

THE PROCESS OF DECENTRALIZATION IN BULGARIA AND THE NECESSITY OF INTRODUCING REGIONAL SELF-GOVERNMENT

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Abstract

In the recent years many Central and Eastern European Countries (CEEC) are re-arranging their regional levels of administration. After the political transition, the newly established democratic governments and parliaments focused on the establishment of local self-governments and local political elites with democratic legitimacy. This led to formation of accountable and relatively autonomous local self-governments in Bulgaria, Czech Republic, Estonia, Hungary, Poland, Slovenia, and Slovakia. It has been only since the mid-nineties that the regional level of government has received more attention in the CEE.

To date, Bulgaria and Estonia are the only countries which have not established legal prerequisites for self-governments at the regional level. Regions are an integral part of the state administration in both countries, although county assemblies in Estonia facilitate a participation of the delegates of local self-governments at the regional level. In the process of the decentralization in Bulgaria the role of the regions (regional administrations) and the role of the state functions with regional meaning were undervalued. The concept for decentralization is based basically on the traditional understanding of the process as a transfer of power and resources from the national to the local level.

Keywords

- CEE countries;
- Decentralization;
- Self-government;
- Regions;
- Municipalities;
- Sub-national levels.

Rezumat

În ultimii ani, multe dintre țările din centrul și estul Europei și-au reorganizat administrația la nivel regional. După tranziția politică, noile guverne și parlamente stabilite democratic s-au concentrat asupra înființării autogovernării locale și a elitelor politice locale cu legitimitate democratică. Aceasta a condus la formarea unor auto-guvernări responsabile și relativ autonome, la nivel local în Bulgaria, Republica Cehă, Estonia, Ungaria, Polonia, Slovenia și Slovacia. Abia la mijlocul anilor 90, acestor guvernări la nivel regional li s-a acordat mai mare atenție în Centrul și Estul Europei.

Bulgaria și Estonia sunt singurele țări care nu au stabilit încă premise legale pentru autogovernare la nivel regional. Regiunile constituie parte integrală a administrației de stat în ambele țări, deși adunările regionale din Estonia, participă cu delegați ai autorităților locale la nivelul regional.

În procesul de descentralizare în Bulgaria, rolul regiunilor (administrațiilor regionale) și rolul funcțiilor statului cu semnificație regională au fost subevaluate. Conceptul de descentralizare se bazează în principal pe înțelegerea tradițională a procesului ca un transfer de putere și resurse de la nivel național către cel local.

Cuvinte cheie

- Țările din Centrul și Estul Europei;
- Descentralizare;
- Autogovernare;
- Regiuni;
- Municipalități;
- Nivel sub-național.

1. Introduction

The development of democratic and effective government at sub national (regional and municipal) levels remains one of the central tasks of transition in Central and Eastern Europe.

After the fall of the communist regimes, it was important for the CEECs to re-establish democratic government structures at local and regional levels. Furthermore, viable democratically elected local and regional government structures were considered crucial for reinforcing the principles of democracy and subsidiarity.

2. The process of decentralization in Bulgaria - legislative preconditions

2.1. Bulgarian Constitution

Bulgaria is one of the first countries from the former socialist block, which adopted a new democratic Constitution as early as 1991. With the adoption of the new Constitution in 1991 the process of building the new state has begun. Officially – in legislative and juridical terms – Bulgaria adopted the model of pluralistic democracy and market economy and started the process of decentralization of the government.

The Constitution of the Republic of Bulgaria defines the general model of state government and the distribution of the power between central and local authority. According to the Constitution, the Republic of Bulgaria is a unitary state with local self-governance.

The territory of the Republic of Bulgaria is divided into municipalities (obshtini) and regions (oblasti). The current legal regulation – the Administrative territorial System of the Republic of Bulgaria Act (ASRBA) –

defines the regions and the municipalities as constituent administrative-territorial formations.

The region is an administrative-territorial unit that carries out the regional policy, executes the state government locally, and ensures conformity between the national and local interests.

The municipality is the basic administrative-territorial unit, where the local self-government is carried out. The realization of local governance is an element and a form of organization of the state power. The local self-government is a decentralized form of state authority and has independent competencies.

