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DECENTRALIZATION – A NECESSITY OR NEED

Abstract

The authors of the paper, from theoretical and normative aspect, give an comprehensive overview of the issues related to the process of state administration's decentralization in the Republic of Macedonia. The paper contains, in that sense, a comprehensive analysis of the theoretical standpoints and legal acts dealing with the respective matter. The authors have emphasized how important decentralization is, as a key priority within all the political reforms which should achieve few goals and objectives for the state administration (delegation of the state administration's competences which can be implemented more efficiently by the local bodies), the local administration (more efficient management of human resources, higher autonomy of the local self-government and its units, meaning functional, organizational and fiscal autonomy etc.), as well as for the citizens (authorities which are closely linked to them, active role of the citizens etc.). Aside from emphasizing its importance, the authors have elaborated its main inconsistencies and the obstacles to the decentralization process, which are primarily financial, institutional, technical, and human related ones. Thus, aiming to bring about better implementation of the overall decentralization process, they have provided recommendations and advices.

Key words: decentralization, local autonomy, local government, state government, citizen participation.

I. Introductory notes on decentralization (notion and types of decentralization)

90's from the previous century are marked by a wave of reforms concerning the public administration. The basic goal of these reforms was to substitute the traditional model of state administration, before all centralized and based on hierarchical principle, with a new model of a modernized and decentralized administration targeted, firstly, toward the citizens, a model based on the principle of transparency, responsibilities and efficiency.¹ The process of decentralization was just one segment of the implementation of those reforms whose basic goal is the approximation of the power to the citizens and the institutions which are more familiar with the priorities on a local level. This process was intensified after the adoption of the European charter for local Government, which was adopted 1985, and which has listed certain principles of decentralization-the principle of subsidiarity according to which jurisdictions should be carried out by the authorities which on the lowest local level.² The fact that the local Government represents constitutional and statutory guaranteed of the citizens

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¹ See also: Development of local Government in transition states of South-Eastern and central Europe, Foundation „Friedrich Ebert“, Skopje 2004.

² Article 4, European Charter of Local Self-Government, Council of Europe, Brussels, 1985.

and that the state should provide the appropriate conditions for its exercise, talks about the importance of the local Government and decentralization. The basic difference between the local Government and decentralization is shown through the fact that the local Government represents a political formation, unlike the administration which is an administrative formation. Thus, “Local self-government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. ... The basic powers and responsibilities of local authorities shall be prescribed by the constitution or by statute. However, this provision shall not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law. ... Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter, which is not excluded from their competence nor assigned to any other authority”.³ In regard to the decentralization we will state a few definitions: Decentralization represents the transfer of powers, responsibilities and resources from central to lower level, from the state administration to self-government on macro-level, but also changes in systems of management of organizational units producing public services on micro-level.⁴

“Public responsibilities shall generally be exercised, in preference, by those authorities, which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy”.⁵

These criteria must be balanced with other elements, such as spatial externalities, economies of scale, overall fiscal efficiency, regional equity, redistributive responsibilities of the government.⁶ If we take this theory of decentralization, listed in the European charter, as a starting point we could identify some of the basic principles of the process of decentralization, such as the principle of subsidiarity, principle of responsibility and principles of efficiency and efficiency during the exercise of public matters. The degree, that is, whether there is a single, two degree or a local Government of more degrees is connected to the number of territory units, that is, the levels of local Government that depend from an appropriate state administration. According to another definition: “. . . Decentralization, or decentralizing governance, refers to the restructuring or reorganization of authority so that there is a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capacities of sub-national levels. ... Decentralization could also be expected to contribute to key elements of good governance, such as increasing people's opportunities for participation in economic, social and political decisions; assisting in developing people's capacities; and enhancing government responsiveness, transparency and accountability.”⁷ It is also considered that decentralization “. . . Decentralization stimulates the search for program and policy innovation, firstly, because it is, per se, an innovative practice of governance. Secondly, because through its implementation, local governments are required to assume new and broader responsibilities in order to provide public services for all. The assumption of new responsibilities through decentralization often requires improved planning, budgeting and

³ Juraj Nemec, Decentralization reforms and their relations to local democracy and efficiency: CEE lessons, pg.4, taken from Allen and Tommasi, 2001, pp. 73-74.

