



The Establishment and the Development of the Local Governance in Albania; The Process of Decentralization.

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Abstract: Due to the regime of the communist party, which for a long time ruled every level of government, the economy and limited civil liberties, the decentralization process in Albania started late. A very long process with constant legal reforms and changes occurred for the creation of local government units, with autonomy and separate competencies from the central government. Many challenges and obstacles have delayed the process, mostly those of a political and fiscal character. This paper focuses on the meaning of the process of decentralization and the historical progress of this important democratic step, to a better governance, better social services, and a step that takes Albania closer to the European Union integration.

Keywords: decentralization; local government; administrative reform; central power; local power; autonomy; Republic of Albania

1. Introduction

In the Constitution of the Republic of Albania, approved after a referendum in 1998, it is said that Albania is a unitary and indivisible state.² Also in its general principles it is expressly written that: “*Local Governance in the Republic of Albania is established based on the principle of decentralization of power is exercised according to the principle local self-governance*”³.

Article 3 of the European Charter of Local Self-Government also includes the meaning of local self-governance:

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² Constitution of the Republic of Albania, article 1.

³ Constitution of the Republic of Albania, article 13.

Article 3 – Concept of local self-government

1. Local autonomy means the right and effective ability of local communities to regulate and direct, within the law and under their responsibility and in the interests of their local populations, a good part of public affairs.¹

2. This right shall be exercised by councils or assemblies composed of members that are appointed by free and direct, equal, universal and secret elections and which may have executive organs responsible to them. This provision shall not prevent citizens from gathering in assemblies, referendums or any other form of their direct and democratic participation where permitted by law²

Decentralization meaning.

Decentralization is a process where the competencies/authority and the responsibility for different functions gets transferred from the central government to the local government units (Dobjani, 2016, p. 311). Academics claim that decentralized policy regulations enhance governmental transparency and strengthens its efficiency. Local decentralization gives governments the chance to reform and re-create, rather than to just adopt a common policy (Plaček, Ochrana, Půček & Nemeč, 2020, p. 4). Local governance and decentralisation are deeply political processes. Restructuring the authority is what decentralization aims to do. What is achieved by this restructuring is a system of co-responsibility and a counterbalance of powers between institutions of governance at the central and local level.³ They touch upon the foundations of a society but also on political aspects. It relates to the distribution of power and control of resources/services/revenues and are at the center⁴ of the accountability system and are essential for the delivery of the services for the local community. For the longest time, decentralization has been promoted as a tool that ensures that services meet the local needs and are adjusted according to the local preferences, as a more democratic form of governance, than being imposed by the central government (Bartlett, Malekovic & Monastiriotis, 2013, p. 9). Decentralization is supported by the principle of subsidiarity, according to which the exercise of public responsibilities should belong to the authorities that are the closest to the citizens

¹ European Charter of Local Self-Government, Strasbourg, 1985, article 3.

² European Charter of Local Self-Government, Strasbourg, 1985, article 3.

³ European Commission, "Supporting decentralization and Local Governance in third countries", 2007, Brussel, p. 14.

⁴ European Commission, "Supporting Decentralisation and Local Governance in Third Countries", Tools and Methods Series, Document no.2, 2006, p.4

(Work, 2002). The general purpose of the principle of subsidiarity is to guarantee a greater level of autonomy of the local units or even to reduce the control of the central government over the activity of these units.¹ In its most simple definition, decentralization is a transfer of resources and administrative, financial and political powers to the regional level or at the local level. The process of decentralization is an important aspect of local democracy and of the local development and reformation because it involves an overall effort to increase the powers and resources of the local government (Bartlett, Malekovic & Monastiriotis, 2013). Decentralization promotes local economic progress, decreases ethnic divisions and tensions over the distribution of public services and goods and increases allocative efficiency in consumption (Bartlett, Malekovic & Monastiriotis, 2013). Decentralization increases the opportunities for citizens to get involved in public affairs. And all these local active rights, enforced by the decentralization process in the local units, are used as a counterweight against all forms of control and claim of the central government (De Tocqueville, 1961, p. 62).

Decentralization can be limited on a state sphere, but it can also go beyond the state sphere when a transfer of power to semi-public organizations or even to civil society bodies.² Decentralisation is key to good governance and the democratization of political, social, and economic life, particularly in countries with a long history of totalitarianism, such as, in this case, the communist regime of Albania.

