel from the county public services, as well as the organizational charts and the size of the staff. The County Council also adopts the county budget and establishes county taxes, as well as special taxes for a limited period of time and according to legal stipulations.

The economic authorities of the County Council include its right to decide on the establishment of institutions and economic agents of county interest, as well as on the leasing or renting of county public services, the participation of economic agents.

County Councils appoint and dismiss the members of the administration committees of economic agents which manage the goods of the public property of county interest, control their activity and institute norms for the autonomous agents or for the commercial agents that it establishes.

The competences of the county council are also extended in the socio-cultural, health, scientific, sports and youth domains, ensuring the necessary conditions and the material support for them.

The Functioning of the County Council

The County Council has a four-year term, and its councillors exercise their mandate from the date of their oath until the meeting of the new Council after the new elections.

The County Council meets in regular sessions once in two months and in special sessions whenever necessary. The latter are called at the request of the President, of at least one third of the total number of its members or of the Permanent Delegation.

In order to exercise its authorities, the County Council issues decisions that may be also administrative acts submitted to the administrative deliberation, either by the Prefect or by the interested persons.

The Permanent Delegation of the County Council

The Permanent Delegation of the County Council is the county public administration authority carrying out the operative management of the county issues; it implements the decisions of the County Council and exercises, between two sessions, the powers of the latter, except the approval of programs and prognoses, of the budget, urban plans, programs of road maintenance and of the election of the council and the approval of its internal regulation.

The Permanent Delegation is composed of 4-6 councillors elected by the County Councillors, the President and the Deputy President.

The Permanent Delegation issues decisions which become effective as soon as they have been announced to the interested persons.

The President of the County Council

The President of the County Council is a distinct administrative authority who, apart from the tasks to chair the sessions of the County Council and Permanent Delegation has separate powers. The President of the County Council ensures the execution of the decisions of the County Council and of the Permanent Delegation, exercises the powers belonging to the county as a legal entity, supports the activity of the institutions and autonomous agents of county interest, as well as other competences established by the law. The powers of the President of the County Council are mainly linked to his/her capacity as the chief credit accountant. Thus, he/she:

- Designs the budget and the balance account;
- Appoints and dismisses the personnel of the county public administration, except the County Council Secretary;
- Presents reports to the Council regarding the activity of the county administration;
- Presents annual reports to the Council regarding the economic situation of the county.

In order to exercise his/her powers, the President issues dispositions of individual character, which are subject to court control either on the basis of the administrative law or on the basis of common law norms.

The Public Administration of the Bucharest Municipality

For the Bucharest municipality, the Law no. 69/1991 includes a separate chapter. The Bucharest municipality is organized in 6 administrative-territorial subdivisions called sectors.

The local administration of Bucharest is the task of the local councils of the sectors and the General Council of Bucharest, as deliberative authorities, as well as of the sector mayors and the general mayor, as executive authorities.

The local councils of the sectors function on the basis of Law no. 69/1991, their powers being the same as the ones of other local councils, except the powers regarding:

- The approval of the statute of a commune or a town;
- The approval of the studies, prognoses and programs of socio-economic development and of territorial planning;

- The establishment of local taxes or special taxes;
- The approval of urban development plans;
- The association with other authorities of local or county public administration;
- The establishment of collaboration, cooperation and fraternity agreements with localities from Romania or abroad.

The sector mayors and deputy mayors exercise all the prerogatives defined through the Law no. 69/1991, except the right to call for a local referendum, or to take measures regarding the organization of public assemblies or the ban or suspension of shows, representations or public manifestations that run counter to the public order or morals.

The General Council of Bucharest, the General Mayor and the deputy mayors exercise the authorities that the law stipulates for local councils, mayors and deputy mayors, without any restrictions.

After the June 2000 local elections, the collaboration between General Mayor Traian Basescu (leader of the Democratic Party, defined as a social-democratic party, member of the Socialist International, ex-minister of transportation and one of the most popular politicians in Romania, who in March 2001 was, according to opinion polls, trusted by 62% of the people, topped only by Prime Minister Adrian Nastase, 68%, and President Ion Iliescu, 64%) and the sector mayors (representatives of PDSR, a party which is also defined as social-democratic and in the process of being accepted by the Socialist International, and one of the governing parties after the November 2000 elections) took a turn for the worse, since for the first time the sector mayors and the general mayor do not belong to the same political alliance. The solution for such a situation is about to take the form of a law of the capital which, according to the debates in the mass media, would diminish the powers of the general mayor and extend the ones of the sector mayors.

The local services and finances

The public services of the villages and towns are established by the local council in the main fields of activity, according to their profile and the local needs, in compliance with the legal provisions and the financial means available.

The law 189/ 1998 regulating the local public finances eliminated the dependent relation between the local and the state budget and established the

administrative-territorial units' financial resources, the competences and the responsibilities of the local public administration authorities in this field.

In line with the provision of the law 189/1998, the local authorities can approve the contracting of internal or external loans, medium- and long-term, to be used for public interest investments and for refinancing the local public debt.

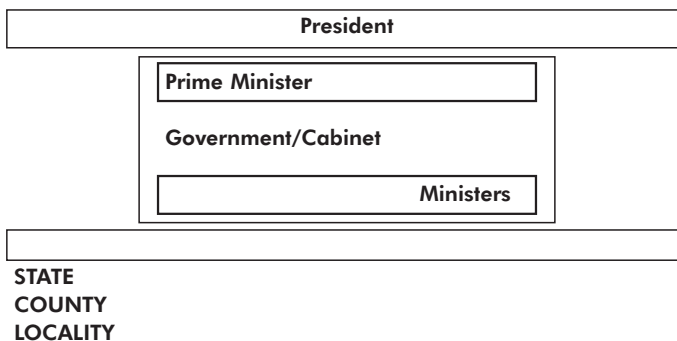
The legislation regarding the minorities on local level

The most controversial issue was the use of the national minorities' languages in administration. The modification of the law 69/1991 in 2001 allowed for the implementation of this principle. Article 90 of the law 69/1991 was modified so that it included the national minorities' (which make over 20% of the total population of the administrative territorial unit) right to address to the local public authorities in written or oral form and in their native language and to receive the answer both in Romanian and in their native language. For this purpose, people speaking the minorities' languages will be hired for the posts in public relations. Moreover, the names of localities and of the public institutions or the public announcements will be made both in Romanian and in a minority's language. The official documents will be issued in Romanian.

Appendices

Appendix 1

The system of the romanian public administration authorities



Legend

- Relations of hierarchical authority
- Relations of control through delegation

Appendix 2

The total number of mandates obtained by parties in the elections for county councillors on 4 June 2000