⁴ Juraj Nemec, Decentralization reforms and their relations to local democracy and efficiency: CEE lessons, Administration, letnik V, 3/2007, pp. 7-8.

⁵ Article 4, European Charter of Local Self- Government, Council of Europe, Strasbourg, 15.X.1985

⁶ Juraj Nemec, Decentralization reforms and their relations to local democracy and efficiency: CEE lessons, Uprava, letnik V, 3/2007, p. 9.

⁷ UNDP, Decentralized Governance Programme: Strengthening Capacity for People -Centered Development, Management Development and Governance Division, Bureau for Development Policy, September 1997, p. 4, prezeno od Joint UNDP-Government of Germany Evaluation Working Paper of the UNDP Role in Decentralization and Local Governance October 1999, p. 2;

management techniques and practices; the adoption of new tools; and the development of improved human resources to operate the decentralized programmes.”⁸

Decentralization actually means the creation of functional and organizational independence of the local authorities. Organizational independence is reflected in such a way that the local authorities such as the mayor and the municipality council are chosen directly by the citizens on free and secret elections.⁹ Functional independence means the determination of its own scope of jurisdictions of the units of the local Government which the local authorities will on their own without the influence of the authorities of state administration, but in the frame of the limits of action established by law.

Additionally, “Decentralization is defined as a legal transmission of authorizations, that is, the power of making decisions in certain domains from the central over the locally chosen administrative authorities which are exercised independently with their own aids, during what only the surveillance of the legality of the acts is performed from the centre.”¹⁰ The authors of these definitions pull out the basic characteristics of decentralization which consist of separation of the matter of local interest in a special group, the existence of legal basis for putting them in the jurisdiction of local communities, financial autonomy of the local communities, the chosen organs of local power and the direct decision making, in matters of local interest, by the citizens.¹¹

All above stated definitions list the positive sides of the decentralization and the effect that it should accomplish. All of these arguments for the decentralization such as the approximation of power, flexibility, initiation, increased participation of the citizens, the relief of state administration, the efficiency and economy in the fulfillment of the services and the increased autonomy of the local authorities emerged as a reason, in almost every country, for the introduction of a decentralized system of administration. But, its implementation represents a constant and complex process which implicated a number of reforms. First of all, it was necessary to establish a new statutory frame that will regulate the implementation of decentralization over the state administration leading to certain institutional and structural reforms. The change in the legislative is the basic starting point for all of the three types of decentralization that the theory is familiar with. Those are, the territorial, financial, functional and the technical as a subtype of functional decentralization.

In context of the defining of the territorial decentralization as a way of forming autonomous administrative territorial structures, for the implementation of territorial decentralization, only one statutory text is needed, because it implies the legal establishing of the borders of acting of one unit of local Government (their creation, abolition and separation). In the Republic of Macedonia this is done by the Law on territorial organization of the units of local Government, adopted in 2004,¹² by which the creation of 84 municipalities the city of Skopje, as a special unit of local Government with a special status regulated by law, was foreseen. The local Government in the Republic of Macedonia is single, because it corresponds with the constitutional provision that the units of local Government are the municipalities, part of them have their headquarters in the cities and part in the villages. On the other hand, this means that disparity between the municipalities exists by which a part of them are urban, the others rural, and the law equally obliges them both.

⁸ United Nations (DDSMS and UNDP), Report of the United Nations Global Forum on Innovative Policies and Practices in Local Governance, Gothenburg, Sweden, 23-27 September 1996, ref St/Tcd/Ser.E/46, p.26, Joint UNDP-Government of Germany Evaluation Working Paper of the UNDP Role in Decentralization and Local Governance October 1999.