From the perspective of national/state sphere, decentralization refers to the process of redistributing authority and responsibility for certain functions from central governments to autonomous local government units (Bartlett, Kmezić & Đulić, 2018). A municipality is defined as a self-governing local unit and the guarantor of local self governance. For decentralization to be effective, for each transfer of responsibility, it's necessary to transmit fiscal powers and institutional procedures that ensure that implementation is carried out by the local units. All these bring control over sufficient resources to act, apply and implement services at the local level without the intervention of central levels of government (Bahl & Linn, 1992).

¹ Fact Sheets on the European Union - 2022, p.2 Link: https://www.europarl.europa.eu/ftu/pdf/en/FTU_1.2.2.pdf

² Food And Agriculture Organization Of The United Nations ,“*Understand, Analyze And Manage A Decentralization Process*”, Rome, 2006, p. 14. link: <https://www.fao.org/3/a0876e/a0876e01.pdf>

Types of Local Decentralization

Decentralization has three major dimensions which are political, fiscal and administrative. Each of these three dimensions of decentralization have different characteristics, individual policy implications and conditions for them to be successful (Bartlett, Malekovic, & Monastiriotis, 2013).

Administrative decentralization – the transfer of competences from the central to the local level. So, administrative decentralization means the partial or full transfer from central government to local government, of competences for planning, financing and also managing certain public services that effect the specific local unit and its community (Bartlett, Malekovic, & Monastiriotis, 2013).

Political decentralization-This type involves the transfer of political authorities to the local level (Bartlett, Malekovic, & Monastiriotis, 2013).

Fiscal decentralization-this type of decentralization increases the fiscal resources of local governments without allowing the subnational government officials to continue favoring and answering to the central government (O'Neill, 2005, p. 218). Fiscal decentralization should ensure a real transfer of powers and responsibilities over the financial resources of the local units and its assets (Bartlett, Malekovic, & Monastiriotis, 2013).

Situation in Albania

Local governance in Albania has undertaken several local reforms over the years. The decentralization process in Albania has progressed at a slow pace and is expanding in all dimensions: fiscal, administrative, political, and fiscal, lately. This process has finalized the progressive transfer of administrative, political and fiscal authority from central to local governments (Toska, (Gjika), & Anila, 2019).

Changes, reforms and the decentralization of power the last few years

During communism in Albania (1940-1990) state government functioned and was dominantly concentrated only at the central level. The legal and constitutional framework considered the local government as “local bodies of government” rather than “local government bodies” and they were included as part of the central regime. This means that in those years local government was just deconcentration of the central, executive functions, whereas local decentralization and self governance were extremely weak (Hoxha & Gurraj, 2001, p. 195).

The real process of decentralization in Albania began **in the early 1990s**, when local governments were for the first time, democratically elected.¹ Throughout the 1990s, Albania's transition from a country that was isolated from others from the communist regime to a democratic society and market economy, has been through multiple political, economic and regional crises (Brahimi, Baholli, Haldeda & Dika, 2013, p. 524). The constitutional articles of 1991 established two levels of local government, which were: municipalities/communes and districts (Shehu, 2006, p. 6). Even though we cannot yet talk about political, economic and administrative autonomy of these units, the reforms of 1992, laid the foundation for democratic and independent local authorities, which from this point and on started to have more responsibilities and powers.² From the year 1991 to the year 1998, central reforms dominated more and were a necessity, like the establishment of the basic structures of a democratic system, and the necessary structures of a market economy (Brahimi, Baholli, Haldeda & Dika, 2013, p. 524). During 1992–1994, the aim of the decentralization reforms was to establish democratically elected local self-governments and define their economic, political and administrative responsibilities (Bartlett, Kmezić & Đulić, 2018). In August 1992, the first local government bodies were established.³ From 1992 and on, Albania had 314 communes, 44 municipalities and 36 districts (Bianku, 2016, p. 31). During these years, political decentralization prevailed over fiscal decentralisation and economic reforms. The Constitution, that entered in force in 1998, now sanctioned three levels of governance in Albania: national/central, regional level (qark) and local level (municipalities and communes). At this stage of local reforms, fiscal and economic decentralization were at a disadvantage compared to the political one to which a special importance was being paid.⁴

The period from 1999 to the year 2003 marked the start of the second phase of local decentralization. Decentralization reform had progressed steadily over these years, based on the new Constitution (1998), the European Charter of Local Self-Government (ratified in November 1999) and the National Decentralization Strategy. In the year 1999, based on a comprehensive participatory approach, and

¹ Ministry Of Local Affairs, "Administrative-Territorial reform, Analysis of the situation of local government in Albania", Tirana, 2014, p. 5.