The municipalities have their territory, borders, population, name and an administrative center, and include one or more neighboring settlements. Constituent administrative-territorial units in the municipalities are the mayoralties and the districts, established to fulfill the functions and competencies entrusted to them by law or with a decision of the Municipal Council.

The citizens participate in the governing of the municipalities through the local self-government bodies elected by them, as well as directly through plebiscite and the general assembly of the population. The municipalities are juridical bodies separate from the state.

The municipalities have the right of property, which is used in the interest of the community. The municipalities have an independent budget.

The Constitution affirms the model of the modern democratic state and outlines the principle of decentralization, admitting the right of self-government to the basic administrative-territorial units and preserves its supremacy and its control over the defending of the common national interests.

2.2 Other legislative texts

In addition, government at sub-national levels is regulated by the following acts:

- *Local self-government and Local Administration Act* (adopted in 1991) - regulates the implementation of local self-government in municipalities and the functions of local administration. Municipal councils are given competences to develop strategies, forecasts, programs and plans for local development (art. 21, paragraph 1), the mayor is given the competence to implement long-term programs (art. 44, al.1);

- *Municipal Budgets Act* (adopted in 1998): regulates the financial resources of municipalities and transfer payments from the state budget, the implementation of municipal budgets in the municipalities themselves, inter-municipal financial relations and the relations with the state budget as well as the regimes of non-budget funds; it also regulates the annual general subsidies granted by the state. Essential for municipal investment policies are the so-called target subsidies for capital expenditures "granted in particular cases for acquiring long-term assets and for the implementation of regional programs and projects of national importance" (art. 6, paragraph 2, item 2 of the Act). The Act requires that municipal budgets have to be based both on the council's strategy and forecast for the development of the respective municipality (art. 11, paragraph 1, item 1 of the Act) and (b) engagement in national programs and projects (art. 11, paragraph 1, item 9 of the Act);

- *Local Taxes and Charges Act* (adopted in 1997) – regulates the municipal finances, taxes, charges;

- *Administrative territorial System of the Republic of Bulgaria Act* (adopted in

1995) - implements territorial-administrative and territorial units and regulates territorial-administrative reforms. By amendments to the law of 1998, Bulgaria is subdivided into 28 regions replacing the previously existing nine regions. The regional boundaries and their administrative centers are defined by a presidential decree;

- *Administration Act* (adopted in 1998) - regulates structure and main organizational principles of administration, administrative positions and the major financial provisions; it also charges regional governors and municipal mayors with executive power and specifies their competences and functions;

- *Civil Servant Act* (adopted in 1999) - regulates the status of civil servants in the state, regional and municipal administration;

- *Organization of the State Budget Act* (adopted by the 37th National Assembly on 25 July 1996 and published in the State Gazette on 6 August 1996);

- *Regional Development Act* (in effect since 20.02.2004) - regulates the framework of Bulgaria's integrated and long-term oriented policy for regional development, defines the aims and tools of regional development (among which coordination of sector policies and granting access to non-governmental organizations need to be stressed), the distribution of functions among bodies of the executive power; establishes new bodies having consultative and coordinative functions; defines the legal basis for establishing planning regions comprising of several regions as well as their sources of financing. Special attention is paid to planning, instruments for the implementation of regional

policies, their contents and the procedures necessary for their fulfillment.

3. Sub-national levels of government - institutional structure and executive powers

3.1. Institutional structure

Bulgaria is subdivided into 28 regions and 265 municipalities.

The *region* [oblast] is an instrument of devolved state administration represented by the governor. The governor is the official representative of the government and is appointed directly by the Council of Ministers. The governor is assisted by a regional administration including a department for regional development.

The current two-tier territorial-administrative system in Bulgaria was implemented in 1998 under the 1991 Constitution. It replaced another two-tier system composed of nine regions [oblast] and 246 municipalities [obshtina] which dated back to 1 January 1988. This change after a relatively short period was motivated by the transition to a new political and economic organization and management of society in Bulgaria. The former 9 regions were considered to be too large for the transfer of competences from central to regional and local authorities. Comparative analysis has also shown that the large regions did not execute their competences effectively.