⁹ In certain countries there is another way of election of these authorities that is the council is chosen directly by the citizens and the member of the council chose the mayor.

¹⁰ N. Grizo, S. Gelevski, B. Davitkovski and A. Pavlovska - Daneva, Administrative law, Skopje, 2011, p.65.

¹¹ Ibid, p. 67.

¹² Law on territorial organization of the local units of local Government, Official Journal of the Republic of Macedonia, No. 55/2004.

This monotype model of local Government causes some additional difficulties, on its behalf, for the rural municipalities in regard to the implementation of the jurisdictions.

The fiscal decentralization is implemented by a special Law on the finance of the units of local Government by which the way of financing of the municipalities and sources of income are established.¹³ From the way of implementation of this type of decentralization depends the accomplishing of independence of the municipalities of the state administration, because if there is a financial dependence from the central power she could still influence the work of local power, especially when earmarks are given for the accomplishment of goals established by the state administration. Contrary, the financial autonomy of the municipalities makes them more independent and leaves the possibility that every unit of the local Government is capable of making its own decisions, establishing its priorities and the way of financing the same. In the Republic of Macedonia the importance of this type of decentralization is especially highlighted, because in the very Law on finance of the units of local Government it is confirmed that the process of decentralization will go through phases, and whether a particular municipality goes through the first phase depends on how much a municipality is capable of coping with it and provide a constant exercise of original jurisdictions.¹⁴ Here a question arise - the question whether the units can cover their needs with their own expenses? If the answer is no, then, a key element is the distributing of the funds of the central authority to be carried out on the basis of quantitatively established criteria, and not on a political basis, in contrary the principle of equality would be disturbed.

On the other hand, the functional decentralization a transmission of jurisdiction from a central to a local level is done, and this type of decentralization represents a clear distinguishing between the different levels of the power. In order not to create a situation of jurisdiction, which represents a basis for conflict of jurisdictions, where two or more organs would agree to hold the jurisdiction (positive conflict), or, they would refuse to decide on a certain question (negative conflict) a precise statutory determination of the jurisdiction between the units is needed. This transmission of jurisdictions from state administration to local authorities is done exclusively on the basis of a law, and the same could be taken away solely based on a law. Unlike the other types of decentralization, the functional decentralization is established principally with the Law on local Government,¹⁵ but her concrete determination and exercise is done by a concrete material law for every area separately. For instance, the Law on building, the Law on elementary and secondary education, the Law on social protection, so on. The once transmitted jurisdiction to the units of local Government cannot be taken away from them, which implies that the avocation of jurisdiction is not allowed. There is an exception to this rule only in the situation when during the implementation of surveillance an illegal exercise of the jurisdictions is established, and the local authorities did not act, or take any statutory measures in the legally prescribed deadline even after the indicated annotations. According to this situation, the state administration, or, the concrete intersectional ministry can decide to take the authorizations of the organ in a legally prescribed period.

II. The scope of jurisdictions of the units of local Government

¹³ In the Republic of Macedonia the fiscal decentralization is implemented by the Law on financing of the units of local Government, Official Journal of the Republic of Macedonia No. 61/4.

¹⁴ Law on financing the units of local Government, Official Journal of the Republic of Macedonia, No. 61/04; In the Republic of Macedonia the process of decentralization started on 1th of July 2005, after the normative phase previously ended.

¹⁵ In the Republic of Macedonia this is regulated with the article 22 from the Law on local Government, Official Journal of the Republic of Macedonia, No. 5/02.

