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DECENTRALIZATION OUR GOAL

The Center for Economic Analyses (CEA) is a think tank of young economists who share a common vision for the Republic of Macedonia as an emerging new European economy integrated in the regional and worldwide market.

The Mission of CEA is to continuously research economic development and economic policy in the Republic of Macedonia and to offer recommendations, suggestions and measures where it is deemed appropriate.

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From the editor

Dear readers,



You have just downloaded the second issue of the bulletin "Decentralization - Our Goal", the latest quarterly product launched by the Center for Economic Analysis (CEA). Unlike the first issue, which dealt with the quite controversial topic about the size of municipalities, the second enters into calmer waters as it is devoted to the typical responsibilities of local governments around the world.

This cross-country survey of transition economies worldwide has confirmed our expectations that there is no unique solution for deciding which level of government should be responsible for particular public services. The challenge for policy-makers is to identify the range of those public services, which are more efficiently provided by the sub-national governments. One of the criteria for how public services should be delivered is the "benefit area". For example, the benefit area for street lighting is clearly the local community, but for air traffic control the benefit area is the entire national territory.

Although the theory offers some guidelines and recommendations, in practice the drawing of demarcation lines between certain public services is a difficult task. As an illustration, governments in transition economies have adjusted their understanding of capital expenditures, as only a function of national governments. Their belief was guided by the capacity to finance large projects and the argument that only central government officials are qualified to make capital investment decisions. Recently, they have discovered the potential of sub-national government to foster local economic development and have thus welcomed initiatives for co-sharing responsibilities.

Certainly, there will be a lot of similar surprises in the future. We conclude that the key is identifying the needs of citizens and then identifying how best public services can be delivered to meet these needs; public services should be questioned and revised through mechanisms of accountability in order to meet the needs of citizens.

Finally, I express my deepest gratitude to the authors who have contributed articles to the second issue. We, at CEA, would be satisfied to know that we have thus improved the quality of public debate on issues of decentralization in Macedonia.

Best wishes,

Aleksandar Stojkov
President of CEA

Thanks to the World Learning's (USAID) small grant, that CEA won in a competitive bid, soon the web page: <http://www.lsg-data.org.mk> will be available for all those in need of data, information and indices related to the LSG. CEA is pioneer among the NGOs in hosting database with LSG data on the Internet and making it available to the larger public with no fee.

CEA expresses highest gratitude to OSCE for the support in publishing this newsletter.





DIVISION OF RESPONSIBILITY BETWEEN LEVELS OF POWER

Kenneth Davey

Paper presented at the Workshop "The Local Government Reform Process" in Europe and the CIS, June 15th-19th, 2003 - Zagreb, Croatia.

Variable Responsibilities

The division between central, local government and the private sector varies between European countries as described below.

Education

- In Britain, Denmark, Hungary, Norway, Poland, Sweden and the Ukraine, local government exercises full responsibility for both primary and secondary education, subject to national policies over the curriculum and standards. This local responsibility includes the employment and payment of teachers. The division of this responsibility between municipal and higher tiers varies; in some cases higher tiers take responsibility for secondary or specialised schools.
- In several countries such as Austria, Czech Republic, France and Germany, local government is responsible for the construction, equipment and upkeep of primary and secondary school buildings, but not for the employment or oversight of teachers.
- In some countries individual school boards may exercise substantial responsibility for budgets, buildings, the discretionary elements of the curricula and even the appointment of staff. Both local government and parents are normally represented. This may dilute local government control in countries like Britain where it otherwise has devolved authority, or increase it where the State retains the major share of responsibility.

Hospitals

- Comparisons of responsibility for medical services are very complex, because they involve both the ownership and management of medical units and their funding.
- In Britain and Scandinavian countries, and also in the Ukraine, public medical services are basically financed by taxes through national or local budgets. In Scandinavia medical services are usually a local government responsibility, hospitals belonging to the upper tier.
- In Britain they are a national government function, though exercised through a complex hierarchy of nominated district health authorities and quasi-autonomous trusts.
- In most other countries the operating costs of medical care are met from compulsory insurance

schemes; this permits some variety in the ownership and management of hospitals and other medical units. In several countries including Austria, Germany, Hungary, Netherlands and Poland, local governments provide either primary health care units or hospitals, or both, with varying degrees of financial responsibility for buildings and equipment. Hospitals would normally be run by large municipalities or upper tier governments. In France, hospitals are autonomous units, but the mayor presides over the management board. In Italy, medical services are run by special health districts, which are inter-municipal bodies.