The *municipality* [obshtina] is an institution of self-government. Its managing authorities are the council and the mayor. The Council as well as the mayor is elected separately by the population for a four-year term of office by direct universal suffrage. Separate direct elections are held and the mayor and the political majority in the council may well be from different parties.

In the year 2000, six planning regions were established. But they are not

territorial-administrative units and are not legal persons in their own right. They merely aggregate some of the 28 administrative regions.

Planning regions are not territorial-administrative units according to the Administrative territorial System of the Republic of Bulgaria Act. Under the decree of the Council of Ministers No 145/27.07.2000, they were established for the purpose of regional development and regional statistics. They are to compensate for the shortcomings of the administrative regions [oblast] and to serve as a basis for drafting integrated plans and programs for regional development on a large territorial scale transcending the regions. They can also be seen as a response to the EU requirements for the implementation of regional policy, which designate regions of the NUTS-2 type as the main frame for planning, programming, implementation and monitoring, particularly as regards Objective 1 of the EU structure funds.

The six planning regions do indeed correspond in size to regions of the NUTS-2 type in the EU. They bring together between three and six of the 28 administrative regions:

- *North-Western Planning Region* – includes regions Vidin, Montana, Vraca;
- *North Central Planning Region* - consists of regions Pleven, Lovech, Veliko Tynovo, Gabrovo, Ruse;
- *North-Eastern Planning Region* - includes regions Varna, Dobrich, Shumen, Targovishte, Razgrad, Silistra;
- *South-Western Planning Region* - consists of regions Sofia City, Sofia, Blagoevgrad, Pernik, Kjustendil;
- *South Central Planning Region* - includes regions Plovdiv, Stara Zagora, Haskovo, Pazardjik, Smoljan, Kyrdjali;
- *South-Eastern Planning Region* - consists of regions Burgas, Sliven, Jambol.

Regions as well as municipalities have neither exclusive nor concurrent legislative powers, except the right to pass

bye-laws for the purpose of carrying out their functions; otherwise they are totally governed by national legislation.

3.2. Executive powers

- Regions - regional governors are appointed by the Council of Ministers. The regional governors are representatives of the national government, whose basic functions are to implement the state policy, to protect the national interests, the compliance with law and the social order, and to exert administrative control over the territory of the region.

Under Article 31 of the Administration Act, the regional governor:

- Conducts state policies in the region, coordinates the work of the executive bodies and their respective administration within the territory of the region and their relations with the local power;

- Ensures compliance of national and sub-national interests, organizes the drafting and implementation of regional strategies and programs for regional development, implements coordination with the structures of local self-government and local administration;

- Is responsible for the protection of state property within the region;

- Ensures the observance of the law within the region and implements administrative control for the observance of legislation and administrative acts;

- Controls the implementation of administrative acts and the activities of self-government structures and local administration;

- Coordinates and controls the implementation of administrative acts by the executives of the territorial units of central administration and the executive power within the region;

- Organizes local civil defence, ensures the protection of the population in

cases of natural disasters and is responsible for the maintenance of public order;

- Implements international contacts at regional level.

- Municipalities - a local self-government body in the municipality is the municipal council, elected by the population of the respective municipality for a four-year mandate, as defined by law. An executive body in the municipality is the mayor, elected by the population, or by the municipal council, for a four year mandate.

The council:

- Formulates policy for building and development;

- Establishes permanent expert commissions and defines their number and representatives;

- Elects a chairperson of the council;

- Appoints and discharges deputy mayor(s), having considered a proposal of the mayor, in large cities with district divisions (Sofia, Plovdiv and Varna) also the districts mayors;

- Decides on the annual budget of the municipality, implements control and adopts the reports on the budget implementation;

- Defines local fees;

- Draws up strategies, forecasts, programs and plans for local development.

The mayor is responsible for:

- Keeping public order;

- Implementing the municipal budget;

- Long-term development programs;

- Protection of the population in cases of natural disaster;

- Maintaining relations with the political parties represented in the municipality, civil society organizations and other structures of local self-government in the country and abroad;

- Implementation of construction plans and services;
- Conducting activities to protect the environment and to protect rural property;
- Organizing and maintaining the education and health systems of the municipality.

