



Information on Albania's local authorities points of view pertaining to a new Law on the Organisation and Functioning of Local Government

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Introduction

This information was collected and processed during the "Round Tables of Local Authorities for a new Law on the Organisation and Functioning of Local government in Albania" with the aim of informing and raising the awareness of responsible institutions and stakeholders on the concerns and viewpoints of local government representatives in the context of the government's announcement to review the legislation on local government.

The Round Tables were supported by the project "Strengthening Local Government Structures and Cooperation of Local Elected Representatives in Albania 2012-2015", financed by the Swiss Agency for Development and Cooperation (SDC) and implemented by the Council of Europe. They were conducted in the framework of the project's Line of Action II "Building a Platform of Dialog for Local Government in Albania".

The meetings were organised jointly by the Albanian Association of Municipalities (AAM), the Association for Local Autonomy of Albania (ALAA), the Albanian Association of Regional Councils (AAR) and the Albanian Association of Communes (AAC). These meetings were attended by about 150 elected participants and local officers of municipalities, communes and regional councils of Albania. The meetings were held respectively on 20 March in Shkodra, 23 March in Fier, 25 March in Kamëz and 27 March in Elbasan.

The main issues discussed during these four meetings were grounded on preliminary discussions at the Preparatory Meeting held by the representatives of all four associations of local government, in Durrës, on 27 February 2015. During this meeting, the participants singled out the following issues for discussion during the regional meetings:

1. Water supply and sewage;
2. Waste management;
3. Urban planning and territory control;
4. Pre-school and pre-university education;
5. Organisation of administrative units;
6. Other issues of interest to local units.

Local representatives emphasize that the discussions on these issues during the four above-mentioned regional meetings are not exhaustive, because: 1. A deeper and more technical discussion about them is required, and 2. Other issues that were not the subject of these discussions are equally important and also require the attention of all parties.

Based on the Conclusive Meeting that was held in Tirana on 1 April 2015 the representatives of the local government associations agreed to convey the information below to the state institutions and relevant stakeholders who will be involved in the process of drafting the new organic law on local government. The representatives of the associations clearly expressed and **emphasized that they will give their official and more insightful opinions on the new draft law after it is published** by the Ministry on Local Issues.

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Discussions summary

1. General Considerations

The participants emphasized that:

- a. Decentralization remains a challenge in all its dimensions, including clear separation of functions, exercise of legal authority and sufficient resources for their financing.
- b. The functions of local government, in general, should be executed fully and exclusively.
- c. The organic law should clearly specify and separate the powers for shared functions between the local government (LG) and the central government (CG).
- d. The law should be reviewed in a consensual environment.
- e. The transparency and inclusion of local elected officials and experts is a precondition to a productive process and to drafting a qualitative law.
- f. Decentralisation cannot be successful without transparency, co-operation and consultations with the local elected officials and their associations. A council of representatives from both the Central and Local Government is necessary as an "official communication channel" to guide and monitor the decentralization process in Albania. Therefore, the proper modalities should be drafted as soon as possible in order to ensure the regular functioning of this consultative council.
- g. Albania's integration in the European Union cannot be achieved without a strong, modern and effective local government. European integration cannot be complete if the local government units are not included in all the stages of the integration process. Therefore, we suggest that local government associations are supported, as referred to in the Communication of European Commission COM(2013) 280¹.

¹ COM(2013) 280-Final COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS "Empowering Local Authorities in partner countries for enhanced governance and more effective development outcomes": "The EU should include the associations of local authorities in programming the national and local priorities, as well as in implementing its financing programs, especially those pertaining to decentralization. Moreover, EU should facilitate the establishing of partnerships between itself and the associations of local authorities in partner states"

2. Water Supply and Sewage

- a. This function should be exercised fully and exclusively at the local level. Operators should be established and directly subordinated to the municipality and the Mayor as its legal representative.
- b. In particular cases, depending on the organisation and the system, water production and transmission can be separated as a distinct activity that can be administered by the Central Government, or at regional level. In all cases, water distribution/supply within municipal jurisdictions, should remain as an exclusive function of municipalities.
- c. Capital investments in the sector of Water Supply-Sewage should be made in compliance with a well-projected strategy, which in terms of quality would ensure the installation of manageable and sustainable systems. The local government units should be included in the discussion on the distribution of capital investments, so that the developed infrastructure ensures financial sustainability and affordable costs for citizens.
- d. The management of the service remains an ongoing problem stemming from, but not limited to, the type of management selected, which is that of shareholding companies governed by the law on commercial companies. Because of the organisational arrangements of these companies, municipalities did not have any leading role in planning and managing the service, and in the manner the law was applied, so the authority of the mayors was bypassed.
- e. These companies, although with a business status, have created debts continuously, for which the local government units were made responsible unjustly. These debts must be settled before the management of the service is restructured in accordance with the new administrative division.
- f. The law must regulate the relationship between the mayor of the municipality and the councils, or the administrative boards of water utilities, regardless of the management type chosen. It has been observed very often that the members of the administrative councils have not been at the required level, both in terms of representation and capacity.
- g. At the conclusion of the territorial administrative reform, a case by case study should be conducted to evaluate the physical and financial conditions and the level of service provision throughout the country.
- h. The local government units should be able to decide on their own on the management instruments, thus able to exercise a full administrative authority. The issue of ownership distribution of assets or shares should be addressed in accordance with the new local government map.
- i. Besides the management form of a shareholder company, other types of management may be applied such as specific administrative structures of the municipality, public service enterprises, etc.
- j. Subsidies from the central government should be considered, in particular for the cases where the service has a high cost, due to the electricity costs involved in the case of water systems based on mechanical pumping.