² Ministry Of Local Affairs, "Administrative-Territorial reform, Analysis of the situation of local government in Albania", Tirana, 2014, p. 5.

³ Association of Albanian Municipalities, "Local Government in Albania", Tirana, 2019, fq. 20.

⁴ Association of Albanian Municipalities, "Local Government in Albania", Tirana, 2019, fq. 20.

with the support from USAID,¹ the national decentralization strategy was prepared. The National Decentralization Committee, was composed of members of the Government and representatives of local governments. This Committee was the political body that took the lead in the preparation of the strategy of decentralization. A long process of consultation began around the country, whose aim was to discuss the local draft-strategy and achieve a consensus over it. Even the international community was fully supportive and engaged in every phase of this process. The National Decentralization Strategy was adopted officially on 29 December of the year 1999, by the Council of Ministers.² The most important achievement during these years, was the adoption and implementation of Law no. 8652, 31.07. 2000 “On the Organization and Functioning of Local Government”, which came into force right after the ratification of the European Charter for Local Self-Government (1999) and the adoption of a the new Constitution of the Republic of Albania in 1998 and it was also created in accordance to these two instruments. Law no. 8652,31.07.2000, “On the Organization and Functioning of local governments”, sanctioned the rights, obligations, competencies and services of local government units.³ The law defines which are the local responsibilities of the communes and municipalities, and the regions. It also establishes the functions of the local units and their property rights and also confirms the local fiscal authorities.⁴ According to Law no. 8652, the importance of regions consisted in their role in designing and coordinating the development policies and strategies at the regional level; the coordination between central and local government levels; their functions in providing services that were delegated to them by the central government and region’s composing local units.⁵ The territorial and administrative

¹ Albania Local Government Assistance and Decentralization Project, Washington: The Urban Institute, January 2002.

² Albania Local Government Assistance and Decentralization Project, Washington: The Urban Institute, January 2002, p. 3.

³ Association of Albanian Municipalities, „*Status Report On Local Government In Albania*”, Tirana, 2019, p. 21.

⁴ AER (Assembly of European Regions), “*Regionalisation in Albania: a must for EU Accession*”, 2017. Link: <https://aer.eu/regionalisation-albania-must-eu-accession/#:~:text=Albania's%20history%20of%20decentralisation,creation%20of%20local%20government%20units>.

⁵ Law no. 8652, 31.07. 2000 "On the Organization and Functioning of Local Government", article 13: “1. The region's own functions are to build and implement regional policies and their harmonization with state policies at the regional level, as well as any other function provided by law.

2. The region exercises all the functions delegated to it by one or more communes and municipalities within its territory, under an agreement achieved between the parties.

3. The region performs and exercises the competencies delegated by the central government, according to the principles provided in article 12 of this law.”

divisions were reviewed and changed to create 385 local units out of which 373 first-tier local units (from which 308 communes and 65 municipalities) and 12 regions that replaced 36 districts of the second-tier of local governance units. Also, a new law on local taxes was introduced, in accordance with the new Constitution of Albania and the European Charter of Local Self- Government. Its aim was to strengthen local governments' taxing powers and it also introduced a general intergovernmental transfer, gradually removing the direct and high level of control from the central government. These local reforms were undertaken at the same time as a larger public administration reform was happening, when the Law on Civil Servants came into force in 1999 (Bartlett, Kmezić & Đulić, 2018). The years 2001, 2002 and 2008 can be considered as the most successful years in the field of fiscal decentralization reforms and achievements. For the first time, on the Budget Law of 2001, the concept of unconditional transfers¹ for the local governments, was adopted.² This concept was developed even more on the package of the fiscal reform, that was passed by the Parliament in December 2002, which increased the authority of the local units in determining and regulating their own local incomes and their taxes. Locally generated incomes were further reinforced by giving these local units the authorization of setting a small local business tax and sharing the incomes of the taxes of the simplified profit, the vehicle registration and also the immovable property transaction one.³ The fiscal reform package also changed completely the way the local budget was composed, in favor of its own revenues. We should also mention that during this time, the local units consisted of 308 municipalities, 65 communes and lastly 12 districts (Hoxha & Gurraj, 2001, p. 198). At the end of 2003, the last reforms started. That was the administrative and territorial reform, that reduced 373 of the previous composition of local government units to only 61 municipalities. This reform with the last reduction revised and changed the whole administrative and territorial structure of Albania.⁴ In 2014, Administrative and territorial reorganization was seen as a necessity and essential requirement from the whole political factor in Albania. The problematics started from the inefficiency in the execution of social services at the local level

¹ Also we see the transfer of property from the state to the local governmental units, with the Law 8743, "Pwr pronat e paluajtshme te shtetit", article 9.