4. Financial decentralization

The establishment of the regulatory framework of territorial decentralization in Bulgaria began with the adoption of the new Constitution, and the Local self-government and Local Administration Act. Development of the legal frame of the local self-government and the enlargement of its functions, including the regulation of the financial independence of the municipalities, were accepted as a good perspective for further development of the local self-government.

Despite the positive changes, made in the first years after the period of centralized economy and governance, the local finance system stayed almost unchanged. Like most countries in transition, one of the most severe problems that Bulgarian local governments were facing was the discrepancy between the responsibilities and powers of municipalities. Bulgarian municipalities were too much financially dependent on the will of the central government. The powers of municipalities to influence their revenues and expenses were limited. Municipalities could not determine the local taxes and fees on their own. Local taxes were determined by law, and constraints were set for local fees. According to reported data for 1999, Bulgarian municipalities were free to influence in some way about to 18% of their total revenue base.

There were a number of preconditions for initiating financial decentralization in Bulgaria:

- Individuals and institutions were inclined and motivated to make changes - the experience of the countries in transition, which have started the process before Bulgaria, reveals that decentralization should undertake the interests and opinion of all concerned institutions on local regional and state level. That means, that the organizations, connected with the change should be involved in the process from the very beginning;

- Political will was declared to implement government decentralization:

- The need for real government decentralization was recognized in the pre-election platforms of the major political parties during the last parliamentary elections in 2001;

- After the elections, concrete goals and objectives for financial decentralization were adopted in the Government Program, incl. Constitutional amendment for providing local authorities with taxation powers;

- A number of senior government officials previously worked in the local government system and understood the importance of the introduction of decentralization.

- The EU-accession process also entails certain amendments of the legislation in view of the application of the European Charter of Local Self-Government, which was ratified by the Bulgarian Parliament in 1995.

On 11th March 2002 the Council of Ministers established a joint Working Group on Financial Decentralization with members: the Deputy Prime Minister, representatives of ministries (of finance, education and science, labour and social policy, healthcare), the Audit Office, the Council of Ministers, the National Association of Municipalities in the Republic of Bulgaria, the Foundation for Local Government Reform. In June 2002 the working group developed and the

Council of Ministers adopted a Concept and a Program for Financial Decentralization. The adoption of the Program became the milestone for the introduction of the financial decentralization in Bulgaria.

The basic long-term objective of the Concept is “to provide public services in quantities, of quality, and at prices corresponding to the needs of and affordable to the people, on the basis of long-term balancing of municipal expenditure responsibilities with stable revenue sources and effective civil control”. Municipalities and the Government agree that this objective requires observation of the following principles:

- Creating a system of incentives which target higher local revenues, consolidated financial management potential, and the maximum level of local autonomy to determine the type, scope and provision of municipal services;
- Adopting simple financial relationship structure;
- Strict financial discipline followed by central and local governance;
- Monitoring and assessing the decentralization process by central governance;
- Considering municipal differences in terms of financial resources and management competence, and enabling municipalities with different potential to develop in accordance with their characteristics;
- Generating conditions suitable effective civil control.

The main role of implemented changes include: first, developing structural changes to help municipalities shed responsibility for the financing of welfare benefits, land commissions, and some aspects of certain healthcare activities; and second, all other municipal-budget-financed public services which are divided into two groups:

- *State-delegated* services refer to those of the education, healthcare, and social establishment sectors, as well as, to some degree, services in the cultural sector. Operating expenses of State-delegated activities are calculated according to standards including personnel number, amount of salaries and insurance payments, and cost amount. The State serves to provide necessary financial resources for this group of activities, utilizing two sources: shared taxes and complementary subsidies. According to implemented changes, municipalities are deprived of revenues from corporate profit taxation at the expense of receiving 100% of the revenues from the Tax on the Income of Natural Persons (TINP). Additionally, the financing of state-delegated activities expenditures is determined by calculating their amount according to standards. Where municipal revenues from TINP are less than expenditures or services, the municipality receives a complementary subsidy up to the difference. Where revenues from TINP exceed the amount of expenditures, the municipality receives a percentage of TINP up to this amount and does not receive any complementary subsidies.

