THEMED PAPER

Legal and Institutional Framework of Local Self-Government in the Republic of Macedonia

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ABSTRACT In general, a comprehensive and well-designed local self-government will significantly improve community management in the Republic of Macedonia. The increased competences and strengthening of the political culture of the population will result in a more active participation of citizens in local processes. An increase in the professional level of the executive and administrative bodies along with improved communication with a civil society will have a positive impact on the quality of municipal management. Decentralized approaches to local development can be a sustainable way to preserve multiculturalism in an ethnically and culturally diverse country. The outcome of the process will depend on the level of public engagement, accountability of local leaders, and transparency of procedures.

KEYWORDS: • local self-government • legal framework • municipality • decentralization • Macedonia

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1 Introduction

Decentralization is a strategic goal for Macedonia. It is not only consistent with Euro-Atlantic integration of the Republic of Macedonia, but it is also the requirement. For Macedonia, preparation for accession to the European Union also means enhancing the quality of political decision making through the inclusion of local authorities and increased public participation. Decentralization has to bring government closer to the people, making it more accessible and knowledgeable about local conditions and thus more responsive to people's needs. This should lead to improved government services and to a more effective and need-based use of public resources.

Apart from its governance merits, the decentralization process is a key requirement of the Ohrid Peace Framework Agreement, which in turn is a precondition for the country's integration into the European Union. Nevertheless, it is not a panacea. Its success depends on many political and social factors and will be measured against which the quality of life and equal access to development opportunities will have to improve. In this respect, it will be crucial for the ongoing reform processes in the Republic of Macedonia. Decentralization and integration go hand-in-hand and decentralization, therefore, is an important part of Macedonia's efforts to integrate into the EU (Siljanovska-Davkova, 2006: 17).

2 Fundamental Aspects of Local Self-Government

2.1 Legal Basis

2.1.1 The European Charter for Local Self-Government

There is no democracy without local self-government. Local self-government is contitio sine qua non of democratic and integrated Europe. The Charter of Local Self-Government was a crown of the wave of decentralization that came at the end of the 1970s and continued in the 1980s (D’Ambrosio, 1999: 3).

The Republic of Macedonia ratified the Charter on 6 June 1997, and it came into force on 1 October 1997. According to the Macedonian Constitution (Article 118) "The international agreements ratified in accordance with the constitution are part of the internal legal order and cannot be changed by law." Thus, the European Charter for Local Self-Government is “ius cogens “in the Republic of Macedonia.

2.1.2 Constitutional Framework

Local self-government is materia constitutionis in the Republic of Macedonia. It is one of the fundamental values of the constitutional order (Article 8). Section V of the Constitution (Article 114-117):
• guarantees the right of citizens to local self-government;
• establishes municipalities as units of local self-government;
• foresees that forms of neighbourhood self-government may be established within municipalities;
• guarantees municipalities autonomy in the performance of competences, specified in the Constitution and law;
• guarantees municipalities own financial resources as well as state funding;
• promotes direct and representative local democracy;
• defines the city of Skopje as a separate unit of local self-government, the organization of which is regulated by a separate law. (See Siljanovska-Davkova, 2004)

In accordance with Amendment XVII from 2001, in local self-government units, citizens directly and through representatives decide on issues of local relevance, particularly in the fields of public services, urban and rural planning, environment protection, local economic development, local finances, municipal utility activities, culture, sport, education, health care and in other fields determined by law.3

2.1.3 The Main Legislative Texts

The new Local Self-Government Act passed in 2002 put into operation the constitutional provisions and created the basis for the commencement of the decentralization process. Besides this organic law, 12 laws for rounding up the local self-government system (e.g., on fiscal decentralization, territorial restructuring, local elections, participation of citizens in the decision making process) are already adopted or changed as well as more than 80 laws on transfer of competences in compliance with Article 22 of the Local Self-Government Act, or they contain provisions concerning local self-government.