No.	Name of political parties, political formations, political alliances, electoral alliances or "Independent candidates"*)	Number of mandates	Percentage of the totality of mandates
1.	SOCIAL DEMOCRACY PARTY OF ROMANIA (PDSR)	496	28.87
2.	DEMOCRATIC PARTY (PD)	205	11.93
3.	ALLIANCE FOR ROMANIA (ApR)	173	10.07
4.	NATIONAL LIBERAL PARTY (PNL)	160	9.08
5.	ROMANIAN DEMOCRATIC CONVENTION (CDR)	156	9.08
6.	GREATER ROMANIA PARTY (PRM)	143	8.32
7.	DEMOCRATIC UNION OF HUNGARIANS IN ROMANIA (UDMR)	135	7.86
8.	ROMANIAN SOCIAL DEMOCRATIC PARTY (PSDR)	44	2.56
9.	ROMANIAN NATIONAL UNITY PARTY (PUNR)	37	2.15
10.	ROMANIAN NATIONAL PARTY (PNR)	26	1.51
11.	LABOR SOCIALIST PARTY (PSM)	24	1.40
12.	HUMANIST PARTY OF ROMANIA (PUR)	22	1.28
13.	RIGHT WING UNION FORCES (UFD)	20	1.16
14.	ECOLOGICAL FEDERATION OF ROMANIA (FER)	14	0.81
15.	SOCIALIST PARTY (PS)	11	0.64
16.	MOLDAVIANS' PARTY OF ROMANIA (PMR)	11	0.64
17.	NATIONAL CHRISTIAN-DEMOCRAT ALLIANCE (ANCD)	10	0.58
18.	PENSIONERS' PARTY OF ROMANIA (PPR)	8	0.47
19.	POPULAR PARTY OF ROMANIA (PPR)	5	0.29
20.	ROMANY PARTY (PR)	4	0.23
21.	DEMOCRATIC FORUM OF THE ROMANIAN GERMANS (FDGR)	4	0.23
22.	CIVIC ASSOCIATION PRO ODORHEI - UDVARHELYERT POLGARI EGYESULET	4	0.23
23.	NATIONAL LIBERAL PARTY - CAMPEANU (PNL-C)	2	0.12
24.	NEW GENERATION PARTY	2	0.12
25.	THE ECOLOGISTS	2	0.12

Appendix 3

The total number of mandates obtained by parties in the elections for local councillors on 4 June 2000

No.	Name of political parties, political formations, political alliances, electoral alliances or "Independent candidates"*)	Number of mandates	Percentage of the totality of mandates
1.	SOCIAL DEMOCRACY PARTY OF ROMANIA (PDSR)	11,380	28.65
2.	DEMOCRATIC PARTY (PD)	5,463	13.75
3.	ALLIANCE FOR ROMANIA (ApR)	4,448	11.20
4.	NATIONAL LIBERAL PARTY (PNL)	3,978	10.02
5.	ROMANIAN DEMOCRATIC CONVENTION (CDR)	2,767	6.97
6.	DEMOCRATIC UNION OF HUNGARIANS IN ROMANIA (UDMR)	2,451	6.17
7.	GREATER ROMANIA PARTY (PRM)	2,105	5.30
8.	ROMANIAN SOCIAL DEMOCRATIC PARTY (PSDR)	883	2.22
9.	ROMANIAN NATIONAL UNITY PARTY (PUNR)	869	2.19
10.	ROMANIAN NATIONAL PARTY (PNR)	815	2.05
11.	LABOR SOCIALIST PARTY (PSM)	745	1.88
12.	HUMANIST PARTY OF ROMANIA (PUR)	595	1.50
13.	RIGHT WING UNION FORCES (UFD)	551	1.39
14.	INDEPENDENT CANDIDATE	422	1.06
15.	ECOLOGICAL FEDERATION OF ROMANIA (FER)	393	0.99
16.	SOCIALIST PARTY (PS)	391	0.98
17.	NATIONAL CHRISTIAN-DEMOCRAT ALLIANCE (ANCD)	372	0.94
18.	ROMANY PARTY (PR)	160	0.40
19.	POPULAR PARTY OF ROMANIA (PPR)	148	0.37
20.	PENSIONERS' PARTY OF ROMANIA (PPR)	107	0.27
21.	MOLDAVIANS' PARTY OF ROMANIA (PMR)	89	0.22
22.	NATIONAL LIBERAL PARTY - CAMPEANU (PNL-C)	88	0.22
23.	DEMOCRATIC FORUM OF THE ROMANIAN GERMANS (FDGR)	78	0.20
24.	GREEN ALTERNATIVE PARTY - THE ECOLOGISTS	37	0.09
25.	THE CHRISTIAN CENTER OF ROMANIES OF ROMANIA	33	0.08
26.	DEMOCRATIC UNION OF SLOVAKS AND CZECHS OF ROMANIA (UDSCR)	28	0.07
27.	UNION OF UKRAINIANS OF ROMANIA	26	0.07
28.	ROMANIAN LIBERAL-DEMOCRATIC PARTY (PLDR)	23	0.06
29.	ALLIANCE FOR THE UNITY OF ROMANIES (AUR)	22	0.06
30.	THE ECOLOGISTS	20	0.05
31.	ROMANIAN LIFE PARTY (PVR)	19	0.05
32.	COMMUNITY OF RUSSIANS LIPOVENIANS OF ROMANIA (CRLR)	18	0.05
33.	NEW GENERATION PARTY	17	0.04

34.	HUNGARIAN FREE DEMOCRATIC PARTY OF ROMANIA (PLDMR)	15	0.04
35.	UNION OF SERBS OF ROMANIA (USR)	14	0.04
36.	REPUBLICAN PARTY (PR)	14	0.04
37.	SOCIAL DEMOCRATIC PARTY "CONSTANTIN TITEL PETRESCU"	13	0.03
38.	NATIONAL CHRISTIAN DEMOCRATIC PARTY (PNDC)	10	0.03
39.	ROMANIAN LABORERS' SOCIALIST PARTY (PSMR)	9	0.02
40.	PARTY OF THE ILLEGALLY ABOLISHED COUNTIES (PJAD)	8	0.02
41.	CIVIC ASSOCIATION PRO ODORHEI - UDVARHELYERT POLGARI EGYESULET	8	0.02
42.	NATIONAL RECONCILIATION PARTY (PRN)	8	0.02
43.	ELECTORAL ALLIANCE - THE ECOLOGISTS	6	0.02
44.	UNION OF CROATS OF ROMANIA (UCR)	6	0.02
45.	DEMOCRATIC UNION OF UKRAINIANS OF ROMANIA (UDUR)	6	0.02
46.	FORUM OF SECUI YOUTH (FTS)	6	0.02
47.	LIBERAL MONARCHIST PARTY OF ROMANIA (PLMR)	5	0.01
48.	"BRATSTVO" COMMUNITY OF BULGARIANS OF ROMANIA (CBBR)	5	0.01
49.	NATIONAL PEASANTS' PARTY (PNT)	4	0.01
50.	ECOLOGIST CONVENTION PARTY OF ROMANIA (PCER)	4	0.01
51.	BULGARIAN UNION OF BANAT (UBB)	4	0.01
52.	ELECTORAL ALLIANCE P.D.S.R. - P.U.N.R. COVASNA	4	0.01
53.	ELECTORAL ALLIANCE PR.M. - P.U.N.R. CEPARI	4	0.01
54.	PRO PATRIA PARTY (PPP)	3	0.01
55.	PARTY OF PRIVATE OWNERS - ROMANIAN TRADITIONAL SOCIAL DEMOCRATIC PARTY	3	0.01
56.	ELECTORAL ALLIANCE P.D.S.R. - P.U.N.R. - P.N.R. SFANTU GHEORGHE	3	0.01
57.	DEMOCRATIC UNION OF TURKISH MUSLIM TARTARS OF ROMANIA (UDTTMR)	2	0.01
58.	ROMANIAN SOCIALIST PARTY (PSR)	2	0.01
59.	DEMOCRATIC UNION OF CROATS OF ROMANIA (UDCR)	2	0.01
60.	NATIONAL PEASANTS' CHRISTIAN DEMOCRATIC PARTY (PNTCD)	2	0.01
61.	BULGARIAN UNION OF ROMANIA (UBR)	2	0.01
62.	BRATIANU LIBERAL UNION (ULB)	1	0.00
63.	ROMANY COMMUNITY OF ROMANIA (CERR)	1	0.00
64.	ROMANIAN ECOLOGICAL PARTY (PER)	1	0.00
65.	HELLENIC UNION OF ROMANIA (UER)	1	0.00
66.	ROMANIAN POLES' UNION "DOM POLSKI" (UPDPR)	1	0.00