Social benefits

- State regulated insurance schemes provide for certain entitlements in all countries including a basic retirement pension, some disability payments and unemployment pay (limited typically to one year). These fixed benefits are administered by local government in Scandinavian countries, but elsewhere by a national network of benefit offices. British, Czech and Hungarian local authorities administer housing benefits.
- Local governments are more widely involved in the provision of "safety net" benefits (i.e. payments, either regular or in emergencies) to people in poverty, such as the long-term unemployed, to old persons with no occupational pension, to single parents or to the disabled for whom legal entitlements are insufficient. Whilst all countries have this safety net, the degree of local government responsibility for it varies. In Austria, Belgium, France, Germany, Hungary, Italy, Netherlands and Portugal, the whole of the safety net is a local responsibility (higher tier in France and Germany). In some other cases local responsibility is restricted to emergency relief, while state assistance is negotiated.

Roads

Local governments in all countries except Portugal maintain local and regional roads. British local authorities also maintain national roads (though only as agents in the case of motorways).

Public utilities

In Britain water, sewerage, gas and electricity utilities have been privatized, although are still reg-

ulated by national legislation. In most other countries these remain local government responsibilities, although are usually franchised to companies which operate on a national or regional basis. The ownership of these companies varies widely between countries.

Fire protection

Within the EU this is a local government responsibility in Austria, Belgium, Britain, Denmark, Germany, Netherlands, Portugal, Spain and Sweden. It is a state function in Greece and Italy, and complex state/local arrangements operate in France. Practice varies considerably in CEE states.

Policing

Municipal police forces responsible for traffic and by-law enforcement operate parallel to national police forces in Austria, Belgium, the Czech Republic, France, Germany, Hungary, Italy, Slovakia and Spain. In Britain, there is no national police force; county police forces are supervised by special boards representing local governments and the magistrates.

Social Housing

Within the EU, local governments have some degree of responsibility for the provision of social housing in Austria, Britain, Denmark, France, Germany, Italy, the Netherlands, Portugal, Spain, and Sweden. This is also the case in CEE countries. In France, Germany and the Scandinavian countries, this is normally undertaken by participation in, and subsidisation of, non-profit housing companies or associations - a practice which is also becoming common in Britain.

Regulatory Functions

Previous paragraphs have described local government responsibilities for town planning and development control, traffic management, policing, and benefit administration. In addition most local government systems have delegated responsibility for civil and electoral registration (though civil registration tends to be a church function in Scandinavia). In Britain, Denmark, Spain and Sweden local government is responsible for consumer protection. In most countries local government has some responsibility for environmental protection, though shared in varying degree with a specialized state agency.

RESPONSIBILITIES OF LOCAL AUTHORITIES IN DEVELOPED COUNTRIES

Source:

The Constitutional Status of Local Government in Other Countries (Central Research Unit, The Scottish Office), 1998.

UNITED STATES

Local authorities in the **USA** do not enjoy a 'power of general competence'. Most local governments have their powers prescribed in a charter of incorporation. Over half of the 50 US states recognise "home rule" charters which allow municipalities the opportunity to draft their own charters within state guidelines and to exercise broad discretionary authority. Most large cities in the US are governed under home rule charters. As in Australia, the detailed responsibilities of local government are set by the states, although again there are common features. Local government is usually responsible for personal and social services, schools, fire and police protection, housing and urban renewal, and public health and hospitals.

DENMARK

In **Denmark**, 275 local authorities (municipalities) have powers of general competence to undertake anything in the interest of their local inhabitants, provided that this action is not prohibited (e.g. by being allocated to another institution or to another level of government) and provided it does not restrict the liberty of citizens.


The principal functions of Danish local authorities include social welfare (pensions, maternity and child be-

nefits, sickness and unemployment benefits, rent subsidies), preventive health, comprehensive education (ages 7-16) for over 90% of children, nurseries and pre-schooling, day centres, care of the elderly, local planning and the enforcement, construction and maintenance of local roads and streets, fire services, markets, public libraries, parks, water supply, waste water treatment, refuse collection and disposal, administration and collection of income and land taxes.

They also have discretion to subsidise the arts or uneconomic public transport services, to run music, schools, sports grounds and swimming pools, and to give advances or guarantee loans for social housing associations. Although they may buy and service land for use by industry and commerce, and use taxes and other incentives to attract businesses, they may not themselves undertake activities "belonging to the private sector" - in particular, trading and enterprise. Municipal utilities are permitted provided that they are likely to be self-financing (but non profit-making), at least in the long term.