In accordance with Amendments of 2001, the parliamentary procedure called for the adoption of the Local Self-Government Act, the Local Finance Act, the Local Elections Act, and the Municipal Boundaries Act. Thus, the city of Skopje has been changed in the spirit of the consensus democracy model. Namely, the organic Local Self-Government Act can be adopted by a two-thirds majority vote of the total number of the Representatives, within which there must be a majority of the votes of the total number of the representatives who belong to the communities in the majority of the population of the Republic of Macedonia. This "double majority system" is also needed to adopt the Local Finance Act, the Local Elections Act, the Municipal Boundaries Act, the city of Skopje Act, and to adopt the laws that directly affect culture, use of language, education, personal documentation, and use of symbols.
2.2 Local Authorities

The Republic of Macedonia has a single-tier system of local self-government with municipalities as local units. The Territorial Organization Act of 2004 decreased the number of municipalities from 124 to 84, and the city of Skopje was recognized as a particular unit of local self-government.

This reform of the territorial structure of the municipalities seems to have been prompted by a twofold consideration:

- the need to streamline the organisation of the municipalities by scrapping those which are too small and have not proved viable; despite the reform, the structure of the municipalities remains diverse, with numerous small ones: 16 municipalities have a population smaller than 5,000 and 32 a population smaller than 10,000. Only 22 municipalities have a population greater than 30,000;
- the intention to adjust the relative proportions of the Macedonian majority and ethnic Albanian minority in some municipalities (thus in the municipality of Kičevo, Albanians went from 20% of the population to 50% when it was merged with the neighbouring municipalities). This was criticised as an apparent concession to the Albanian minority, as well as “gerrymandering” (Nikolovska & Siljanovska-Davkova, 2001: 56).

This reorganisation decided at central level has not been the subject of prior consultation of the local authorities concerned, and it met with considerable resistance. A series of referenda (30 local referendums were successful) and a national referendum (with no success) were held to oppose the law. The process was ultimately accepted as provided for in the law (Skaric & Siljanovska-Davkova, 2007: 596).

The scrapping of some municipalities did not produce a better representation of those units, classified as smaller, than a municipality (villages comprising the former municipalities).

In the case of the capital, the 2004 reorganisation provides for 10 municipalities (as opposed to the seven previous ones) within the City of Skopje, and extended its boundaries to include rural areas. As a result, the Albanian community now makes up over 20% of the population in the city, thus making it bilingual.

2.2.1 Autonomy within the Constitution and Law

The central authorities are committed to setting forth all the basic principles, modes and legal instruments of local government functioning to determine its legal framework. They
may found new local government units and change their areas and seats;
organize and conduct local elections;
supervise the operation of the municipal organs;

Local authorities are legal entities which
have a territory and a name, and may have coat of arms and a flag;
have own regulations, among which the Statute is the highest one;
have own and delegated competences;
have own and other sources of financing;
have their own bodies directly elected by citizens;
have residents who are the citizens of the Republic of Macedonia with permanent residence on the territory of the municipality.

2.2.2 Creation of Municipalities and Boundary Changes

The Local Self-Government Act determines the basic criteria for establishment of local government units.

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

The territory on which a municipality is established should represent a naturally, geographically and economically linked entity with communication networks among populated places and gravitation towards a common centre, as well as with built infrastructure facilities and public objects.

The Territorial Organization Act, applying to local self-government units, determines the territory, names, seats and borders of the municipalities, the procedure for establishing municipalities, and other issues regarding the territorial division.

The Local Self-Government Act of 2002 does not include Article 5 of the European Charter of Local Self-Government. It is poorer regarding this issue in comparison with the Local Self-Government Act of 1995. But, as mentioned above, Article 5 as well as the Charter as a whole are ius cogens by Article 118 of the Macedonian Constitution.

According to Article 2 of the Territorial Organization Act, applying to local self-government units of 2004, "A new municipality can be established (amalgamated, divided and the boundaries can be changed) after prior consultation with the citizens in the municipality concerned."
There had been consultation with few municipal authorities before the last territorial changes were made in Macedonia in 2004. It means that the vast majority of them were not consulted. The European Charter Article 5 put an emphasis on citizen participation. However, citizens were not consulted at all regarding the last territorial division. Thus, the reorganization was based largely on political and ethnic compromises and did not take into account the objective criteria, such as the quality of life, including the quality of public services, etc.\(^4\)

### 2.3 The Right to Association and Inter-Municipal Cooperation

In accordance with law, municipalities may form associations for the purposes of protection and enhancement of a common interest.