Appendix 4

The total number of mandates obtained by parties in the mayoral elections on 4 June 2000

No.	Name of political parties, political formations, political alliances, electoral alliances or "Independent candidates"*)	Number of mandates	Percentage of the totality of mandates
1.	SOCIAL DEMOCRACY PARTY OF ROMANIA (PDSR)	710	31.54
2.	DEMOCRATIC PARTY (PD)	382	16.97
3.	ALLIANCE FOR ROMANIA (ApR)	252	11.20
4.	NATIONAL LIBERAL PARTY (PNL)	209	9.28
5.	ROMANIAN DEMOCRATIC CONVENTION (CDR)	124	5.51
6.	INDEPENDENT CANDIDATE	124	5.51
7.	GREATER ROMANIA PARTY (PRM)	60	2.67
8.	ROMANIAN SOCIAL DEMOCRATIC PARTY (PSDR)	54	2.40
9.	ROMANIAN NATIONAL PARTY (PNR)	51	2.27
10.	LABOR SOCIALIST PARTY (PSM)	47	2.09
11.	ROMANIAN NATIONAL UNITY PARTY (PUNR)	42	1.87
12.	DEMOCRATIC UNION OF HUNGARIANS IN ROMANIA (UDMR)	38	1.69
13.	HUMANIST PARTY OF ROMANIA (PUR)	29	1.29
14.	RIGHT WING UNION FORCES (UFD)	28	1.24
15.	SOCIALIST PARTY (PS)	18	0.80
16.	NATIONAL CHRISTIAN-DEMOCRAT ALLIANCE (ANCD)	18	0.80
17.	ECOLOGICAL FEDERATION OF ROMANIA (FER)	14	0.62
18.	POPULAR PARTY OF ROMANIA (PPR)	7	0.31
19.	NATIONAL LIBERAL PARTY - CAMPEANU (PNL-C)	4	0.18
20.	MOLDAVIANS' PARTY OF ROMANIA (PMR)	4	0.18
21.	DEMOCRATIC FORUM OF ROMANIAN GERMANS (FDGR)	2	0.09
22.	UNION OF UKRAINIANS OF ROMANIA (UUR)	2	0.09
23.	THE ECOLOGISTS	2	0.09
24.	ELECTORAL ALLIANCE - THE ECOLOGISTS	1	0.04
25.	ROMANIAN LIFE PARTY (PVR)	1	0.04
26.	GREEN ALTERNATIVE PARTY - THE ECOLOGISTS	1	0.04
27.	ROMANIAN LIBERAL DEMOCRATIC PARTY (PLDR)	1	0.04
28.	DEMOCRATIC UNION OF SLOVAKS AND CZECHS OF ROMANIA (UDSCR)	1	0.04
29.	UNION OF CROATIANS OF ROMANIA (UCR)	1	0.04
30.	NEW GENERATION PARTY (PNG)	1	0.04
31.	NATIONAL RECONCILIATION PARTY (PRN)	1	0.04
32.	REPUBLICAN PARTY (PR)	1	0.04
33.	ELECTORAL ALLIANCE P.R.M. - P.U.N.R. CEPARI	1	0.04

Nora Ananieva

**LOCAL SELF-GOVERNMENT IN THE
REPUBLIC OF BULGARIA:
FROM CONSTITUTIONALLY PROCLAIMED
PRINCIPLES TO EFFECTIVE ACTIONS**

Introduction

The new Constitution of the Republic of Bulgaria, adopted on July 12 1991, reflected the public aspirations for democracy, as well as the dominating political will for radical changes of the economic, political and social system in the country. Embodied in a complex of principles and specific constitutional solutions, these changes could not be completed in a day. They required purposeful efforts on the part of state institutions, political forces and public structures aimed at the maximum approximation of realities to the model of constitutional principles. Adequate legislative initiatives have been and still are a significant aspect of this process.

Local self-government has its long and interesting history in Bulgaria. Its origins can be traced as early as the period of Turkish domination and it was based on common law. The self-governing municipalities, most often with well-developed economy and naturally few in number, virtually bought out their right to self-government via agreed with the Turkish authorities taxes. It was not by accident that the Bulgarian spirit was best preserved in these municipalities, and the specific Bulgarian culture was developed there.

These historical developments make it easy to explain why some of the first government acts in liberated Bulgaria, even prior to the adoption of the Tirnovo Constitution in 1879, regulated the field of local self-government bodies. Self-government, despite its limited scope, had already been a firmly established area of democratic practices. But, may be for this same reason, during the whole history of the country since the liberation, it has been subjected to continuous pressure by the political situation and has gone through various stages, when appointed local representatives of the central authorities have limited the scope of its competencies.

With view to both historic developments and current practices, local self-government is a peculiar "mirror" of the character of the political power. Thus, for a short period after 1944, when an attempt was made to defend the multi-party model of democracy at central level, self-government had the chance to manifest its true nature. The imposing of one party monopoly over central authorities virtually turned local authorities into instruments of its regional policy. Only in the eve of the radical political changes of November 1989, and mainly under the influence of Soviet "perestroika", an attempt was made to nominate alternative persons at the local elections, although even then alternative opposition candidates were not nominated.

The history of local self-government in Bulgaria, despite all anti-democratic vicissitudes, shows the remarkable vitality of its roots. For that reason, the new constitutional provisions did not fill in a vacuum, neither was it necessary to turn to a foreign model. They were developed on the grounds of our positive experience and the hard lessons we have learned from past mistakes, which were summarized in a **separate Chapter 7: Local Self-Government and Local Administration**. The very fact of discerning between the notions of "**local self-government**" and "**local administration**" takes into account not only the sad historic experience of blending the two powers, it also eliminates the possibility the dominated by the central authorities local administration to "devour" the competencies of local self-government.

The term "**local authority**" is not used in our new Constitution and Article 2 paragraph 1 says that **the Republic of Bulgaria is a unified state with local self-government. The formation of autonomous territorial entities is not warrantable on its territory**. This text points out the essence and the organization of the unitarian, unified state the Republic of Bulgaria is. On the other hand, the Constitution does not oppose the state to local self-government: it rather integrates the unified state and local self-government in one. It does not provide for the formation of any type of autonomous local authority, it rather specifies the competencies of the institutions of local self-government, which are directly elected by the population and serve as a guarantee against the extreme centralization of power, thus underlying the democratic nature of our unitarian state. The constitutional provisions have already passed the test of ten years of effective practices and three local elections. This can serve as the grounds for the following conclusions:

The democratic political system acquires structural completeness and full-blooded existence via the institutions of self-government. It "descends" closely to the electorate and responds to their immediate needs. It is a materialization of both the democratic and social nature of the state, which is due to the fact that for their better part the purely social policies are highly decentralized.

The sub-system of local self-government is a significant factor for the stability of the entire political system. And the word goes for stability on democratic and pluralistic grounds rather than stability acquired via extreme centralization, unification and/or via authoritarian government. Although the decisions in the system of central authorities (legislative or executive) reflect as a whole the will of the parliamentary majority, the picture at local level is as a rule much more diversified. This fact certainly provokes a number of problems, but, at the same time, it provides the chances for democratic government.

The development of local self-government as an integral and significant aspect of the democratic processes involves intensive legislative initiatives aimed at the materialization and specification of the constitutional principles. A number of legislative acts have already been passed: the Law on Administrative and Territorial Regulation of the Republic of Bulgaria, the Law on Local Self-Government and Local Administration, the Law on Local Elections, The Law on Municipal Property, the Law on Local Taxes and Charges, etc. Some of these, and a number of other laws, regulating directly or indirectly local self-government or local administration, have already undergone a series of amendments.