FRANCE

In **France** the 'code general' entrusts the Communes with certain mandatory functions (competences obliga-



toires). The principal competencies concern school buildings, fire, police, preventive health, land use planning, road maintenance, and some social welfare benefits. Otherwise, as noted above, all levels of local government enjoy 'territorial competence' - first granted to the Communes in the Municipal Act of 1884. The major discretionary functions exercised by the communes relate to culture and tourism, social assistance, and aid to industry.

In practice, because of the very small size of the majority of communes (90% have fewer than 2,000 inhabitants) they have been obliged - often by fiscal pressure from the State - to join together in a multiplicity of joint organisations in order to preserve their local autonomy. About 900 of these joint organisations are vested with powers of taxation.

There are now nearly 15,000 single-purpose syndicates for such functions as schools; transport; water, electricity, and gas supply; flood control; and even funeral services. The 3,000 multi-purpose organisations include some very significant agencies, such as the *communautes urbaines* which now embrace eleven of the major conurbations, including Lille, Lyon, Strasbourg, and Bordeaux,.

GERMANY

In **Germany**, there are over 16,000 communes (the great majority of them in the former DDR and the two southern Lander - Bavaria and Baden-Wurtemberg). They all have powers of general competence to undertake anything in the interest of their local inhabitants, provided that this is not prohibited (e.g. by having been allocated to another level of government or to another agency) and provided it does not interfere with the liberty of the citizens.

The principal functions of local authorities (variously assigned, depending on the Land, to the county, the county-borough and/or the commune) include:

- **Social Housing** - generally through co-operatives or non profit-making companies owned by the Gemeinde (which usually provides and prepares the land);
- Local **passenger transport**, including buses, trams and air fields - also through jointly-owned, and subsidised, private law companies;
- **Cultural activities**, and libraries, museums and archives, recreation and sport, ice rinks, swimming pools, youth hostels, forest, jogging and rambling paths, and so on are all provided or subsidised by all levels of local authority;
- **Public utilities**: water, sewerage, drainage, abattoirs, waste collection and disposal, cemeteries and crematoria, electricity, district heating and gas services are all provided by Landkreise or larger Gemeinden - often through jointly owned private law companies.

No direct investment in private sector enterprise is permitted, but promotional and supportive activities for **tourism**, and **development** of the local economy and employment are ubiquitous.

Regulatory responsibilities of local government include:

- (Landkreise) land registration and survey, nature protection, and veterinary services;
- (Gemeinden) inspection of schools, supervision of commerce and working conditions, environmental protection, and agricultural field controls.

Local authorities in Germany also provide savings and loans banks, local health insurance, the management of federal railway stations, post offices, and branch employment and customs offices (these are separately budgeted for).

THE NETHERLANDS

In the **Netherlands**, there are 625 local authorities (municipalities), for which everything that is not forbidden is permitted. The local government bodies have general competence, and enjoy guaranteed autonomy to do anything they choose in the general interest of their inhabitants, unless those powers have been specifically allocated to another agency or level of government.

Dutch municipalities provide numerous services both "autonomously" and as agents or "co-administrators" with central government. Examples of autonomous tasks are the care of roads and streets, cultural activities, and rubbish collection; examples of co-administration include primary and secondary education, housing, social care, planning and environmental protection. There is an increasing emphasis on the privatisation of service provision.

The municipalities' direct functions are numerous:

- Education at all levels below the university tier (and there are even a few municipal universities).
- Housing, town planning, and urban renewal.
- Cultural buildings and activities.
- Urban buses and light rail transport.
- Fire protection.
- Seaports and inland waterways.
- Refuse collection.
- Primary health care, and municipal hospitals.
- Social welfare.
- Markets.
- District heating schemes, gas supplies.
- Swimming pools and sporting facilities, parks and open spaces.

Some of the larger towns even have their own police forces, although the national police cover the rest of the country.

RESPONSIBILITIES OF MUNICIPALITIES IN SELECTED TRANSITION COUNTRIES

Resources of Local Government and Public Service Reform Initiative, Open Society Institute-Budapest

POLAND

The basic obligatory functions are: primary education, general health care, social services, communal infrastructure (water supply, waste disposal, sewerage system, electricity, etc), municipal housing, local roads, local public transportation, culture, recreation, public order, fire protection and physical planning. Central government may transfer some of its powers and functions by specific legislation or mutual agreement with the municipality, but must finance any such activities in full.