The Association to which 2/3 of the municipalities from the whole territory of the Republic of Macedonia have joined shall have the right to:

- cooperate with the Government regarding the issues of importance for the municipalities in the Republic of Macedonia;
- initiate adopting of the laws that refer to the improvement of the local self-government;
- participate with its proposals in the procedure for projection of the draft Budget of the Republic of Macedonia in the part that refers to allocation of funds to the municipalities for the performance of competences determined by law;
- cooperate with similar organizations from other countries and represent the Republic of Macedonia in international organizations of local authorities.

Association of Municipalities of the Republic of Macedonia shall be established, organized, shall function and shall be registered in the manner and under conditions determined by law.

The Local Self-Government Act of 2002 promotes voluntary forms of associations of municipalities.

There is a wide variety of legal forms of inter-municipal cooperation. The Macedonian municipalities have the opportunity to cooperate both between themselves and with the local self-government units of other countries as well as with international organizations of local communities, and they may be members of international organizations of local governments.

In order to accomplish common interests and perform common tasks, the Macedonian municipalities may join funds and establish shared public agencies in accordance with law. The municipalities may also establish joint administrative
bodies in certain areas on the basis of a decision adopted with majority vote of the total number of members of each municipal council. In these cases, a written agreement shall be signed to define the municipalities that establish a shared administration body.

Despite the reorganisation of 2004, there are still a large number of small municipalities (16 of them with a population of less than 5,000). There are also wide disparities between municipalities in terms of their resources. This being so, inter-municipal co-operation can be an appropriate way of strengthening local democracy.

Inter-municipal co-operation is especially useful in Macedonia because there is no intermediate level between the state and municipalities. This question of an intermediate level might be important in the future in the context of a regional development policy.

Overall, there is still very little inter-municipal co-operation and municipal representatives do not realise the benefits it offers. This is due to traditions of the historically rooted particularism. So, the obstacles are partly cultural. They could be better overcome by providing more information in this area and through financial and technical incentives.

2.4 Powers (Competencies)

There are two kinds of competences: competences mandated by law and delegated competences.

The new Local Self-Government Act of 2002 makes a qualitative change compared to the Act of 1995 increasing the number of competences, previously shared, now being inherently municipal competences.

The Local Self-Government Act (Article 22) guarantees the municipalities the following competences:

- Urban and rural planning: urban planning and issuing of technical documentation for construction and issuing construction permits; regulation and maintenance of construction land;
- Protection of the environment, nature and space regulation: measures for protection and prevention of water, atmosphere and land pollution, protection of nature, protection against noise and ionizing radiation;
- Local economic development: local economic development planning; determining development and structural priorities; running the local economic policy; support for the development of small and medium-sized enterprises and entrepreneurship at local level and in that context,
participation in the establishment and development of a local network of institutions and agencies; promotion of partnership;

- Municipal utility activities: potable water supply; technological water supply; drainage and purification of waste waters; public illumination; drainage and treatment of precipitation; maintenance of public hygiene; collection, transport and treatment of municipal solid and technological waste; regulation and organization of public local transportation of passengers; natural gas and heating energy supplies; maintenance of graves, cemeteries, crematoria and provision of burial services; construction, maintenance, reconstruction and protection of local roads, streets and other infrastructure facilities; regulation of traffic regime; construction and maintenance of street traffic signalization; construction and maintenance of public parking spaces; removal of improperly parked vehicles; removal of damaged vehicles from public spaces; construction and maintenance of markets; chimney sweeping; maintenance and use of parks, green spaces, park forests and recreational spaces; regulation, maintenance and use of river beds in urbanized parts, determining of names of streets, squares, bridges and other infrastructure facilities, etc.;

- Culture: cultural heritage preservation; celebration of events and persons of importance for the culture and history of the municipality;

- Sport and recreation: development of general sport and recreational activities of the citizens; organization of sport events; maintenance and construction of sports facilities of public interest for the municipality, support of sports associations;