The Constitution contains an explicit provision on the right of the self-governing territorial entities to unite their efforts aimed at the solution of common problems (Article 137). This formed the grounds for the formation of associations of regional significance (nine so far), as well as of the National Association of Municipalities in the Republic of Bulgaria, which already includes as members 90 per cent of all municipalities in the country. The initial experience of creating "national associations" on the basis of affiliation to the dominating in the country political forces could not pass the test of the time, it prevented the effective cooperation, as well as the adequate defense of the interests of the citizens before the central authorities. In spite of the inevitable conflicts at the stage of its formation, the National Association of the Municipalities has acquired the reputation of an institution of authority

among all other state institutions, being, among other things, a significant initiator of competent and based on thoroughly studied experience proposals for the development of the legislative norms.

The development of local self-government in Bulgaria is aimed at yet fuller materialization of the principles of self-government specified in the European Chart. More precisely, these principles, in line with our national historical experience, contain the motives for the development of our legislation. On the other hand, both on national and regional level, the associations intensify their relations with European countries and the number of developed joint projects is increasing. In this context, the independent and significant role of the system of local self-government in speeding up the process of Bulgaria's accession to the European Union has been continuously growing. It is worth noting in this respect that the European Chart on Local Self-Government has been ratified by the National Assembly, thus acquiring the force of a law, which is an integral part of our national legislation in compliance with the Constitution of the country.

Local elections in Bulgaria

The period following the beginning of the changes in November 1989 until the adoption of the new Constitution was characterized by the rapid, but directed by the central authorities political pluralization of the local state institutions. In compliance with the agreement between the major political forces, which came as a result of the negotiations between the ruling Communist (later Socialist) Party and the consolidated opposition, "provisional local administrations" were appointed and they should reflect the new balance of the political forces and the general tendency of democratization of the political life and forms of government. At that time, as well as at present, no one could dispute the formulae defining the balance of the political forces. In any case, however, it was at local level that the first attempt was made to create conditions for effective "joint government" of the ruling and opposition forces aimed at the defense of the interests of the citizens of the country. The fact should not be underestimated that the first Mayor of the capital city after the changes was a representative of the opposition.

In spite of the two-level division of the territory of the country - municipalities and regions, only the municipality is a territory of self-government. The

Constitutional provision in this respect is explicit and not subject to interpretation. Article 142 specifies: **The region is an administrative territorial unit, which conducts regional policy, executes the policy of the state on local level, and provides for the balance between the local and state interests.** This means, however, that a possible development of the regions as territories of self-government with elected institutions, a tendency, which can be supported by strong arguments based on the principles of the European Chart, will require amendments of the Constitution itself.

The local self-government in the Republic of Bulgaria is embodied in the two main forms of democracy - representational and direct. At this stage the representational form prevails - the participation of the citizens is performed almost exclusively via their right to elect the bodies of local self-government. For a number of reasons, among them the inadequate legislative fundament and the insufficiently developed democratic political culture, the direct form is a little more than an exception. On the other hand, it is explicitly envisaged in the Constitution, which says: **The citizens take part in the government of the municipality via the elected by them bodies, as well as directly via referenda and general meetings of the population.**

For the last more than **ten years** after the adoption of the Constitution **elections for local institutions of self-government have been held three times: in 1991, 1995 and 1999.** After the action of the initial General Law on Elections, the adopted in 1995 Law on Local Elections separated and further developed the matter. It has undergone a number of amendments, a number of them motivated by narrow party interests, but as a whole it has contributed to sustainable practices in the field. Individual attempts to develop the matter via sub-legislative regulative acts, which would obviously impede the participation of the population in the elections (e.g. the places for preliminary exhibiting of the election lists), have met strong public opposition and could not come into force.

Local elections are held on the grounds of common, equal and direct right to vote with secret ballot. On local level, the two main election systems are implemented in the entire election process, as well as in the process of calculating the votes. The municipal council is elected following the principles of the proportional system via party tickets of municipal councilors, and the territory of the municipality represents one multi-mandate constituency. Mayors of the municipalities and mayors of the mayoralties with right to directly elected mayor are elected following the majority system, and the territory of the municipality or mayoralty represents a one-mandate constituency.

The Constitutional provisions concerning the electoral bodies in the municipalities are specified in Article 138 and Article 139. In compliance with Article 138 **the body of local self-government in the municipality is the municipal council elected for a term of four years according to a procedure specified by the law. According to Article 139 paragraph 1, the mayor of a municipality is also elected by the population, or the municipal council, for a term of four years according to a procedure, specified by the law.** Although the text of the Constitution defines "mayor" as a body of the executive power of the municipality and places his competencies under direct dependence not only on the law, but on the acts of the municipal council and the decisions of the population, it goes without doubt that a mayor elected via direct vote is also a body of local self-government. In this context the municipal council and the mayor are of differentiated competencies and, in this respect, they are placed in co-subordination (to a certain degree), but according to the provisions of current legislation (direct, not indirect elections) they share the same source of their authorities.

The main body of self-government in the municipality is the **municipal council**. It consists of the elected municipal councilors and their number is specified in the Law on Local Self-Government and Local Administration in accordance with the number of citizens of the respective municipality. After the latest amendments of Article 19 of this law, which regulates the matter, the number of municipal councilors has been substantially decreased. This decision has not only restricted the democratic representation in the municipal councils, it has also provoked the risk of unprincipled consent in the decision making process on one or another issue, all the more when the majority depends on one or two persons.

The **Mayor** is also elected by the population via direct vote, e.g. this office should also be considered a body of the structure of local self-government. But it is placed in subordination to the decisions of the municipal council, alongside with the subordination to the law and the decisions of the people. The relations between the two bodies of local self-government within a given municipality are inevitably charged with conflicts, having in mind the fact that a mayor is often placed in the situation to work with a majority of another political force or coalition. All efforts to solve the problems of this "co-existence" by force instead of via dialogue and consent have turned out to be a "way leading to nowhere", or, more precisely, a way to blocking and discrediting the work of local self-government bodies. Most of the conflicts were provoked in connection with the provision of the law for pre-term suspension of the powers of the municipalities

and mayoralties with a decision of the municipal council. Despite the fact that the reasons are comparatively well specified in detail in Article 42 paragraph 2 of the Law on Local Self-Government and Local Administration: in cases of lasting incapability or systematic failure to perform the functions for a period longer than six months, and finally a condition to adopt such a decision was defined requiring the vote of a qualified majority of two thirds of the total number of the municipal councilors, the main question remains open, e.g. whether it is sufficiently justified on the grounds of the subjective opinion of a municipal council to substitute the clearly expressed will of the people to elect a mayor in the cases when all objective reasons (like serious illness, moving residence, etc.) are not present.

The smallest territory of local self-government - the mayoralty operates within the territory of the municipality. Article 2 of the Law on Local Self-Government and Local Administration specifies: Constituent administrative territorial units of the municipalities are the mayoralties and the districts. They are created to perform the functions and competencies vested in them by the law or by force of the decisions of the municipal council. But mayors are elected only in the mayoralties (paragraph 4 of the same text). The initiated by the ruling majority amendment of the law before the last local elections differentiates the mayoralties according to their size, thus excluding the possibility for direct election of mayors of the settlements of population under than 500. In the latter cases, the deputy mayors are appointed with a decision of the respective municipal council.