² The Ministry Of Internal Affairs, "Intersectoral Strategy of Decentralization, 2015-2020", Tirana, 2015.

³ Albania Local Government Assistance and Decentralization Project, Washington: The Urban Institute, January 2002, p. 3.

⁴ Institute of Research and Alternative Development (IDRA), UNDP in Albania dhe Mrs. Mithulina Chatterjee, "Nationwide Assessment of the Local Government Situation in Albania", Tirana, 2015, p. 28.

and the failure of achieving the objective of every administrative reform implemented from most of the local units. As the main reasons of these problems are listed: the fragmentation of the territory and the existence of very small units of the local government. This was regulated with Law no. 115/2014 “On Administrative and Territorial Division of Local Government Units in Albania”, that changed the administrative division in 12 regions and 61 municipalities. This law was supplemented by Council of Ministers Decision no. 510, June 2015.¹ The Congress of Local and Regional Authorities’ efforts as well as the cooperation and consultation between associations made it possible for the regional and local authorities to be consulted over these problems and to establish the National Decentralisation Strategy of 2015-2020 and the Organic Law on Local Self-Government that was adopted in December 2015.² This law regulates the organization and functioning of local units in the Republic of Albania, as well as defines the functions, powers, rights and duties of the relevant bodies.³ Law no. 139/2015 defines local autonomy as the right and ability of local self-government units, created according to the Constitution and this law and within its limitations, to regulate and administer an essential part of public affairs under their responsibility and in the interest of the community.⁴ Law no. 139/2015 also gives the bodies of local self-government units the right to exercise their powers through decisions, ordinances and orders (Morina, Mucaj, Nikaj & DHE Luz Balaj, 2021). It does not bring radical changes on the role of the mayor or the council, but it eliminates joint functions and also increases the range of municipal activities with some new functions. Other important changes brought by this Law no. 139/2015 are the concept of shared taxes; the establishment of the Consultative Council etc⁵. Also, the bodies of the local self-government units are recognized the right to undertake initiatives of local public interest in the territory of their jurisdiction for any issue that is not prohibited by law or that is not exclusively given by law to another state body (Morina, Mucaj, Nikaj & DHE Luz Balaj, 2021). During these years Albania has been supported by different international organization, with the objective of strengthening the local units and the process of decentralization, to increase local autonomy. As an example I will mention the project “*Strengthening*

¹ Association of Albanian Municipalities, “Local Government in Albania. Status Report”, 2019, p. 14.

² Council of Europe, Congress of Local and Regional Authorities, Albania Link: https://www.coe.int/en/web/congress/albania/-/asset_publisher/tkbUYO858az9/content/the-role-of-local-government-authorities-in-the-decentralisation-reform-process-in-albania?inheritRedirect=false

³ Law no. 139/2015, date 17.12.2015 “On Local Self-Government”, article 2.

⁴ Law no. 139/2015, date 17.12.2015 “On Local Self-Government”, article 2.

⁵ Association of Albanian Municipalities, “Local Government in Albania. Status Report”, 2019, p. 14.

local and regional government structures and co-operation of local elected representatives in Albania"¹ that was developed by Council of Europe.²

Conclusion

To conclude, Albania has been through a very rough process of continuous reformation, on central, administrative and specifically on local and regional level. Local government in Albania has been through a lot of ups and down. Local Governments have gone through many tests, territorial divisions, different distribution of powers between the central and local governments until finding the right balance between these two units, challenges over the fiscal decentralization, achieving the right to have their own financial resources, the right to of financial control over their incomes and many challenges in regulating these revenues. The decentralization process is a never-ending challenge, especially now, with Albania's aim to become a member of the European Union. EU's standards of democracy, state of law, division of power, the important principle of subsidiarity, and the importance this Union gives to regional and local levels, gives Albania a new challenge in strengthening the autonomy of the local units and in improving their overall organization and functioning.

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