- Social welfare and child protection: kindergartens and homes for the elderly (ownership, financing, investments and maintenance); exercising of social care for disabled persons, children without parents and parental care, children with educational and social problems, children with special needs, children from single-parent families, deserted children, persons exposed to social risk, persons with drug and alcohol addiction problems; raising of citizens’ awareness, housing of persons put to social risk, sheltering and education of pre-school children; the performance of these competences shall be in accordance with the National Programme for Development of Social Care;

- Education: establishing, financing and administering the primary and secondary schools in cooperation with the Central Government and in accordance with law; organizing the transportation of students and their accommodation in dormitories;

- Healthcare: governance of the network of public health organizations and primary care buildings to include the representation of local government in all the boards of all publicly owned healthcare organizations; health improvement; preventive activities; protection of health of workers and protection at work; health oversight over the environment; control over
contagious diseases; assistance to patients with special needs (mental health, child abuse, etc.); and other areas that will be determined by law;

- Execution of preparations and undertaking of activities for protection and rescuing citizens and goods on their territory against war destructions, natural and other disasters as well as against the consequences caused by them in the state of war;
- Fire fighting activities performed by the territorial fire fighting brigades;
- Supervision over the performance of activities within the municipal competence;
- Other activities determined by law.

2.4.1 Delegated Competencies

In accordance with the Constitution (Article 115) and the Local Self-Government Act (Article 23), a public administration body may delegate the execution of certain tasks from its competence to the Mayor. In these cases, the funds from the budget of the Republic of Macedonia, anticipated for the performance of these tasks, shall also be transferred. The way of performing the delegated competences may be adjusted to local conditions, observing the standards determined by law.

2.5 Municipal Bodies

The municipal bodies are the following: the Council and the Mayor.

2.5.1 Council

The Council is a representative body of the citizens. The number of council members depends on the number of inhabitants of the municipality and shall not be less than 9 (if the number of residents is up to 5,000) nor more than 33 members (if the number of residents exceeds 100,000). The only exception to this rule is the Council of the City of Skopje that consists of 45 members. Councillors are elected by proportional vote according to the D'Hondt method.

Every citizen of the Republic of Macedonia acquires the right to vote when reaching 18 years of age. A citizen must be a permanent resident of the municipality where he/she votes.

The lists of municipal councillor candidates may be nominated by officially registered political parties and groups of at least 100 citizens, if the number of registered voters is up to 10,000; at least 150 citizens, if the number of registered voters is up to 30,000; at least 250 citizens, if the number of registered voters is up to 50,000; at least 350 citizens, if the number of registered voters is up to 100,000; at least 450 citizens, if the number of registered voters is higher than 100,000. In
Skopje, at least 1,000 citizens may nominate municipal councillor candidates for the list.

The candidates and the citizens supporting them must be both Macedonian citizens and permanent residents in the municipalities where they are nominated. The term of office of the councillors is four years. They represent the citizens and make decisions in the Council according to their best convictions.

The Council shall:

- enact the statute of the municipality and other regulations;
- adopt the municipal budget and the annual balance sheet of the municipality;
- determine the amount of the own resources of revenues for financing the municipality within the frameworks determined by law;
- establish public agencies within the competence of the municipality and supervise their work;
- appoint members of the managing boards of the public agencies established by it;
- adopt work programmes and financial programmes for financing public agencies established by the municipality;
- adopt the budget execution report and the annual balance sheet of the municipality;
- decide on issuing permits for the performance of public interest activities in accordance with law;
- adopt the reports on the operation and the annual balance sheet of public agencies established by the municipality;
- dispose of the municipal property;
- elect the head of the regional unit of the Ministry of Interior Affairs in the municipality in accordance with law;
- review and adopt the annual report on public safety on the territory of the municipality which is submitted to the Minister of Interior Affairs and the Public Attorney;
- give recommendations to the head of the regional unit of the Ministry of Interior Affairs in the sphere of public safety and traffic safety; and
- perform other activities determined by law.

The Council work sessions are convened by the Municipal Council Chairman. They must be attended by a majority of the total number of councillors. The Council makes decisions by a majority vote of the councillors attending, unless law and the Statute determine otherwise. The Statute, rules of procedure, budget and balance of accounts are adopted by a majority vote of the total number of councillors. The Council sessions are open to the public.
2.5.1.1 Municipal Council Chairman

The Municipal Council Chairman shall be elected by a majority vote of the total number of councillors. He/she shall: convene and chair the Council sessions, take care of the organization and work of the Council, sign the regulations adopted by the Council to submit them to the Mayor for publication.