The experience gained during the local elections held so far gives the grounds to formulate certain conclusions, as well as to outline the tendencies for proposals for legislative changes:

In local elections citizens have a considerably greater possibility to vote for familiar persons, to communicate with them and to exert civil control over their activities. It is not by chance that during the last local elections nominees from far more parties and organizations than the represented in Parliament political forces were elected as municipal councilors, although the problem could hardly be considered to have been solved. Beside this clearly outlined tendency, it has become a practice to nominate for mayors independent candidates, supported initially by initiative committees, and later by various parties and organizations. It is obvious that local problems and the efforts to solve them create better conditions for various combinations of interests, thus contributing to the process

of eliminating the imposition of the will of a single party. This is most of all a problem of the sphere of political practices and political culture, however, it also points out the necessity of such legislative and regulative solutions, which will make the participation of the citizens in local elections easier, rather than more difficult. The restriction on issuing a certificate to vote in another constituency is disputable; the additional entries in the electoral lists of another address registration discredits the results; the guarantees in the process of formation of the electoral commissions are not sufficient to prevent the domination of any political force, etc. The legislative provision that the electorate of small size settlements does not elect a mayor (and the criteria defining which settlement is small size are very vague) is definitely unjust and unfavourable for the development of local self-government. This fact decreases their motivation to take part in the elections as a whole.

The most conflicting issue, concerning the relations between the mayor and the municipal council, also requires a new legislative solution, all the more that there are no constitutional restrictions to do so. The reasons for pre-term termination of the authorities of a mayor elected via direct vote have to be revised in a way that does not compromise the principles of self-government. The Law on Local Self-Government and Local Administration specifies in detail the procedure to solve disputes. The municipal council is in the power to abrogate acts of the mayor when they violate decisions of the council, and the mayor is in the position to contest any council decision, which he finds conflicting with respect to the interests of the municipality, or violating the law. These disputes can be resolved either by a qualified majority or be taken to court. This balance of powers, which is in concordance with their source, should not necessarily lead to the domination of one of the parties through the elimination of only one of the bodies of self-government. Article 45 of the Law on Local Self-Government and Local Administration specifies the procedure for the settlement of similar conflicting situations. The municipal council has the power to abrogate acts of the mayor when they violate decisions of the council. On his part the mayor can contest any council decision, which he finds conflicting to the interests of the municipality or violating the law. In the cases when the municipal council confirms its decision at a revision session, the mayor is obliged to take the matter to court. The revised decision has to be supported by a majority of more than 50 percent of all municipal councilors.

Administrative territorial organization

The constitutional framework of two-level division of the country - regions and municipalities - represented the basis for the development of the entire **administrative and territorial reform**, which was aimed at:

1. Restructuring and development of the territorial, functional and institutional organization of local self-government, as well as development of more effective relations and interaction with the institutions and the bodies of the central authorities;
2. Implementation and development of democratic procedures and mechanisms of the organization and functioning of local self-government;
3. Consistent defense of the national interests and security;
4. Integration of the local and regional structures of the country with analogous European structures.

The Law on Local Self-Government and Local Administration of the Republic of Bulgaria, adopted in 1995, developed and specified the normative grounds of both basic administrative territorial units - the regions and the municipalities.

Historically Bulgaria had also experienced tri-level division, which was regarded as an option at a given stage in the course of the changes. It was considered that a further complication of the administrative and territorial organization is not necessary, as it would inevitably lead to expansion of the administration. A number of projects on various types of division of the territory were discussed. Eventually the constitutional provision served as the grounds for the solution, although it was implemented long after the Constitution was adopted as far as the regions are concerned.

In accordance with the Constitution a region has a triple function: at first place, to conduct regional policies, at second, to execute the power of the state on local level, and at third, to provide for the balance between national and local interests. However, a great number of problems arise in all of the three areas, and some of them require legislative regulation.

At present the regions in the country are 28. Each region consists of one or more municipalities and its territory covers the territory of the included in it municipalities. In fact, all regions consist of more than one municipality. The case of the capital city is somewhat specific - the town of Sofia is divided into districts (which after the latest legislative amendments are not bodies of self-

government and the district structures are not elected by direct vote). However, the functions of the districts combine aspects of the level of self-government with aspects of regional policies. The town of Sofia has the legal status of a region, and at the same time both, the mayor of the town and the municipal council, are elected by direct vote.

The following criteria were taken into consideration in the process of defining the territory of the various regions: physical and geographic autonomy of the territory, the presence of a town, which is traditionally a cultural and an economic center of developed social and technical infra-structure and transportation facilities for an easy access from all other settlements in the region, established traditions for autonomous life, in this number cultural and ethnographic. As far as relief, specifics of the territory and population numbers are concerned, the regions differ greatly. But according to a great number of quantitative characteristics they do not differ significantly from the basic administrative and territorial units in some European countries. Comparative data show that in territory they are close to the average dimensions of the regions in Europe, and as far as population numbers are concerned they are closer to the small size regions there. Regions are governed by regional governors, appointed by the Council of Ministers and assisted in their function by regional administrations. They are the official representatives of the Government in the regions and are responsible for the implementation of the policies of the state, the defense of national interests, the law and public order. It is in their authority to implement administrative control, a fact that inevitably leads to conflicts with the bodies of local self-government, more precisely - with the mayors in their capacity of executive offices in the municipalities, as all regional governors are representatives of the force with majority representation in the Parliament, while the municipal bodies are of various political "colour".

An effective regional structure of a country is not an end in itself, it is an instrument to bring "higher policies" closer to the people and maintain the balance between the regions. The very first chapter of the new Constitution *General Provisions* contains the following text: **The state creates conditions for balanced development of the regions in the country via its financial, crediting and investment policies.** Although all governments so far have included in their programmes vast sections devoted to regional policies, realities reveal extreme misbalances. There are regions of higher relative rates of unemployment, mass poverty, poor health of the population, etc. Generally speaking there is a tendency in the country of deep social and economic

differentiation. The existence of the so called "abandoned territories" and "foreign population" is due to the fact that for more than ten years now no resources were allocated to these regions by the central state power. Among other things, this is a reflection of the ill interpreted liberal model, according to which any type of development should be left to the vagaries of the market.

The municipality is the basic administrative and territorial unit, via which local self-government is exercised. It is a legal person and has the right to property and independent budget. In performing their functions municipalities are assisted by municipal administrations.

In 1999 local elections the number of the municipalities in Bulgaria was 262. A medium size Bulgarian municipality covers the territory of approximately 432 square km., population numbers about 33 000 citizens and it contains the average of 21 settlements. The territorial organization of the municipality is structured on the basis of the existing towns and villages. At present they are about 5 300 - 238 of them are towns, 4 440 are villages and 560 smaller size settlements.

At present, the prevailing tendency to increase the number of the municipalities by further division of the territory into yet smaller municipalities (including the procedure of referenda with well known beforehand results in the applicant towns) created the atmosphere to undertake legislative measures. The requirement of minimum population has been raised to 7 000 as a condition to apply for an autonomous municipality. This legal restriction might not be considered very democratic, especially if it conflicts with the already directly expressed will of the population. But in its essence it was aimed at blocking the way to the delusion that autonomy at municipal level intensifies the potential of development. However, it should be noted that this delusion is also nourished by the unbalanced policies of the central authorities, as well as to the imperfect formulae for subsidy distribution in the interest of the gradual overcoming of all deficiencies due to unequal living conditions not only in various regions and municipalities, but among towns and villages as well.

The National Report on Human Resources Development in Bulgaria -2000, which has been published recently, has been entirely prepared with consideration of the human resources development in the municipalities. On the ground of statistical and sociological data analyzed by a wide number of researchers, experts, regional governors, mayors, etc., this Report contains very serious and alarming conclusions concerning the differences among the municipalities and the complication of their problems in the course of the last ten years.

Experience shows that it is mainly on local level that a fuller picture of the variety of social interests can be obtained. For that reason the interaction between the central government and the local self-government creates additional possibilities for democratization of the political power, for understanding of the "common" will as a guarantee for real democracy.