- k. The sector should be supported with fiscal incentives. Currently the companies pay 20% VAT- the same as other businesses-which is calculated on the amount of water produced and not on the amount of water billed, which constitutes the amount of the service the companies actually sell. Fiscal policies should consider the possibility to apply a lower VAT level for this service, or the removal of this tax for a time period until the financial recovery of the sector.
- l. To see and assess the need for a special law for the water supply and sewage sector.
- m. Where the water production or sewage treatment plants serve more than one local government unit, the regional level or the central government may take over the respective mechanisms.
- n. The service fees should be specified and adopted beforehand by the municipality and, only after its approval at local level, they may be subjected to the approval by ERRU², although a part of local representatives believe that the final decision should rest with the municipality too.

3. Waste Management

- a. Participants at the regional meetings did not find any legal obstacles, in the existing law, for the municipalities to exercise this function exclusively.
- b. The solid waste management at landfills may be separated as an activity, or a special task to be administered at the regional level by the regional councils, or as a responsibility of the central government, because the high cost of transportation and treatment involved, whereas the collection and removal of waste should remain a function of municipalities.
- c. There is a huge difference between the service level in the city-municipality centres, or the new administrative units, and the rural areas. Equalizing the standard of service in urban and rural areas will be difficult and costly. In this sense, the central government should assist the local units to expand the service standard from the centre of the city to suburbs, within the new territorial configuration of the local government units.
- d. The waste treatment should be harmonized in the regional and national plans. For remote areas, due to the transportation costs, municipalities can construct local landfills, or the treatment can be centralized in more than one landfill for each region. The landfills should be financed by the government, because capital costs for initial investments are very high and beyond the financial capacities of municipalities.

² The National Water Regulatory Agency

4. Urban Planning and Territory Control

- a. Urban planning and territory control are not exercised as separate functions, as specified under law 8652. Consequently, the amendments of both laws, the organic one and the law on territory planning, should be in the focus of legal changes.
- b. After the new administrative division, municipalities shall be capable and should exercise this function exclusively, that is with full authority³, including the planning, the issuing of construction permits and the territory control. The definition of national, or sectoral zones of interest should be specified in specific laws. The central government should only check whether the planning and control are performed by local government in compliance with the national criteria.
- c. Local urban/territorial plans should be guaranteed a validity of at least 10 years, if a longer term is not possible.
- d. The right to decide and collect the tax on infrastructure applicable to new constructions should be returned under the authority of municipalities.
- e. Construction permits, after being issued based on the approved urban plan of the municipality should not be re-confirmed by the NTPA (National Territorial Planning Agency). The authority of this institution should not be equaled with the authority of the LGU, because the latter is elected by citizens and has a legal right to exercise an exclusive function thereupon.
- f. Territory control shall be difficult with the expansion of the municipality areas after elections. Municipalities should be supported with the necessary means and capacities to exercise this control.
- g. In the current situation, the right of local government units to issue permits has been blocked, although based on formally approved plans. Under the new organisation⁴ new urban/territorial plans will perhaps be required, even for those municipalities that already have their plans approved, despite considerable financial and human resources used to complete them. After the elections, these municipalities should prepare plans for the rest of the territory and, on the other hand, should exercise the right to develop and issue permits for the areas already covered with plans previously approved, through approval of the latter as partial urban/territorial plans.
- h. The Local Construction and Urban Inspectorate is out of its function determined by law. This situation should be addressed with clear legal interventions in order to clearly define the responsibility of the territory control and the inspection of constructions, thereby returning this institution in its normal legal frame.

³ Note: Under the Albanian organic law on local government, full authority means the exercise of four legal powers: regulatory, administrative, service and investment.

⁴ Note: Reference is made to the new territorial and administrative organization in 61 municipalities.

5. Administrative Organisation

- a. Standards for the administrative organisation of municipalities and administrative units based on normative acts would help the municipalities exert control over administrative costs.
- b. The government's intervention to reduce administrative expenses, or conditions such as limiting the use of municipal own revenues to finance administrative activity should be avoided by law.
- c. The structure of municipalities may include a Presidency or a Managing Board that may also include the administrators of the new administrative units in order to support the mayor of the municipality.
- d. The tasks of the administrator of the administrative unit may include:
 - Immovable property service
 - Civil Registry
 - Residence certificate (residential proof)
 - Maintenance of minor infrastructure
 - Conflict resolution
 - Maintenance of a database on the payment of duties (such as taxes and fees) for the citizens of administrative units
- e. The administrative structure at village level (chairmanship and elder of village) should remain the same as in the current law.