2.5.1.2 Dissolution of the Council

The Municipal Council shall be dismissed if a majority of the total number of its members support the same (Self-initiated Council Dissolution).

The Council shall be dismissed if
- it readopts the regulation that was previously annulled or abolished by the decision of the Constitutional Court of the Republic of Macedonia;
- it adopts a decision that endangers the sovereignty and territorial integrity of the Republic of Macedonia;
- it does not hold a session during a period longer than 6 months;
- it does not adopt the Budget and the annual balance sheet by 31 March of the current year.

Upon the occurrence of one of the above-mentioned conditions, the Mayor shall be obliged to immediately inform the Ministry of Local Self-Government.

2.5.1.3 Internal Organization of the Council

Commissions are mainly established to cover municipal competences. They can be either standing or ad hoc bodies. The Statute regulates their number and responsibilities.

The Council elects the commission members. Some of them are councillors, others are experts in the fields of commission activities.

In the municipality, in which more than 20% of the total number of the municipal residents, determined during the last census, are members of a certain community, an Inter-Community Relations Committee shall be established. This Committee shall be composed of an equal number of representatives of each community represented in the municipality. The Committee shall review issues that refer to the relations among the communities represented in the municipality, and shall give opinions and propose ways to resolve issues. The Municipal Council shall be obliged to review the opinions and proposals given.
2.5.2. Mayor

The Mayor is the executive body of a municipality.

The nomination procedure and legal conditions for Mayor are identical to those set for councillors.

The Mayor is elected according to the majority electoral model. He/she is elected by a majority vote of those who voted if at least one-third of the voters in the entire constituency took part in the elections in a particular municipality. If not, there will be a second round of the elections for the two candidates who obtained the most votes in the first round. The winner is the candidate who won a majority of the votes in the second round of elections.

2.5.2.1 Mayoral Competences

The mayor shall

- represent and act as an agent of the municipality;
- control the legality of the regulations of the council;
- publish the regulations of the council in the Official Journal of the municipality;
- ensure the enforcement of the council decisions;
- ensure the performance of the activities delegated to the municipality by law;
- initiate and propose adoption of regulations that fall within the council’s competence;
- propose the annual budget and the annual balance sheet to the budget of the municipality;
- execute the municipal budget;
- elect managers of public agencies, established by the municipality, on the basis of a public job announcement;
- regularly inform the council on the performance of his/her competences in accordance with the statute;
- resolve the administrative matters in accordance with law, statute or other regulations of the council;
- adopt a Personnel Manual for the municipal administration;
- manage the municipal administration;
- decide on hiring, rights, duties and responsibilities of the employees of the municipal administration, unless otherwise stipulated by law;
- ensure the regular and legal use, maintenance and protection of the municipal property in accordance with law and statute; and
- perform other activities determined by law and the statute.
The mayor may authorize a responsible official of the municipality to make decisions in administrative matters and to sign acts.

2.5.2.2 Performing the Functions of Mayor

The Mayor shall perform his/her functions in a professional manner. While performing the functions of the Mayor, he/she shall not perform any other professional activities. The Mayor shall not be held criminally liable or imprisoned for any opinions or views expressed before the council. The Mayor shall determine which council member shall replace him/her in the case of his/her inability or absence. The council chairperson shall not replace the Mayor.

2.5.2.3. Mayor’s Conflict of Interest

The Mayor shall not be appointed a member of the supervisory, administrative and control bodies of trade associations, public enterprises and public institutions. The Mayor shall not participate in the decision making process on issues in which he/she, his/her spouse, children or relative to the second level of the side relative line has financial or other personal interest.

2.5.2.4 Termination of the Mandate of the Mayor

The mandate of the Mayor shall terminate by the force of law
- if he/she resigns;
- if he/she dies;
- if he/she is convicted with an absolute decree for a criminal offence and sentenced to more than 6 months of imprisonment;
- in the case of an irrevocable resolution with which he/she is deprived of working ability;
- in the case of incompatibility with his/her function according to the Local Elections Act;
- in the case of unjustified absence longer than six months;
- in the case he/she ceases to be a resident of the municipality.