Starting from the fact that the decentralization represents a statutory transmission of jurisdictions, powers and responsibilities from a central to a local level, this means that the units will have a scope of jurisdictions as big as it is determined by a material provision. The transmission of jurisdictions is done by a process of general clause or enumeration. According to the first system, the units of the local Government will have the jurisdiction to conduct all the jurisdictions that are from a local public interest, except for those that are prescribed to the state administration by law. This concept interacts with the principle of subsidiarity. The second model means a listing by name of the jurisdictions for whose implementation the local authorities have jurisdiction. According to Lauc, the principle of subsidiarity is comprised of three elements: a) no community can undertake jurisdictions for itself, that cannot be accomplished by the individual; b) that the smaller units cannot be deprived from the possibility and the funds for what they are able to accomplish by themselves; c) that the higher units keep the hierarchical structure and to help the smaller ones for what they are not capable.¹⁶

Concerning the issue of what jurisdictions should be decentralized, there is an analysis according to which, during the delegation, three characteristics should be taken into account: the outer influence on the execution of the service, collectability of the execution of matters of the service and the technical and managerial skills that are required for their execution. By analyzing these characteristics, Prud'home determined what matters are most suitable for decentralization. Those are, before all, local roads, cleaning of streets, distribution of water, collecting waste etc.¹⁷ Also, it is considered that performing any of these public services is a result of a complex set of functions from which every function is a subject to decentralization. A division of six of these functions is possible: 1. planning of investments (the most suitable executor is the state); 2. Choosing the investment (the most suitable executor a local unit); 3. The construction of an object (the most suitable executor is the private sector); 4. The use and regulation of an object (the most suitable executor is a local unit); 5. Maintenance of the object (most effectively done in the local) and 6. Supervision and control over the execution of service (most suitable executor is the state).¹⁸ During the transmission of jurisdiction, the question of determination and defining the local matters is important. Local matters represent questions of local interest, their execution extends to the territory of a certain local unit, and they serve to please the needs of the local citizenship and would be done most efficiently by the local authorities. These conditions should be cumulatively fulfilled. Unlike the local matters, the central matter cannot be decentralized, because their exercise is important for the whole territory. As an example we can state here the jurisdictions in regard to the foreign affairs, defense, keeping peace and order in society, customs etc. For a certain area, for example, education, health department, home affairs, economy and other, can have a local and wider public interest and they can be under the jurisdiction of the central and local authorities, but the law will specify which issues of the particular area would be under the jurisdiction of the state administration, and which would be decentralized. For instance, the state administration from the area of education has prerogatives to decide on the levels of education exist (elementary, secondary and higher), it establishes the conditions that should be fulfilled for the formation of a school, it prescribes the level of education of the teaching and other personnel of the schools, it decides on the curriculum and the syllabus, it determines the system of grading, it runs and funds the higher education in state property etc. The local authorities, on the other hand,

¹⁶ Lauc, 2000: 77. Local Government in the Republic of Croatia -de lege ferenda, Proceedings of the Faculty of Law in Zagreb 50 (1-2):65-87, taken from Gojko Bezhovan, Sinisha Zrinichak, Study centre of social work of the Faculty of Law, Varsity in Zagreb, Zagreb, Croatia. Possibility of decentralization in social politics and new roles of local power. Rev. sac. polit., god. 8, br. 3-4, str. 239-258, Zagreb 2001., p.243.

¹⁷ More precisely see: Dejan Vuchetic, Dejan Janacicvic, Decentralization as a starting point of the further development of Serbia, Reference book, Nis, 2007 pp. 24-25.

¹⁸ Ibid, p.25.

determine the place on which a school will be built, they assign headmasters of elementary and secondary schools, they control the work of the schools, etc.¹⁹ In the Republic of Macedonia, according to the Law on local Government, the jurisdictions of the units of local Government are divided into original and delegated. Determination by name of the original jurisdictions represents the basis for a functional decentralization. These jurisdictions are exercised independently by the local authorities, with their own sources of income, during which the central organs keep to themselves only the control of the legality of the acts and the work of the local authorities. Delegated jurisdictions, on the other hand, represent a type of central matters which can be more efficiently conducted by the local authorities and because of this the central power decides to delegate the same to these authorities, which gives them financial funds for their realization, but the authorizations in regard to control refer even above legality and purposefulness.

