

# State of the art decentralization in Albania

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*This paper makes a snapshot of the process of decentralization by evaluating what has already been achieved, what is in process and what are the challenges laid ahead. This paper touches upon the main achievements and challenges and it is not an exhaustive material on all the complex issues that relate to decentralization. It is mainly focused on the progress of decentralization during the last couple of years and the potential reforms steps within this year (2005). A full analysis of the decentralization process would require much more space and time to accomplish.*

## **Introduction**

Starting from the year 2000 when the Decentralization Strategy was approved by the Government, Albania has made considerable progress in the process of decentralization. The implementation of the strategy has in fact passed the intensive phase of the basic laws that define the competencies and establish the relations between central government and local government. If we would consider the phase of these laws (basic) the first phase, the second phase is about absorbing the new competencies and creating the complementary legal and regulatory framework for implementation of these new competencies. This is the phase Albania is in now.

## **Decentralization milestones**

In general the following has been the most important decentralization reform steps in Albania:

- The approval of Decentralization Strategy in 2000
- Approval of the organic law “On organization and functioning of local government” (Nr. 8652, 2000)
- Law “On territorial- administrative division of local government units in Albania (Nr. 8653, 2000)
- Law on Prefects
- Legal package on Public Property and the Transfer to local governments (2001)
- Establishment of a formula for distribution of unconditional budget to local government
- Approval in 2002 of a fiscal package which broadened the base of local taxes by transforming some taxes and establishing some new ones (Local small Business tax, Simplified profit tax, Property tax) as well as establishment of Agricultural Land Tax.
- Three council of Ministers Decisions (Sept. 2003- January 2004) on “Decentralization policies for the service of water supply and sewers” Decentralization policies for the pre-university education system” and “Decentralization Policies for the health system”.
- Council of Ministers Decision on decentralization on social aid and social services (September 2004)

- **PUBLIC SERVICES AND COMPETENCIES OF THE LOCAL GOVERNMENT (PROGRESS AND PLANS)**

Based on the organic law for local government “On organization and functioning of local government”<sup>1</sup> , Local Public Services such as

- garbage collection and cleaning,
- construction and maintenance of local roads,
- sidewalks,
- public lights,
- parks and green spaces,
- cemetery,
- urban public transport,
- kindergartens,
- veterinary service,
- municipal police etc, are now **practically**<sup>2</sup> all functions of municipalities and communes?

- **Urban Public Transport**

With the amendments of the law 9096, dt. 3.7 2003 “For some changes on the law “On road transport”. The urban public transport is now a fully local function. This law has approved the competencies of the local units to license the transport operators.

- **Local Roads transfer**

Since 2003 **rural, communal and regional** roads are transferred to the administration of local government units. They are still not under the ownership though. The process of registration of roads is still on-going.

As for the **urban** roads, their inventory has not yet finished. This process is going slower than predicted and municipalities are not yet owners of their urban roads. The Ministry of Local Government has proposed that for year 2005 capital investments for urban roads to be distributed as unconditional transfer to local governments units.

- **Urban Planning and Urban Land Management**

Urban Planning Law, although it was improved with the amendments of the year 2003 it still has problems in specifically defining the responsibilities of the local government in urban planning and land management.. A new law on urban planning and urban land management would be required to resolve this problem once and for all. In fact this was a task that the Ministry of Local Government claimed it would accomplish by 2004 but it has not happened. The draft law apparently is ready but it has not yet passed the process of broad consultation with stakeholders (local governments, Construction companies, architects, etc. This process is supposed to happen during the beginning of 2005. The law is foreseen to be passed by the middle of this year

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<sup>1</sup> Law 8652, year 2000. The law defines the generic responsibilities of the local government for three categories of public functions: **Exclusive**, **Shared** and **Delegated** functions.

<sup>2</sup> See below about the issue of responsibilities being matched with the funds.

- **Water Enterprises**

This is one of the most important fields in the transfer of services from central to local government. This process has not been smooth though. End of 2002 a Council of Ministers Decision approved the document “On policies for decentralization of water and sewer service”. After the inventory and registration of water and sewers systems done, than the transfer of the enterprise started. Until now out of 360 water-sewer system, 136 systems have been transferred to the local government units<sup>3</sup>.

The process of transferring the water enterprises in all local government units is foreseen to finish within 2005. An important step during this year is also the Liberalization of Water tariffs, giving the local governments the authority to establish their own water tariffs.