2.6 Municipal Administration

Municipal administration is organized for the performance of the activities that fall within the competence of the municipal bodies. It is organized in sectors and departments. Its organization, scope and the way of performing the tasks of the municipal administration shall be determined by the council upon the proposal of the Mayor.
The municipality may organize municipal inspection department for the purposes of carrying out inspection supervision of the performance of the activities that fall within its competence.

The municipal administration
- prepares acts for the Council and the Mayor;
- prepares the Council sessions as well as sessions of its standing and temporary committees;
- performs professional tasks for the Council and the Mayor;
- collects own revenues of the municipalities;
- does municipal accounting;
- monitors the situation in the areas under the municipal competence, analyses the situation, raises initiatives and gives proposals for problem solving;
- presents information on the activities of the municipality upon the request of the responsible bodies or in accordance with law;
- manages municipal documents and keeps them until they are destroyed or handed to the State Archive of the Republic of Macedonia; and
- performs other tasks determined by the Council and the Mayor.

The municipal administration employees, who perform professional, normative-legal, executive, administrative, supervisory tasks, and decide on administrative issues, have a status of public servants.

### 2.6.1 Appropriate and Equitable Representation of Ethnic Communities

Appropriate and equitable representation of the citizens belonging to all ethnic communities as well as professionalism and competence shall be observed in the hiring process in the municipal administration and public institutions established by the municipalities.

### 2.7 Direct Democracy

The citizens participate directly in decision making on issues of local relevance through citizen's initiatives, public meetings and referendums.

The citizens have the right to propose the Council to adopt an act in order to resolve certain issues under its authority. If the proposal is supported by at least 10% of the voters, it must be discussed by the Council within the term determined by the Statute of the local government unit, or within 90 days at the latest.

A public meeting of citizens can be called for the entire municipality or for a part of it. The meeting is called by the Mayor on his own initiative, or upon the request of at least 10% of the electorate in the municipality or the part of the municipality
it concerns. The public meeting of the citizens may adopt general guidelines regarding the work of the municipal organs by a majority of votes of the persons attending the meeting. The local bodies are obliged to take into consideration these guidelines by adopting acts or decisions within 90 days.

The Council of the local government unit may issue a notice of referendum on its own initiative concerning matters within its sphere of competence, or upon a request of 20% of the voters. The decision adopted on the referendum shall be binding for the Council.

2.8 Local Finance

Municipal property contains of land, facilities, money, and rights. The municipalities may dispose and manage their assets in the way determined by law. The Law on Financing the Local Authorities from 2004 reopened the process of fiscal decentralization. (Maksimovska-Veljanovski, 2007)

2.8.1 Municipal sources of revenues

Municipal property includes land, facilities, money, and rights. The municipalities may dispose and manage their assets in the way determined by law. The Local Authority Financing Act of 2004 reopened the process of fiscal decentralization (Maksimovska-Veljanovski, 2007).

2.8.1 Municipal Revenue Sources

Municipal revenue sources:

- Local taxes: property tax, inheritance and gift tax, real estate transaction tax; 100% of personal income tax for individual craftsmen. The local bodies themselves shall administer these taxes.
- Local fees: municipal utility fee; administrative fee. The local authorities are entitled to determine the amount of the fees as well as to collect them.
- Local charges: construction land arrangement charge, charges for urban and spatial plans, municipal service utilization charges. The local authorities administer the construction land charge as well as a charge for urban and spatial plans. Local service delivery is provided by utility companies, and consumers pay them directly for their services.
- Property revenues: property sale revenue, rent revenue, interest rate revenue. These revenues are determined and collected by the local authorities.
- Penalty revenues. These revenues are determined and collected by the local authorities for violation of municipal regulations.
• Donations (foreign and domestic) regulated by an agreement between the donor and the Mayor.
• Local voluntary contribution.
• Loans. Municipalities need authorization from the Government to take out loans.
• Subsidies from: Fund for economically underdeveloped areas; Fund for municipal utility activities and roads; Fund for water pipes and sewerage.
• Grants: purpose grants; non purpose grants; block grants for expenditure; grants for capital investments; grants for delegated competencies.