III. What were the expected effects from the process of decentralization and were the same reflected in any way?

With the introduction of a decentralized model of organization of power it was expected that the negative sides of the centralism would be overcome, such as not having a direct contact with the citizens, decreased efficacy in the providing of services, slower adoption and conduction of decisions and no initiative on the behalf of the local units.

In the countries that conduct the process of decentralization for a few decades, that is the developed countries, and the transition states a little less, the process of decentralization already gave its results, that is, the position that the providing of the services is done more efficiently and transparently is confirmed. The appearing of new methods of work, which characterize the acting of the local authorities as faster and more economical, has been noticed. Also, the flexibility toward the new changes, needs and requests of the citizens at the local authorities is, more and more, pointed out separately in the providing of communal services.

Consequently, the introduction of the centralized system of governance is a key priority in the political reforms which had a few goals in front of it:

- A) In regard to the state administration- decentralization means discharging from the surplus of competence which would be more promptly and more efficiently carried out by the local authorities, enabling the decisions from a local public interest to be adopted from the lowest level.

In regard to this aim we can conclude that it is accomplished normatively and legally, but in practice there are some deviations, especially with the underdeveloped municipalities, in which the state administration has the key role, because of their incapability to exercise the decentralized jurisdictions. Until the need for financial aid from the central authorities is felt with these units, we cannot talk about a true decentralization. Because of this, it is necessary, that not only the state, but the other municipalities as well, through mutual cooperation, nongovernmental organizations and the special financial support from the IPA trusts and the international programs of the European Union such as FARE and others to help to the strengthening of these municipalities, to improve their technical, personnel and institutional capacities in order to complete their jurisdictions.

- B) In regard to the local Government-the decentralization means autonomy of the units of local Government, local authorities to make a more efficient use of the public resources, providing local development, information and initiative in the solving of local issues.

¹⁹ National report for human development 2004, Macedonia, Decentralization for the human development, p.74.

With the experience so far the local authorities started with the accomplishing of their basic principles of decentralization, but, still, the same are not entirely completed. As one of the obstacles that can be listed is the emerging of the monopoly role of the local authorities in regard to the providing of the local services. Namely, the decentralization should not be taken literally as a transmission of jurisdictions to the local authorities. Because for the realization of an efficient and economic way of transmitted jurisdictions, it understands the same to be carried out by a subject which can do this in the fastest, and in the best quality manner, but with least spent funds. Because of this the local communities should use their right to transmit part of the decentralized jurisdictions to other subjects, which can be physical and legal persons, nongovernmental organizations, etc.

C) In regard to the citizens- the decentralization influences that the population gets a modern local administration in function of the citizens, the providing of public services of better quality, the power should be more close to the citizens, that is, approximation and orientation of the power to the citizens.

One of the definitions of local Government, actually, puts an emphasis on the influence of the citizens, and this definition is that the local Government represents a type of administration with the local authorities, in which the citizens bring important decisions for their own communities directly or through their elected representatives in the local bodies or other local authorities.²⁰

This issue is normatively regulated as well, that is, in almost every country the citizens are guaranteed with certain forms of direct participation such as citizen initiative, gathering of citizens and referendum on issues of local interest. It is foreseen, that even during the preparation of the provisions of the municipality, the council, that is the mayor can previously organize public debates, to convey a survey or ask for suggestions from the citizens.²¹

From the participation of the citizens depends the degree of the exercise of democracy on a local level and because of this strategies for the participation of the citizens should be made and a new approach in the making and implementation of the political programs should be provided, which is actually stated in a number of documents of the European Council.²²

Citizens can take direct participation in the process of development of the quality of local Government, their participation influences the development in a society and it represents a key factor in the control and evaluation of the quality of work of the local Government.²³ Because of this, it is necessary to debate openly on the issue if and in what way can the citizen influence the work of the local authorities? Where are the reasons for the lack of influence? On one side, we have the willingness of the citizen himself, the motive,

²⁰ National report for human development 2004, Macedonia, Decentralization for the human development, p.74.