- **Road traffic**

There is an important undertaking from Albanian Government to consider and potentially pass this year the competencies to the local government for the local traffic. Although the Ministry of Local Government claims that it will push the amendment for the “Road Traffic Code” within this year realistically the author of this paper does not think this will be possible.

- **Intergovernmental fiscal relations**

A new law on Local government financing is foreseen in order to regulate the fiscal relations between the central and local government. This piece is considered to be of crucial importance for the decentralization strategy to be successful<sup>4</sup>. In fact this law would establish the rules so the decentralized responsibilities (by law) can in fact match the resources. This is a problem that has been noticed all these years. While the responsibility is there the funds to exercise are not. So this law will take care of the Resource side (matching the responsibilities of the organic law). *Unlikely to happen within 2005*. The work on the draft law has not yet started.

- **Shared functions (Education and Health)**

On October 2004 Council of Ministers passed a Decision on “Decentralization policies for the pre-university education” which lays out the principles of the decentralization in this area. However the implementation of this plan remains to be seen and the year 2005 is very important to see this.

Council of Ministers also passed on September 2004 a Decision on Decentralization Policies for primary health care and public health protection. This decision should though be backed by a legal package where the responsibilities of local government in this area should be specified. There are issues that should be clarified related with the ownership of health centers, their maintenance, personnel issues, capital investment etc. Most of these issues are supposed to get an answer in the draft law “On health care system in Albania” which is being drafted by the Ministry of Health. This law should be passed within this year (2005).

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<sup>3</sup> According the Ministry of Local Government, until January 2005.

<sup>4</sup> Albania: Decentralization in transition, World Bank Report.

- **Forests and pastures**

There has been confusion (in the best case) on the process of transferring the ownership of forests and pasture to the local governments. The Directorate of Forests and Pastures in the Ministry of Agriculture and Food has in fact done nothing to implement the process of transferring the properties. One issue related with the transfer is that of the funds for maintenance and investments which should be also transferred to the local governments. Apparently here there are some interests in place so this process has not progressed during the last year. The fact that the overall process of inventory and registration of Public Property has not progressed as it should has hindered the process as well.

- **Transfer of Public Properties**

The process of transfer of public properties to local government has not finished yet. There are delays in the inventory and registration of these properties. The process for some municipalities may result costly. This fact has created a lot of problems in administering the public property. Once the process is finished local government can plan much better and administer more effectively these properties.

- **Social aid and social services**

During 2004 it was piloted a program of decentralizing social assistance distribution and tying it with community work. This program was piloted in 10 communes and municipalities. A new law “on social services and aid” has been drafted and is being discussed in the parliament. This law will pass within 2005.

- **PROBLEMATIC ISSUES**

- **Capacities to absorb the transfer of competencies**

While there are still issues to be resolved regarding the legal framework it should be said that the main core of the laws that define the framework of decentralization is already here. The decentralization it has entered into a phase of absorbing the laws that are in place rather than creating new ones. Local units sometimes lack the capacities to implement the competencies they now have. Most of the problems of capacities relate to the issues of budgeting, its design and monitoring, tax collection and planning, Strategic Planning for Local economic Development etc. Training is most necessary in these areas. During the 2004 a New Agency for Local Government Training was formed under the Association of Municipalities. However this Agency is still in the process of defining itself and preparing the curricula. There is also the issue of training costs. Who is going to bear it? Local Governments (who have almost no resources for training of their employees) or Central Government? Another problem related with capacities to implement is that of human resources for small municipalities and communes. Educated people are leaving these areas and migrating to bigger towns leaving the local units without professionals they need to carry out the job.

- **Further specification of the competencies**

Although the Organic Law has made quite a progress in defining the competencies/functions for the local government, still there is need for further

specification on these competencies and function. Especially the common functions (education, health, social assistance, public order, and environment protection) need further specifications on what is every layer of government responsible for. There has been some movement towards the so called “elite decentralization” especially for shared functions. This is a decentralization that those that have the capacities and expertise can get more competencies than those that don’t. During the last year Tirana piloted a program of investments in school system as part of a larger plan for decentralizing the pre-university education system. On October 2004 Council of Ministers passed a Decision on “Decentralization policies for the pre-university education” which lays out the principles of the decentralization in this area. However the implementation of this plan remains to be seen and the year 2005 is very important to see this.