- *Local activities* include public works, maintenance of country roads, cost of kindergartens and nursery homes, and most activities in the cultural sector. Municipalities incur expenses for local activities up to the amount of their own revenues. Revenues are formed by local taxes, local charges and other non-tax revenues (municipal property management, fines, and so on). Municipalities with low capacity to generate revenues receive adjustment subsidies.

Notwithstanding the positive intentions, a rather small portion of the necessary measures to increase financial decentralization was incorporated into Bulgarian legislation. Overall, the bodies

of local self-government remain highly dependable on transfers from the State budget. Indeed, financing is secured for as much as 50% of defined and valued state-delegated public services, and municipalities remain unaware of the timing and amount of possible additional transfers.

5. The necessity of introducing regional self-government

The acquired lessons of the transitional period reveal that financial decentralization is undoubtedly important, but its measurements (size and parameters) should be as a result from the division in the field of functions and responsibilities between the different levels of government, from the realization of political and administrative decentralization.

In the Bulgarian case it was started with financial decentralization and it was chosen the level of municipality. The fact, that Bulgarian municipalities are too different, regards to their size and their fiscal and administrative capacity, was not taken into account. Nowadays, 3 years after the implementation of the Concept for Financial Decentralization, the result is evident – instead decentralization, in practice it was realized mechanism of financial redistribution, based on normative type relations (there are standards of different activities realization, and this middling ignores the specificity of the different municipalities). There is still lack of correspondence between the responsibilities delegated to municipalities and the powers to realize them. Municipalities have clearly defined responsibilities in a number of major areas of financing and provision of services, but they still lack the necessary means to administer, manage and control the expenditures incurred.

On the other hand, the division of the responsibilities only between two levels: “central government” and “municipalities” brought strengthening of the centralization (the central government requires financial and organizational control because of the financial provision that this government ensures), and increase of the real power of the ministries and agencies.

The role of the regions (regional administrations) and the role of the state functions with regional meaning were undervalued. In the process of decentralization there are not only two poles: municipalities and central government, but minimum three: municipalities – regions - central government. From this point of view, in the process of decentralization and distribution of the functions between the different levels the regions should be involved. The existing deconcentrated offices of the central government are also important. The problem with them in Bulgaria is not only the fact, that their number increases, but the strengthening lack of coordination between them. The last is connected not only with the disagreement of the purposes of offices of different ministries and agencies, but with the disagreement of the offices of one ministry.

That is why the process of improving the governmental effectiveness in Bulgaria requires expansion of the functional capacity of the regional administrations by:

- elimination of the doubling functions and responsibilities of the different institutions of the central authorities;
- decentralization of the deconcentrated regional offices at the municipal level;
- establishment of independent regional administrations and independent regional budgets;

- transfer of all the deconcentrated on regional level functions from the central authorities to regional governors;
- transfer of the functions, connected with the administration of the whole state property (but without those with national value) from the central authorities to regional governors.

6. Conclusion

The decentralization process follows a similar path in the CEE countries. In Bulgaria in the first years of transformation the institution building at the local level was given a priority. Furthermore, as many CEECs our country is plagued by the problems of fragmented state administrative organization at the regional level. So far the tasks of central government at the regional level are mainly fulfilled by the field offices of the respective ministries. This has resulted in the lack of coordination of central government policies at the regional level. In particular, regional policy considerations have received too little attention and there is unnecessary duplication of organizational structures at the regional level.

Before exercising decentralization and implementation of regional self-

government it is recommendatory to answer the questions, connected with the *necessary preliminary conditions*, for example:

- Is it possible to overcome the institutional, political or fiscal slow in the development of the particular structures and territorial units;
- Which elements, contributing to the decentralization are already available;
- Is the existing capacity of the local and regional structures, which have connection with the process, sufficient;
- Which is the most appropriate succession for implementation of the reforms?

In Bulgarian case the requirement for availability of authorities' political will is definitely exaggerated. However, the experience in our country shows that a number well started processes of decentralization ends with stabilization of the centralization. The reason for that is in the wish for realizing a lot of changes for very short period of time.

At the backdrop of this, in Bulgaria it was recognized that some kind of general-purpose units at the regional level – be it deconcentrated state administration or democratically elected regional government – are necessary.

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