Delegated functions are connected with the registration of marriages, births, deaths, etc., provision of identity cards and driving licences, civil defence, environmental protection, sanitary control, etc.

SLOVENIA

The range of duties and functions performed by a municipality shall include such local matters as affect only the people of that municipality, as the municipality may independently determine. The state may, by statute, vest such duties and functions that fall within its jurisdiction in municipalities and wider self-governing local government bodies, subject to the prior consent of the municipalities and other bodies concerned, and to the provision of means for the performance of such duties and functions. The state shall supervise the proper and efficient performance by municipalities, and wider self-governing local government bodies, of all duties and functions vested in them by the state (Article 141).

The duly constituted state authorities shall supervise the lawful performance by local government bodies of their duties and functions (Article 144).

The Constitution of the Republic of Slovenia does not include other roles and responsibilities assigned.

BULGARIA

The Constitution addresses the tasks and responsibilities assigned to bodies of local self-governance in a most general way. By defining municipalities as juridical entities, the Constitution has two effects: it makes the municipalities subject to the laws of the country and at the same time grants them the capacity to have rights. The Constitution also mandates that the property rights of municipalities be exercised for the benefit of the local community.

Often, the proper performance of functions by the municipalities is a condition for the exercise of citizens' rights (issuing building permits, peddler trade licences, etc). Persons whose rights have been violated by the failure of local governments to act or by their illegal or improper action may challenge such acts through various

procedures created by the laws of the country (appeals before superior administrative agencies and courts). As a result, individual rights may be enforced and proper action by the local governments may be mandated.

Municipalities also have mandatory functions which do not affect the exercise of individual rights (such as maintenance of water-supply installations, regulation and safety of traffic, maintenance of public hygiene). In this case, the only remedy for their failure to act seems to be political pressure by the voters or the central government.

Other than that, the municipalities are free to act in every way and for every purpose, which is not prohibited by law or is not the exclusive function of other agencies.

CZECH REPUBLIC

Municipalities are authorized to provide a wide range of services for their citizens. All their activities are based on the Constitution and parliamentary acts. Local authorities fulfil two categories of duties: mandatory and optional. The mandatory duties of local government are represented by those that concern local affairs and by transferred competence for the execution of state public administration. In the execution of local government functions, only laws based on acts that are issued by the central authorities direct the municipality.

Municipalities as self-government authorities are especially responsible for the design and approval of longer-term programmes for their development (including control over their implementation), economic utilization of municipal property, creation of their budgets, founding of municipal enterprises and control of their activities, maintenance of public roads, public areas and public cemeteries, municipal waste management, primary education, basic health care and basic social service (in all spheres except the execution of state administration). On their territories municipalities are responsible for economic, social and cultural development and for the creation of a healthy environment - except for such activities, which are entrusted to other organs (under the control of the state administration) on the basis of special acts.

Municipal councils are entitled to solve all kinds of local affairs, which are not referred to any other administrative body by law.

One of the specific features of the Czech local government system is the fact that municipalities execute (to the extent which is provided by law) the state administration powers on the basis of so-called 'transferred competence'. When executing transferred com-



petence, municipalities are bound both by law and secondary legislation and by the government decisions and guidelines of central governance bodies. Three hundred and eighty-one municipalities, determined by the government, execute extended transferred competence within a given territory as set down by the district office. Some large municipalities with more than 100,000 inhabitants execute state administrative tasks belonging generally to the district offices.

The creation of a second tier of local government in the Czech Republic - the regional-level county local governments - has been prepared and discussed both by specialists and by political representatives.

HUNGARY

Local authorities have a wide responsibility to provide services. This means, in contrast with the *ultra vires* principle, that municipalities may undertake any functions not prohibited by law.

There are two main categories of tasks; mandatory and optional. The mandatory category of local government tasks comprises those concerning local affairs and delegated tasks carried out on behalf of the state public administration. Mandatory tasks may be allocated to the local governments only by parliamentary acts. The following services are mandatory tasks: supply of healthy drinking water, maintenance of public cemeteries, maintenance of public roads and public places, primary education, basic health care, and basic social services. These services must be provided by all of the municipalities.

With regard to optional tasks, as a general rule local governments are entitled, through their elected representative bodies or based on the decisions of local referendums, to undertake and solve all kinds of local affairs, which have not been referred to another administrative body by law.