Legal competencies of the bodies of local self-government

The scope and nature of the competencies of the bodies of local self-government are of priority significance for the action of the constitutional principle. This action is also strongly affected by the distribution of the competencies and the relations with the institutions of central authorities on local level.

The Law on Local Self-Government and Local Administration regulates primarily the area of competencies of local self-government on municipal level, defined as the right of the people and the elected by them bodies to make decisions concerning a specified range of issues (Article 11). The competencies of the municipal council are specified in detail separately (Article 21), as well as the competencies of the mayor of the municipality.

As it becomes clear, the scope of competencies of the bodies of local self-government is closely connected with every day life of the citizens. The competencies outline the specific legal instruments, via which the municipal councils and the mayors make decisions on a variety of issues. For example, the municipal council adopts the annual budget of the municipality, exercises control and approves the financial report, defines the rates of local taxes and charges within the limits specified by the law, makes decisions to acquire or sell municipal property, to create, transform and/or terminate the activities of municipal companies, to apply and implement bank credits, etc. Generally, it could be said that, via the various forms of management of the municipal property and finance, the municipal councilors should guarantee the solution of every day problems of the population of the respective municipality.

Effective decisions on the variety of issues in the above mentioned area of competencies of the bodies of local self-government depends to a great extent on the interaction of the municipal council and the mayor. This interaction is defined by the circumstance that on all issues of substance exists shared and

divided competency: the municipal council adopts, while the mayor is responsible to organize the implementation of the decisions. In spite of that it would be an oversimplification in contradiction with the nature of this directly elected office to regard the mayor simply as a "mechanism". In fact, the mayor of a municipality is most directly linked with the population, knows best their problems and, assisted by the municipal administration he could seek and find the most immediate solutions. This often provokes conflicts due to the inevitable crossing of the specific competencies of the municipal council and the mayor.

As a whole the legislative base is stable, although practices during the last ten years indicate that it should be further developed and improved. The main source of instability can be found in the area of the relations between the central executive power and the bodies of local self-government, which according to the political situation, often develop into conflicts. These are the situations that reveal the deficiencies of the legislative guarantees for the implementation of the constitutional principle of local self-government.

Although the scope of competencies of local self-government bodies seems sufficiently wide, and the conflicting situations between the mayor and the municipal council most often draw our attention, the roots of the major problems lie elsewhere. They are connected with:

1. The general economic and social development of the country as the accompanying this development crisis affect most unfavourably the municipalities by minimizing their potential to solve the problems of the people;
2. The absence of balance between centralization and decentralization of power and resources, with obviously prevailing tendency of centralization.

The scope of local self-government competencies, in its broad sense defined by the law, includes decisions and actions on the following issues concerning: municipal property, municipal enterprises, municipal finances, taxes and charges, municipal administration; planning and development of the territory of the municipality, as well as the towns and villages included in it; education, health care, culture, public utilities and services, social welfare, preservation of environment and rational development of natural resources of municipal significance, maintenance and preservation of cultural, historic and architectural monuments of municipal significance; promotion of sports, leisure activities and tourism of municipal significance.

The competencies of the municipal mayor are defined by the specifics of the office as an "executive body". The mayor manages the entire municipal administration, organizes the implementation of the municipal budget, of the decisions of the municipal council, of long-term programmes, of the tasks specified by the law or the decrees of the President of the Republic of Bulgaria and the Council of Ministers, etc. The law places special emphasis on the competencies of the mayor of the municipality concerning the preservation of public order and the defense of the population in cases of natural disasters and accidents. For the above purposes the mayor is in the capacity to issue written orders, which are compulsory for the chiefs of the respective police authorities.

Local public services

The complex of public services, which the population expects to be performed by the local authorities, outline the wide scope of shared competencies of the local self-government bodies and the local central authorities structures. These services can be classified according to their nature: administrative, educational, cultural, health and social welfare, public utilities and services, public order. This classification, although being far from complete, outlines the specifics of these services, and, in its essence, it is in full correspondence with the **constitutional provision that the Republic of Bulgaria is a social and constitutional state**.

The drastic worsening of the living standards of Bulgarian citizens during the ten years of the transition period is often justified with the "inevitable" course in time of the economic and social policy. It is often stated that the social state requires as a condition high level of economic development of the country. Thus the social responsibilities of the state are being postponed indefinitely and the idea is supported by the dating back from the age of the initial accumulation of capital argument of the "state - night watch".

The mentioned already **National Report on Development of Human Resources - 2000**, as well as the international study of the alternatives of social policies in Central and Eastern Europe, titled **Strict Budgets - Weak States**, develop the view that it is the social capital that is the most significant reserve for human development, and that social policies represent the "irrigation system" of the general, and most of all, of the economic development. In this respect the scope and the quality of the local public services are among the most important indicators of the direction of any country's development. This provokes a number of questions in principle:

What is and what should be the balance between centralization and decentralization of public services? Does "shared responsibility" in the sector of public services not lead to poor quality and lack of responsibility in the process of servicing the citizens? If we consider, for example, just one sphere of public services - education, this problem will be clearly outlined. In compliance with Article 11 paragraph 4 of the Law on Local Self-Government and Local Administration, the local self-government bodies are responsible for pre-school, initial and secondary education. However, parallel with the respective municipal agencies responsible for the payment of the teachers, the maintenance of the school buildings, facilities and equipment and the overall provision of the educational process, there are also offices of the regional administration on local level that have entirely monopolized all human resource issues in the field of education. The situation is similar in the sector of health care. The agencies in the sector of employment are even far more centralized. Even social welfare is in the hands of local offices responsible to the respective minister.

Are efficient for the population public services possible without decentralization of the resources? The current practice of irregular payment of the salaries of teachers, officials, physicians and others in the context of entirely centralized budget leads to unjustified accusations against the municipal administration.

The establishment and development of local self-government as an institution bearing the responsibility for public services presupposes financial decentralization and guarantees for the financial stability of the municipalities in compliance with the European chart of Local Self-Government. It is necessary to update national legislation in this area so that it will prevent the attempts to substitute the independence of the local self-government bodies in the field of finance, property and human resources with increasingly stronger central government.

What is the adequate balance between the public and private property in the field of services? Is it warrantable that the regional and municipal authorities should be totally disengaged? Data from our current practices reveal a great variety of approaches, lack of criteria and an adequate system to prevent the total domination of profits over public services.

The process of mass privatization of various sectors, public services in that number (e.g.. the transformation of hospitals into trade companies), leads in fact to the inevitable narrowing of the scope of competencies of the local self-government bodies despite the provisions of the law.

A close look at the real state of public services leads to the conclusion that the specified by the law ten areas of competencies of the municipal self-government containing the complex of public services have been "devoured" by other legal norms. After the regional administration was structured and the whole spectrum of specialized departments was included in this structure, each new legislative act concerning the matter granted more and more rights to the regional governors. The end result of these developments is preservation of the responsibilities of the municipal authorities to provide public services in the context of increasing limitation of their resources and rights to perform these responsibilities.

As a result it is not by chance that none of the sectors of public services functions efficiently and in fact the population is deprived even of the clearly specified constitutional rights to free education to the age of 16, accessible health care, special care for parentless and underprivileged children, etc.

As far as updating of the existing legislation on public services is concerned, it is important to note the necessity of synchronizing and codifying of the entire system of various legal norms in order to provide high quality public services. This is necessary most of all in connection with the relatively stable legislation regulating the competencies of the local self-government bodies and the broad, dynamic and increasing in volume legislation regulating various aspects of public relations, which specifies the competencies of the local offices of central authorities.