²¹ Article 30, Law on local Government of the Republic of Macedonia, Official Journal of the Republic of Macedonia, No. 05/02; It happens, in practice that citizens, even though they are familiar with their rights, do not use them. The reasons for this condition can be found not only with the citizens, but with the institutions as well. It is not enough to guarantee the right to participation in the local authority by law, but concrete measures and mechanisms have to be provided for their proper functioning. For instance, according to surveys conducted in the Republic of Macedonia "the greatest percent (42,5%) of the citizens are still indifferent in regard to the quality of local services, which points out to the need for further work with the citizens (city organizations) in order to get them to know better the jurisdictions and the work of local Governments, to follow their work better, and, thus, contribute to their greater transparency, responsibility and accountability. The percent of the citizens who are "pleased" and "very pleased" from communal services in 2011 is 36,5% unlike 2010 when this number was 28, 55, that is, there is a 8% increase. In the same time, the number of citizens which are "much displeased" and "unpleased" in the two years together is 21%.

²² Gojko Bezovan, Sinisha Zriniscak, Study centre of social work of the Faculty of Law, Varsity in Zagreb, Zagreb, Croatia. Possibilities of decentralization in social politics and the new roles of local power. *Rev. sac. polit., god. 8*, No. 3-4, p. 239-258, Zagreb 2001., p.242.

²³ The strengthening of the responsibility and transparency on a local level in Monte Negro, A reference book for a general module.

resources and methods and on the other side we have the political institutions. In what way can the citizen become familiar with the work of the council which represents a representative authority in the municipality? Namely, for what questions and how do their elected representatives decide? In order to increase the quality of the services the role of the citizens should be increased as well. This can be done in a few ways: through co-managing (to call on the citizens to define certain priorities), co-devising (to enable the citizens to work with professionals, co-evaluation (tenants, patients and other users of services to be able to introduce new insights and ask a question on matters which are of their interest).’’²⁴

IV. Risks that local authorities are confronted with during the exercise of the process of decentralization

If we analyze the activities of the local authorities, we can conclude that there are obstacles regarding their institutional, financial, personnel and technical capacities. Accordantly, there should be new ways of how to improve them.

For instance, in regard to the institutional capacities, the direction of developing of technical decentralization should be taken as well as entrusting jurisdictions to the public institutions and public companies, and the local authorities should keep only the control over the exercise of the jurisdictions. Also, a greater involvement of the private sector should be enabled in the accomplishing of a part of the jurisdictions that can be more efficiently and economically accomplished on their behalf. In this way, the tendency of strengthening the bureaucracy in the local authorities would be decreased, and it would influence their competitiveness in such a way that market elements will be included in their work.

In relation to the public capacities it should be influenced on the decreasing of the differences on a local level. Maybe it is necessary to approve a system of equation which would be based on a different taxation and determination of different expenses. The Charter of European Local Self-Government provides its opinion to this in the following way: “The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures, which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility. Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them”. In Macedonia, according to the last Report on progress of the Republic of Macedonia, it was concluded that the administrative capacity on some issues should be strengthened, especially in regard to the questions of financial control, strategic planning, handling human resources and economy development. The State department for revision has reported many flaws in the Ministry of local Government in the implementation of the standards of financial control and rules of purchase as well as insufficient acting according to the previous recommendations.²⁵

The personnel capacities seem to have a strategic role in the quality of conducting the reforms of local Government. The officials are those who have the most direct contact with the citizens and which lead the administration procedures for the acknowledgment of an appropriate rule or obligation. They are responsible for the efficiency in the decision of the administrative cases, as well as for the speed of getting the service, whether the corruptive level will be decreased on a local level, etc. Because of this, the investment in the personnel potential should be continued in order to strengthen the potential competence and moral values of the officials, to improve their knowledge, expertise, views and motivation. A key

²⁴ Improvement of the quality of public services: placing the citizens in the centre of administrative action Elke Löffler, Executive director, Governance international, Budva, Crna Gora, 26-27, March 2009, SIGMA SUPPORT OF THE IMPROVEMENT OF THE LEADERSHIP AND MANAGING.