MORE FUNCTIONS - MORE RIGHTS, BUT ALSO MORE OBLIGATIONS

Barbara Nöst (OSCE Public Administration Reform Unit)

The range of functions devolved to lower levels of government is mainly determined by the objective and philosophy underpinning government's decentralization efforts, thus a matter of judgment of national actors of the country in question. The government's 2004-2007 Implementation and Action Plan for Decentralization identifies local democracy, stability, effective public services and economic development as its primary objectives. These objectives are in turn reflected in the range of functions and in the decision-making powers devolved to local governments in the coming years. With the gradual transfer of competences to local governments in 2005, municipalities will perform a series

of new functions ranging from protective and welfare to purely developmental functions. The broadening of functions subsequently increases the power of local government decision-making bodies.

The year 2005 is therefore crucial for the country's decentralization process. Local governments, in particular, will have to undergo a challenging period, as they will be tasked to deliver public services to the citizens in a transparent, equitable and efficient manner. Successful decentralization will thus not only depend on the local government design, but also on the capacity and ability of local government officials to make decentralization work for the improvement of public services.

RESPONSIBILITIES OF THE MUNICIPALITY

Interview with **Ms. Vukica Saveska**, Ministry of Finance

Ms. Saveska, in what ways are the responsibilities of the units of local self-government regulated by law in the Republic of Macedonia?

- The municipality, as an autonomous unit in the frame of the law, settles and performs matters of public in-

terest at the local level. The Law for Local Self-Government regulates, along with certain other laws, which competencies are the responsibility of the municipality; these competencies cannot be restricted or reduced unless determined by statute. The sources of financing for the competencies are determined by other laws.

The wide range of municipal responsibilities are listed in the provisions of Article 22 from the Law for Local Self-Government, and include: urban planning and space arrangement; environmental and nature protection; local economic development; communal activities; cultural development, in accordance with the national program for culture; sports and recreation; social care and child protection; foundation of education, financing and managing of primary and secondary school in cooperation with the central government; organization of transport and food supplement for students and housing in student's homes; health care - managing the system of public health organizations and primary health care; undertaking measures for protection and rescue of citizens and material goods in case of destruction in war, nature disasters and other accidents; fire protection that is provided by the local fire units; and, supervision over activities that come from the municipality's responsibilities and other matters determined by law.

The municipality can establish public services for performing its responsibilities, according the law, or it can also delegate certain public matters that are of local concern to other legal entities, companies or private persons. In the case of delegating the performance of certain responsibilities, the municipality is the subsidiary responsible for the realization of the transferred responsibilities.

Transfer of competencies from the central government to the local government:

1. Ministry of Culture (libraries, monuments and memorials, museums, arts centres);
2. Ministry of Education (Primary and high schools, student standards);
3. Ministry of Transport and Communication (street names, public roads, construction, water supply and waste water treatment, management of road traffic, spatial and urban planning);
4. Ministry of Economy (catering, tourism, crafts and trade);
5. Ministry of Health (primary health care, protection against contagious diseases);
6. Ministry of Finance (financing of municipalities, communal fees, administrative taxes, property taxes);
7. Ministry of Labour and Social Policy (welfare, protection of children);
8. Ministry of Environment and Urban Planning (protection of environment, protection of nature, waste management, water management, air quality, spatial and urban planning);
9. Ministry of Interior (firefighting).

The normative conditions for the transfer of competencies to local level are laid down with the Constitution and the Law on Local Self-government. The following laws have been adopted so far:

Culture:

- Law on culture,
- Law on museums,
- Law on monuments and commemoration plaques,
- Law on libraries,

Sport:

- Law on sport,

Defence:

- Law on defence,
- Law on protection and rescue,

Education and science:

- Law on primary education,
- Law on secondary education,

Urban and rural planning:

- Law on naming the streets, squares and other infrastructure,
- Law on public roads,
- Law on supply of drinking water and discharging of waste waters,
- Law on road transportation,

Local economic development:

- Law on catering activity,
- Law on tourism activity,
- Law on handicraft activity,
- Law on trade,

Healthcare:

- Law on healthcare,
- Law on protection of population against contagious diseases,

Local financing:

- Law on financing of local self-government units,
- Law on communal fees,
- Law on administrative fees,
- Law on property taxes,

Social welfare and child protection:

- Law on social welfare,
- Law on child protection,

Environmental protection:

- Law on protection of nature,
- Law on waste management,
- Law on air quality,

Firefighting:

- Law on firefighting,

For the purpose of completing the system of local self-government, the following laws were adopted as well:

- Law on territorial organization of the local self-government,
- Law on the City of Skopje,
- Law on local elections.