○ **Competencies and functions of the District Councils**

This second level of local government (Districts) was created with the reform after the year 2000 (the new organic law). However the role and functions of districts are not clear yet. The organic law mentions as their primary function that of regional planning. In fact the role of this level of government is still vague. District councils are not directly elected by citizens and as such they do not have anybody to be accountable to. District councils do not have any. A step forward is the specification of the role and competencies of the Districts for Education and health sector based on the two Council of Ministers Decisions passed in September and October<sup>5</sup> of last year (2004). Ministry of Local Government claims that there is no need for a specific law on the role of District council because their competencies will be defined in the laws of specific sectors as they come (*Urban Planning law, Law for municipal police, Road transport, local government financing etc*).

○ **Fragmentation**

Albanian territory is divided in 374 local units (65 Municipalities and 309 communes). 47% of Albanian Population lives in local government units smaller than 10 000 inhabitants. The internal migration has created a situation where some local units are experiencing increase of their number of inhabitants (and as a result that resources to provide adequate public services are insufficient), while other local units are experiencing reduction of their number. This impacts also the technical capacities of these units to implement their competencies and deliver the public services. Out of 309 communes, in 2003, 60 communes collected local taxes in the amount from 200 000 leks to 300 000 leks. (200 USD – 3000 USD)<sup>6</sup>. What can a local unit do with such an income from its own resources? On one hand the smaller units bring the government closer to citizens (and that is the purpose of the decentralization) but on the other they lack the capacities to deliver these citizens the services they need. A dilemma that should be faced and resolved by the process of decentralization in the coming years.

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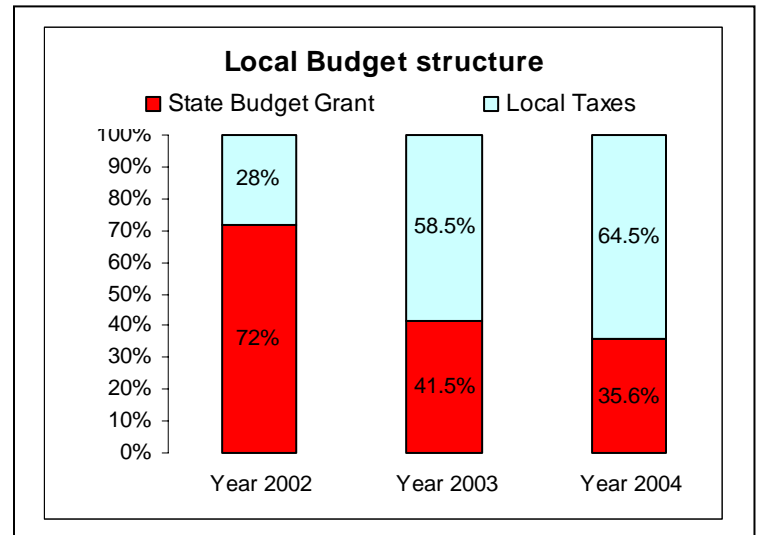
<sup>5</sup> CoM Decisions nr.

<sup>6</sup> According to the data of MLGD

### ○ Fiscal Decentralization

This is the vital part of the reform. It should be said that during the last two years there is improvement in the increase of the local own revenues per se as well as in the ratio between local taxes and tariffs and unconditional transfers (see the box)<sup>7</sup>. However there are still issues that under the effective implementation of fiscal decentralization as well as the progress of the reform in this area:

- a) There is still insufficient local expenditure autonomy. There is progress in this area but still a lot remains to be done.
- b) Local Revenue autonomy remains low. Although the fiscal reform of 2002 marked a very important step forward for local government they still cannot set the tax rates for Simplified Profit Tax<sup>8</sup> and vehicle registration. Also the local governments are not allowed to assess the tax base.
- c) Property tax which elsewhere in the developed world is one of the most important taxes for local government faces a big challenge in Albania. The challenge is related with property evaluation. Albania has still not finished the registration process of properties.
- d) Lack of capacities for tax administration. Many local government units have suffered from this “disease” and this has had direct impacts on the revenue collection for these units.



<sup>7</sup> Data from the MLDG

<sup>8</sup> There was quite a debate between Tirana Municipality and Ministry of Finance on the new fiscal package for 2005 where the SPT rate has been lowered to 3%. Mayor Rama presented this as a step with impact for local governments but without even asking local governments.