²⁵ Report on the improvement of the Republic of Macedonia for 2011, European Commission, Brussels, 12.10.2011.

role in the personnel politics has the employment of state and public officials, that is, whether their recruiting is based on merit or spoils system. The frequent use of temporary employments points out to the fact that even on a local level you can see the politics in this process. It is necessary to have an organizational structure that will encourage and strengthen the prevention of corruption, including trust of the employees with the management, effective trainings for the employees against corruptive behavior. Even the best law will have a bad influence if it is implemented in an unethically organized structure. That is why the awareness of the local officials, as well as the whole community, should be increased.²⁶

The role of the employees in the administration has a specific meaning, especially in building the trust of the citizens in the local power. Besides the fact that the legal text provides the implementation of training for state and public officials, this training is almost not used at all. In the Republic of Macedonia, at the moment, there is not a single specialized institution for the implementation even though there is a necessity for its establishing. This institution, as the scientists of the administrative law suggest, could primarily be organized as an Academy for training officials, which as a special public entity would contribute to the provision of a net of professional personnel for training with the necessary qualifications and experience, providing continuity, uniformity and flexibility in the trainings. This system would help to develop the system of career against the existing system of work positions.²⁷ The process of decentralization is not conducted equally and with the same results with monotype and multi-type units of local Government. Monotypes are characteristic by their same organizational structure, scope of jurisdictions and formal status. But still, they differ according to their size, number of citizens, degree of education, incomes, and economic development, as well as culture and ethic differences. All of this directly influences the quantity and quality in the implementation of the jurisdictions. These, we can say underdeveloped municipalities, will need additional help, especially financial on behalf of the state administration and the other municipalities until a situation is created in which they could take care on their own for the exercise of their jurisdictions. Because of this, mechanisms for the prevention of these differences in the provision of services between units of local Government should be found.

In order to overcome these flaws, it is necessary that the implementation of economical, technological, sociological and institutional reforms is conducted on a local level.²⁸

V. Subjects with authorizations to conduct control over the exercise of jurisdictions

The relations that can be established between the authorities of central and local power can be seen from two different aspects, that is, from the aspect of mutual cooperation and from the aspect of a superior and a subordinate authority in the case of implementing control. The surveillance which is conducted over the local communities is standardized with a number of statutory texts. First of all, during the solving of administrative cases the institutions are obliged to behave themselves according to the Law on general administrative procedure and material laws in which the rights and responsibilities are determined. Legal control is managed by the Law on local Government and material provisions while court protection on concrete acts with the Law on administrative disputes.

²⁶ The strengthening of the responsibility and transparency on a local level in Montenegro, A reference book for a general module.

²⁷ N. Grizo, S. Gelevski, B. Davitkovski, A. Pavlovska -Daneva, Administrative Law, Skopje, 2011, p. 310-311.

²⁸ See: Development of local Government in transition countries of Southeastern and Central Europe, Foundation Friedrich Ebert, Skopje, 2004, p.124.

The control which is implemented over the local authorities is different in regard to the object of control, the jurisdictions over which it is implemented, the subjects that implement it as well as the sanction at the end. The object of control can be the acts that are brought by local authorities which can be general or concrete acts of the administration, but the object of control can be the way of exercising the task and financial working. If the legality of a general act is being assessed the Constitutional court will have the jurisdiction (we think of a case in Macedonia). The legal control of the concrete administrative acts is provided by the directly higher authority of the state administration, usually the intersectoral ministry, which has the authorization to abolish the act if it confirms that the same act is illegal. The control over the working is done by special inspectorial services which have the authorizations to sentence appropriate administrative measures. The financial control is provided on behalf of the State department for revision and the Treasury department.²⁹

VI. Conclusions

The result of the decentralization should be a substantial change in the functioning of public services, improving the relationship between the private and the public sector and establishing a system of efficient surveillance. The Local Government, should include, in its work, the market mechanisms, she should be more flexible with the emerging political, social and economical changes and to improve the relationship of the citizens by finding mechanisms for their involvement in the exercise of local power. Namely, the aim of the decentralization is not the transmission of the monopoly of state administration to local level, in this way only the corrupted behavior of the officials would be enhanced. On the contrary, it should strive toward the transmission of authorizations in providing public services from the authorities of local Government to the private and nongovernmental sector. The transmission should be done in a way that the jurisdictions that can be transmitted would be determined previously, as well as those that will be kept by the local organs, standards for their implementations would be established, and of course the control authorizations over their implementation will be kept.