6. Pre-School and Pre-University Education

- a. Maintenance of schools, as a task of municipalities, is not supported financially by the line ministry through the state budget. All powers have already been completely transferred to the line ministry.
- b. Since the schools are local government properties, the municipalities should have their clear role, as well as the resources to execute the service authority, including maintenance as one of its constituting tasks.
- c. The municipality should have clear tasks or responsibilities within the administrative authority to regulate the relationships between the mayor and the school directors. Modalities should be specified to make the school directors accountable before the mayors in the framework of the latter's service authority, which includes all issues pertaining to the maintenance and functionality of school premises.
- d. Municipalities, after the new administrative division, can go further by also exercising the investment authority, which may also be specified as a function of the local government units.
- e. Curricula, other regulatory aspects and standards should remain under and be exercised by the central level.
- f. In light of the territorial administrative changes, the local elected officials require the revision of the future role of the Regional Directorates of Education.

7. Other Issues

7.1 Strengthening the role of the regional councils

- a. Resources and functions of regions are limited (participants referred to the European Union Recommendation no.349 and the OSCE Report, 2010). The current reform does not provide conclusive evidence on what will happen to the regions. Seemingly, the new law will keep the regions in the same position as administrative divisions and without clear functions.
- b. Local government in Albania should remain with two levels. 'Qarks' should be converted into regions of European standards with directly elected authorities.
- c. Establishment of regional councils should be adapted to the country's new administrative divisions, otherwise the current regional councils organisation with a small number of members will not be able to have a pluralistic composition and shall be dominated by a single political force.
- d. The powers of the regional council should focus on:
 - Regional planning
 - Regional roads, waste treatment, etc.
 - Vocational education, etc.
 - Management of water resources
 - Public transportation
 - Environment protection
 - Tourism development
- e. The regions should be strengthened and supported financially as an important factor for economic planning and development in Albania.
- f. A direct relationship of municipalities with the EU should be established in order to provide the municipalities with a direct access to EU funds.

7.2 Local government finances

- a. The execution of functions should be supported financially, in particular for those local government units with limited resources. So, equalisation is important. Areas with difficult physical territories require a differentiated treatment. Local government units with mine resources should get a part of the mineral rent.
- b. Local government units should have the authority to collect the taxes and fees that constitute the resources for their own income, as well as receive through unconditional transfers a part of the national taxes to ensure the stability. This policy shall help in reducing the informality and increase the income both at national and local levels.
- c. The total expenses of local government in Albania currently remain at around 2-2, 2% of the GDP, which is less than half of the Region's⁵ average. There

⁵ Note: Western Balkans Region.

should be programmed a gradual increase of the total local expenses in relation to the GDP, so that, within a time limit of no longer than five years, a level comparable to the countries of the Region is achieved. The unconditional transfer must be changed in order to support all those specific and shared functions which are currently not financed.

- d. The tax on property in urban areas should include the tax on the land plot and not only that on the building.
- e. The conditional grants should be revised and reduced in comparison to the unconditional grants and should be distributed in a politically unbiased manner.
- f. A law on local finances should be drafted as soon as possible, which must address the issue of determination of the fund for the unconditional transfers in order to avoid any unpredicted interventions by the central government.
- g. Any change applied to the local government finance systems should be in compliance with the provisions of the European Charter of Local Self Government and the standards of the Council of Europe, such as the Recommendations of the Committee of Ministers Rec (2004) 1 "On financial and budgetary management at local and regional level" and Rec (2005) 1 "On the financial resources of local and regional authorities".

7.3 Property management

- a. Efficient use of local properties is closely connected to the registration of properties at the Immovable Property Registry Offices therefore it is proposed that these offices are transferred under the responsibility of municipalities as a delegated function. This would help in speeding up the property registration process and in improving the service for citizens.
- b. Municipalities should be an actor of development and responsible for the definition and preparation of the maps of the value of the properties under their jurisdiction in order to give real value to properties they own. The municipalities should at least have the right to set the value level of such properties over a general norm/threshold determined by the law.

7.4 Primary health care service

- a. Health care centers are out of the local government control. This situation is accompanied with the deterioration of the service quality. LGUs should administer the health centers at least at the pre-2007 level.
- b. LGUs should have a role as part of the board of regional health care directorates where the health care centers' staff is appointed.
- c. Municipalities should exercise the service authority, which is important to the local health care centers, in the same way as required above for the schools.

7.5 The role of regional de-concentrated directorates

With the new configuration of municipalities, the role and functions of de-concentrated regional directorates should be reviewed.

7.6 Setting of standards

Standards should be drafted and set in all the functional fields of the local government activities.

7.7 Law and order

Police units that regulate traffic should be a responsibility of municipalities.