2.8.2 Shared revenues

• 3% of personal income tax;
• 3% of VAT;

At least 50% of VAT shall be distributed in accordance with the number of residents in a municipality and another criteria determined by the government bylaw.

2.8.3 Fiscal decentralization

In accordance with The Local Authority Financing Act, the fiscal decentralization shall be implemented in two stages, and the budget and fund transfers to municipalities shall accompany the transfer of competences. On 1st of January, 65 municipalities out of 124 or 85% of them have entered the second stage.

2.9 Control over the Functioning of Municipal Bodies

2.9.1 Types and Modes of Control

The control over the functioning of the municipal bodies in executing their competences includes supervision of legality and control of financial operations.

The control over the functioning of the municipal bodies with delegated functions under the competence of the public administration bodies includes supervision of legality and efficiency supervision.

In the cases determined by law, there shall be previous supervision. The municipal bodies shall be obliged to cooperate with supervision bodies.
2.9.2 Supervision Bodies

The legality supervision of the municipal regulations shall be carried out by the ministry responsible for the performance of functions related to local self-government.

In accordance with the State Audit Act, the State Audit Bureau shall perform audit of municipal financial operations.

The state administration body, whose competences are delegated to the municipality, shall perform supervision of the delegated competences.

2.10 Relationship between Municipalities and the Government of the Republic of Macedonia

2.10.1 Consultations with Municipalities

The municipalities shall be consulted on time and adequately in the procedure of planning and decision-making on issues referring to them. (Todorovski and others, 2004: 8) They will also be consulted on the public matters in the preparation of the spatial plan of the Republic, says the Local Self-Government Act. The laws on a relevant sphere shall determine the manner of the consultations.

2.10.2 Cooperation Agreements

For coordination during the planning, programming and implementation of the policies in particular spheres or in a group of spheres, the Government may sign agreements on cooperation with one or more municipalities in the spheres or sectors of mutual interest.

The Parliament of the Republic of Macedonia shall be informed about the agreements from paragraph 1 of this Article.

Regarding the Macedonian partitocracia model, the Government has often preferred party-based cooperation, signing agreements with those municipalities in which the mayors are from the ruling parties.

2.10.3 Cooperation

The Government shall cooperate with municipalities on the issues that are of their interest, such as:

- the laws applying to municipalities;
- the amount of general subsidy that shall be allocated to municipalities during the current calendar year;
sources of financing the competences.

2.11 Legal Protection of Local Self-Government

2.11.1 Protection of the Constitutional Position of Municipalities

The Council and the Mayor may launch an initiative before the Constitutional Court of the Republic of Macedonia to assess the constitutionality of laws, the constitutionality and legality of the general acts of ministries and other state administration bodies with which the constitutional position and the rights of the municipality, determined by the Constitution, are infringed.

2.11.2 Judicial Protection of Municipalities

The municipalities are guaranteed judicial protection before competent courts with regard to the acts and activities of the state administration bodies and the Government of the Republic of Macedonia that impede execution of competences of municipalities determined by the Constitution and law.

2.12 Official Languages in Municipalities

The Macedonian language with its Cyrillic alphabet shall be the official language in municipalities. Besides the Macedonian language and its Cyrillic alphabet, the language and the alphabet used by at least 20% of the inhabitants of the municipality shall be the official language in a municipality. The Council of the municipality shall decide on the use of the alphabets and the languages spoken by less than 20% of the inhabitants of the municipality.

3 Institutional Innovations

As early as 1999, the Government included decentralization into its agenda as a reform priority. This issue was given even greater emphasis with the adoption of the Ohrid Framework Agreement in 2001 and Amendments XVI and XVII to the 2002 Constitution. Decentralization is a key element of the Agreement and has a significant place in the three-year action plan that assures its implementation.

Decentralization is a strategic goal for Macedonia, and achieving this goal requires the commitment of both the central and the local authorities. It also requires the support and participation of all the citizens of Macedonia as well as the support and assistance of the international community, international programmes, organizations and institutions in the process of its implementation. A coordinated approach of the different development partners of Macedonia with regard to decentralization is of paramount importance.
Decentralization is intended to bring local government closer to citizens, to allow for more efficient local problem solving, a higher level of participation of citizens in the management of local affairs, enhanced transparency and reduced corruption in management.