Does the system function in the way it is standardized? Or, on what does the realization of what has been predicted depends? Firstly, we would list the political and economical factors, as well as human resources. Secondly, of political willingness exists and appropriate institutions are established, if we go toward the implementation of plans and projects that support the economical development and if it is invested in the personnel that should conduct these jurisdictions, that is, to be professional, depoliticized and motivated then, the success is in sight and the effects will be felt.

It must be emphasized that in order to overcome the critiques that are made in relation to the employment is the choice of directors of public companies and the members of administrative Board to be done on the basis of open competition. This would enable that they are chosen based on the criteria of the merit system such as the merits, experiences and education and corruption would be decreased. The respect of the merit system has a special meaning to the employment of state and public officials, especially with temporary employments. The monotype form of local Government in which the Law on local Government equally applies to all the municipalities, rural and urban, causes a problem in the unequal development of the municipalities. This situation can be overcome with the introduction of a two stage local Government or with the continuation of the financial aid on behalf of the state administration for the underdeveloped units of local Government. The two solutions have their advantages and disadvantages. If we start with the introduction of the two degree Government then, we will have to face problems such as the increasing of expenses,

²⁹ More precisely for the Republic of Macedonia see: N. Grizo, S. Gelevski, B. Davitkovski, A. Pavlovska-Daneva, *Administrative Law*, p. 115-117.

new institutional reforms, increasing the distance between the power and authorities, which is especially not good for the smaller countries. The advantage is that a precise functional decentralization would be done, by which the lowest degree would be delegated only the jurisdictions which would please the basic needs of the citizens, such as the primary health protection, primary education, etc. The other jurisdictions would be delegated to the urban and more developed level of local power. The second alternative leads to the dependence of the unit of local Government, and in this case we cannot talk about a true decentralization.

The flaws in regard to human resources can be overcome with the implementation of programs for the training and education of the personnel by which their innovation, creativity, professionalism and depoliticizing character would be enhanced.

The participative culture of the citizens could be improved with the organizations of public debates on issues of local interest for which the municipality council should decide on. In order to increase the confidence of the citizens in the local institutions, the responsibility of the elected representatives should be increased. This means that the priority of the members of the council should be the responsibility toward the citizens that chose them for that function and not the responsibility to their political party.

In regard to the fiscal decentralization a step forward should be made toward the providing of a financial stability of the units of local Government, as well as increasing the percent of income from the republic budget that are entrusted to them. The responsibility of the local authorities should also be enhanced. This is especially emphasized, because, unlike the other political officials who bear political responsibility in front of the assembly and for whose working the public can be introduced, at a local level this is not the case. The mayor, now, has the authorizations for making decisions in concrete administrative matters, as well as assigning other official does not bear such form of political responsibility. Namely, he could be changed on the next elections if he loses the trust with the citizens. In this context, we would point out that a possible good solution, during the exercise of control over the local authorities, is to give the responsibility to certain nongovernmental organizations to have controlling authorizations on the way of exercising local jurisdictions and above all to the quality of the providing of services and the efficiency and effectiveness in the exercise of the tasks. The monitoring and evaluation should stay present to give a guarantee that the illegality and the non purposefulness will be discovered and stopped in time and the results that they will come to will contribute to the removal of the flaws in the exercise of the process of decentralization. Thus, the responsibility of the local authorities is the key indicator for the exercise of the democratic process of decentralization.

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