The synchronization of the legislative norms cannot be an end in itself, although the citizens of the country need clear and full information concerning the public services in the country, which will help them find their way in the labyrinth of the administrative beurocracy. However, the aim is to develop consistent argumentation and implementation of principle of decentralization of public services, which is the shortest way to solve the immediate problems of the people and their participation in self-government.

Financial and economic resources of local self-government

The resources of local self-government are a vital guarantee for the action of the constitutional principle. It is not by chance that this matter is specified in general terms in the Constitution of the Republic of Bulgaria. According to Article 141 paragraph 1, every municipality is allocated an independent budget. Paragraph 2 states that the permanent financial sources of the municipality are specified by

the law, while, according to paragraph 3 of the same article, the state contributes to the effective functioning of the municipalities via the state budget and otherwise.

The provisions of Article 140 have to be added to the constitutional guarantees of the resources of local self-government: **The municipality has the right to property, which is exploited in the interest of the territorial community.**

Besides the Constitution, legal regulation of the municipal budgets is also specified in the Law on Local Self-Government and Local Administration. On the other hand, the approved by Parliament annual state budget includes mandatory for the municipalities norms for adoption of their budgets. A special Law on Municipal Budgets was adopted in 1998.

The constitutional, as well as the other legal norms on municipal budgets follow Article 9 of the European Chart, which requires:

1. Intensification and expansion of the process of decentralization of power;
2. Correspondence between the financial resources of the municipalities and their competencies;
3. Right of the local authorities to sufficient independent resources in the frame of the national policy, which they can use **freely** for the effective performance of their competencies.

As it becomes clear, municipal funds come from **two main sources: subsidies from the republican budget and independent revenue.**

Subsidies from the republican budget are of different proportion to the budget of various municipalities. This proportion depends on the prognosis of the independent revenue of the respective municipality and it is allocated to balance and supplement the municipality funds, so that the local self-governments bodies can perform their competencies. In this respect, a lot of efforts were undertaken lately to update the **formula defining the amount of the subsidy** in order to prevent the subjective political approach implemented by the central authorities towards certain municipalities. Guarantees of this type can never be sufficiently reliable. It is much more important that economic decline is difficult to foresee, and, as a result, it is difficult to make prognosis of the amount of independent revenue. There are cases when the bankruptcy of only one enterprise, solemnly privatized the previous year, shuts down only a couple of months later and this causes the collapse of the municipal budget, which depends to a significant extent on the collected profit taxes.

The major sources of municipal revenue are specified in the Law on Local Taxes and Charges. Article 1 of this law lists explicitly all local taxes (taxes over real estate, over inheritance, over donations, over purchased property, over transportation vehicles, etc. - specified by the law), as well as local charges (on administrative and public services - specified by the law). The rates of the taxes is defined by the law, the rates of the charges is specified within certain limits, while for all unspecified by the law administrative and public services offered by the municipality, the charges are specified by the municipal council.

The Law on Municipal Property lists in detail the real estate and movable municipal property, including the order for their acquisition, management and disposition. It is in the competencies of the municipal council to acquire, manage and dispose with municipal property, which provides sufficient publicity in order to guarantee the management of the property in the interest of the public. As far as the nature of municipal property as a source of revenue is concerned, its division into public and private property is of great significance. However, open remains the problem concerning the policies of privatization of the municipal property - whether the property should be sold and the funds spent, or rather preserved as property of the municipality and managed effectively in order to provide continuous source of revenue.

It becomes clear that municipal resources depend to a great extent on the subsidy from the republican budget, as local taxes and charges are strictly specified and the income from public services is not sufficient to meet demand. The general conclusions on the part of the National Association of the Municipalities in the Republic of Bulgaria contain the grave statement that **a completely wrong approach of underestimating and eliminating of the municipal sector as a factor in the process of development in the interest of the public has been adopted for the last ten years of transition to market economy.** For the entire period subsidies for the municipality have been gradually and continuously decreased at rates bigger than the rates in the state public sector. For example, in 1991 this relative share was 11%, while in the year 2000 it was already 6.3% without any significant changes introduced in the scope of legal competencies of the municipalities. And what is more - via various instruments, most often provisions in the law, the obligations of the municipalities have expanded. Comparative data give the grounds to conclude that today municipal services are provided with half the budget allocated in 1991 (as a share of the gross national product).

The same study also concludes that, due to the framework of the state budget, the municipal budget deficit has increased considerably in the course of these years. If in 1998 the specified in various law independent revenue plus the subsidies covered 95% of the minimum of the legally defined financial obligations of the municipalities, in 1999 they covered 90%, while in the year 2000 they covered only 70%. This inevitably leads the municipal administrations to violations of the law: they either accumulate unpaid for expenses and violate financial regulations, or break other laws, which bind them to pay for staff and maintenance costs of schools, hospitals, social welfare, etc.

The problems concerning the "independent" budgets have also become clear. Having in mind that the non-tax revenue constitutes only 14% of the total municipal revenue, and in practice they can use only 9 to 10% of the revenue coming from taxes specified in the law. As far as expenses are concerned, for their better part are also defined by central decisions (staff, payments, average salaries, etc.) and this gives real independence to handle only 14 to 16% of the expenses.

On the grounds of these general conclusions, a number of **proposals for updated legislative regulation of the matter were made, most of all concern changes in the Law on Local Taxes and Charges**. The proposals are aimed at the following directions:

- a. Systematization in one source of the rights and the responsibilities according to principles: the body responsible for the financing to be the body of the right to manage the activity;
- b. Revision of the specified in the Law on the State Budget priorities of payment, as well as of the limitations on investment activities up to 5% of the independent revenue in order to expand effectively the independent operations of the municipality;
- c. Expansion of the area of legally specified sources of independent revenue of the municipalities, e.g. decentralization of the resources;
- d. Every draft law of the National Assembly to be accompanied by a statement of the Ministry of Finance on the expenses from the republican and municipal budgets for its implementation;
- e. Clear normative division of the competencies of the Minister of Finance and the municipal bodies concerning the management of municipal budgets in order to eliminate the current practice of almost entirely prepared municipal draft budget on the part of the Ministry of Finance, which are only "ratified" by the municipal councils.

What is necessary, in fact, is political will in order to eliminate the practice to cover at the end of the year of a part of the unplanned and non-provided funds for the municipalities. The practice of chronic municipal budget deficit, imposed on purpose and the difficult and partial measures to overcome this situation is at the expense of the tax payers, as it inevitably leads to grave social and political consequences, and, as an end result, this discredits the local self-government aggravating its work with somebody else's obligations.

Local situation of minorities

The last census of the country (1992) does not reflect the real situation in the country any more. The data in it stating 8% ethnic Turks and 6 to 7% ethnic Gypsies have changed significantly due to emigration of the Bulgarian Turks, to the high degree of mobility of the Gypsies, and the higher than the average for the country birth rates among these communities, although it is not clear to what extent the latter has compensated for the "drain". A new census is forthcoming in 2001, and it will give answers to these questions and outline the picture of the ethnic composition of the so-called "mixed regions", as well as the major economic and social problems.

However, at this stage, a number of points in principle can be made concerning the situation of the minorities on local level and the place of their problems in the work of local government bodies.

The new Bulgarian Constitution does not contain the definition "minority". The arguments in support of this decision were founded on the extreme sensitivity on the part of the public to any attempts at autonomous formations as the prerequisites for possible separatism. At the same time Article 6 of the Constitution proclaims equality of the citizens before the law and the exclusion of any type of restrictions of the rights or privileges based on **nationality**, **ethnicity**, gender, origin, **religion**, education, beliefs, party affiliation or social status. It was probably for that reason that no constitutional hindrances were found and the national Assembly ratified the Convention on the Rights of the Minorities.