In 2003, the Government adopted an Operational Decentralization Programme that defined the activities within the spheres of decentralization and transfer of competences from a state body to municipalities.

Management and coordination structure in the decentralization process is composed of:

- Working Group on Decentralization, chaired by the State Secretary of the Ministry for Local Self-Government, which is in charge of the formulation of proposals and initiatives related to the transfer of competences, as well as their management, adoption of laws determined by the programme and the working policy in the decentralization process;
- Coordination Body for decentralization, chaired by the Minister for Local Self-Government, which has the role to give guidelines, advice, frameworks within the decentralization process, to support the Working Group and the ministries involved;
- Deputy Prime Minister, responsible for decentralization, and the Minister for Local Self-Government are in charge of presenting previously agreed views to the Government.

The Government and the Association of Local Self-Government Units (ZELS) signed a Cooperation Agreement in 2003 within which they identified their relation to the coordination of activities relating to planning, programming and implementation of the policies for completion of the local self-government reform.

Training of the local administration and local officials to better execute the numerous competences and duties are of special importance to the decentralization process. Particularly necessary are training courses in areas such as strategic and development planning and financial management.

Municipalities also need help with organisational restructuring the local administration in order to be able to respond to the increased burden of duties.

Considering the strategic determination of Macedonia to become a member of the EU, it is going to face a strenuous period of complex reforms in all the areas of the political and economic systems.

The local self-government reform will take place in the coming period as one of the tools of the overall economic development and adaptation of the Macedonian legal system to the EU legislation.
3.1 Possible advantages and risks

In general, a comprehensive and well-designed local self-government should significantly improve community management. The increased competencies and strengthening of the political culture of the population should result in a more active participation of citizens in local processes. An increase in the professional level of the executive and administrative bodies along with improved communication with a civil society will have a positive impact on the quality of municipal management. Decentralized approaches to local development can be a sustainable way to preserve multiculturalism in an ethnically and culturally diverse country.

The outcome of the process depends on the level of public engagement, accountability of local leaders, transparency of procedures. In circumstances of weak and patriarchic political culture and wide and deep pauperization, decentralization could contribute to further concentration of power to smaller circles of unaccountable local leaders, economic or party oligarchies, or organized crime structures.

Under circumstances of decentralization, the gap between the local population and local Cesars could enlarge and lead to a broader discrepancy between personal and group interests vis-a-vis those of the broader constituency.

The majority ethnic population could become over represented in the administrative apparatus of the local self-government and the resources could be distributed not according to need but as a result of a group pressure. The management of public institution that is appointed by the mayor may also have an ethnic composition.

We have to combine knowledge and competence with equitable representation. Neglecting merit system of recruitment and applying spoils system based on ethnic and party criteria we ruin the backbone of good management and governance. Professionalism and transparent and inclusive decision making process e.g. participative local democracy can greatly discharge political tension.

Decentralization could create a new opportunities for a misuse of power. Of course, yet there are mechanisms for mitigating potential risks.

Well defined purposes, criteria and procedures for allocation of a portion of centrally collected assets, introduction of schemes for fiscal equalization that would equalize both inter and intra municipal differences, phased implementation of decentralization - partial devolution and delegation of competencies as a way to analyze the results of reforms and introduce corrective measures, introduction of
criteria for managers and professional staff, including emphasis on skills and experience rather than ethnic or party affiliation, respect for the democratic environment at the local level could minimize discriminatory threats in decentralization. The experiences of other countries show that there is no truly viable alternative to decentralization.

Notes

1 See the European Commission’s opinion of November 2006 on the country’s application for membership of the European Union.
2 Wider and deeper approach to relations between the Charter and Macedonian local self-government (see Siljanovska-Davkova, 2001).
3 In the Report on Local Democracy in the Republic of Macedonia, prepared by Congress of Local and Regional Authorities in 2007 those competencies are evaluated as “fairly broad powers”.
4 About objective criteria see Leemans, 1970: 105.

References