The fears of autonomous formations, of division of the population on ethnic principles, as well as of separatist tendencies motivated one more constitutional text. According to Article 4 paragraph 11: **Political parties cannot be founded**

on ethnic, race or religious grounds. This text created a number of difficulties for the Movement for Rights and Freedoms, which organizes the greater part of the Bulgarian Turks and was founded in the early stage of the transition process. The case was taken to the Constitutional Court where they could not reach to a majority to rule the unconstitutional nature of this party. From present point of view this act can be considered very well grounded and sagacious. The Movement set its aims to defend the violated rights and freedoms (during the campaign of changing the names of the Turks with Bulgarian names), and to prevent recidivism of similar nature, as well as to fight violation of the rights of the Bulgarian Turks of different character. The party adopted moderate centrist and liberal ideology. They managed to stop on time all extremist or separatist tendencies thus contributing greatly to the elimination of any threat to the ethnic peace and the establishment of a specific "Bulgarian ethnic model" in modern times.

At present, the danger of ethnic explosions, separatism, and political repressions against the ethnic communities of non-Bulgarian origin can be considered eliminated. At the same time, other areas of tension can be observed. The prevailing number of the Bulgarian Turks are concentrated in the so-called "mixed regions", while some of the settlements (exclusively villages) are almost "pure" ethnically. The situation of the Gypsies is different as they are scattered all over the country and their concentration is greatest in the towns. However, a map of the distribution of the population of Turkish ethnicity reveals the alarming phenomenon of concurrence of "mixed regions" and regions of gravest social problems. There the unemployment rates and the range of poverty and misery, as well as the state of the population health are fare worse that the average for the country.

In this context, at least three tendencies to solve the problems are of great significance: via policy of the state aimed at regional development and the policy of support for the municipalities; via municipal policy in the municipalities of expressed concentration of non-Bulgarian ethnic communities, as via the immediate participation in local self-government of political and public organizations oriented towards the protection of ethnic equality. It is clear that the place problems of the ethnic groups occupy in policies of the municipality depends most of al on the regional economic and social policy, on the channeling of investment, on the stimulation of business development, even on policies in various sectors of traditionally high employment of citizens of non-Bulgarian ethnic origin. This is valid, for example, for tobacco growing and it means that all

decisions taken in the sector - from the new organization of trade to the import policies concerning cigarettes is of significance for this population.

At second place, the solution of the problems depends on the policies of the municipality. As a rule, all municipalities with concentration of citizens of non-Bulgarian ethnic origin include in their long and short-term development programmes the solution of their specific problems. This concerns employment issues, as well as the development of a network of schools including the development of special educational programmes for native language training.

And at third place, it is natural in the conditions of a democratic political system the specific interests of the ethnic groups to be defended by specific political and public structures observing strictly the constitutional provision their activities not to be directed against "the sovereignty, territorial integrity and unity of the nation, or aimed at the provoking of racial, nationalistic, ethnic or religious hostilities, at the violation of the rights and the freedoms of the citizens". (Article 44, paragraph 2 of the Constitution)

For ten years now the Movement for Rights and Freedoms takes part in the free and democratic elections. It is not only a permanent participant in the life of the Parliament it is also a significant factor of the local self-government. For instance, at the last local elections the Movement for Rights and Freedoms won independently 23 mayor offices, while its duplicate, created by the right-wing political forces with the purpose to split the votes of the ethnic Turks, won only one.

The organizations of the ethnic Gypsies are of varied nature they are disorganized and gravitate inconsistently around various ideologies supporting left or right platforms in elections. These organizations do not have independent mayors, but their representatives are included in the ticket of the major political forces in all municipalities of concentrated population of Gypsy origin.

The break-through of a small municipality Sevlievo and foreign investment as a decisive factor

The municipality of Sevlievo is located in the central part of Bulgaria. It covers the territory of 1000 sq. km. and population of 47 000. The municipal center Sevlievo is a small town of population 25 000 inhabitants. It is famous for its highly developed industrial sector, mainly in the field of machine building,

metalworking, wood processing and knitted fabrics. It is situated in a close proximity (in radius of 50 km.) of four regional towns: Pleven, Lovetch, Veliko Timovo, and Gabrovo.

There are a number of factors of great significance for the present state of industrial development of Sevlievo. At first place, the long standing traditions and the establishment of unique in the country industries, such as foundry, sanitary fittings, and the production of cables. At second place, the presence of highly qualified labour force. And thirdly, this is due to the enterprising spirit of local people, as well as their interest in new technologies and vanguard thinking.

During the course of the last ten years, Sevlievo is one of the few towns in the country, where industrial production has marked an increase. In the year 2000 the increase was 13% compared to 1999. Foreign investment flow, which has been considerable since 1995, has contributed greatly to this success.

Early and rapid privatization is one of the significant factors with great contribution to substantial investment flow in the town of Sevlievo. As early as 1992, a strategic investor, the American company American Standard, started business in Sevlievo with the purchase of 51% of the Enterprise Vidima at the amount of \$ 6,5 million, and later, by the end of the year 2000, the invested funds reached the sum of \$ 100 million, which was used mainly in the period 1996 - 2000. The main projects were:

- Reconstruction of the existing plant **Vidima**.
- Construction of the plant for sanitary faience - **Ideal Standard** in 1997 - 1998.
- Construction of the third plant of the company - **Vidima-2** in the village of Gradnitsa.
- Construction of the plant **Vidima-3**, which is under development, as well as additional parallel productions.

The investor **American Standard** has developed investment projects in Sevlievo, which fact has turned the town into the biggest manufacturing center of sanitary faience and fittings in Europe.

The exclusive quality of the produced items, the effective work on the part of the managerial team, which is Bulgarian, as well as the involvement of the local government bodies in the development of these projects have created the

conditions for their growth and reach the considerable amount of \$100 million, which is growing constantly.

The other aspects of development due to foreign investment flow are the following:

3400 new jobs we created in the four plants of the company, as well as 300 jobs in the parallel productions. The important thing in this particular case is that the created jobs are new and the plants were constructed via Greenfield investment/. It is of no less significance that in order to service better this modern industry, the company has also invested in a number of infra-structure projects, which have changed the living standards in Sevlievo. The company has constructed gratuitously a gas pipeline of high pressure from the village of Devetaki to Sevlievo, which provided for the gasification of the town for industrial and everyday life purposes. Total investment in this pipeline has come up to the amount of \$2 700 00, and additional \$400 000 were spent to construct the pipeline to the village of Gradnitsa. The company has also invested in the development of optic cable telephone connections. Funds have also been allocated for foreign language training and education, and a new four-star hotel was built in Sevlievo.

The years of serious foreign participation have developed new ways of thinking, to the adoption of new approaches of management, new types of communication based on modern technologies. The workers of the plants receive relatively high for the country average payment, which results in higher living standards.

It goes without saying that in order to obtain positive results on the grounds of foreign investment, the local bodies of self-government had to act quickly and effectively, to show persistence, enthusiasm and initiative. The municipality and the local bodies reacted adequately to the requirements of the investor. Their projects were supported with the necessary efforts, and they were treated with necessary publicity. In many cases the municipality acted as a representative of the foreign investor before the Bulgarian state authorities, which have also contributed to the development of the projects with their understanding and support.

Another significant foreign investor is the Swiss Concern **ABB**, which has bought out the majority share of the capital of the company **ABB-Vanguard** in Sevlievo.

Foreign investment in the town of Sevlievo contributes greatly to the process to maintain lower than the average for the country unemployment rates, which are 68% thus providing for better living standard of the better part of the town population.