



LSEE Papers on Decentralisation and Regional Policy

DECENTRALISATION AND REGIONALISATION IN BOSNIA-HERZEGOVINA: ISSUES AND CHALLENGES

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Research Paper Number 2, July 2011



The Joint LSEE-Ifri Research Programme on South Eastern Europe was made possible by generous support from the John S. Latsis Public Benefit Foundation

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July 2011

Decentralisation and Regionalisation in Bosnia-Herzegovina: Issues and Challenges

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Abstract

Decentralisation and regionalisation in Bosnia-Herzegovina have been primarily approached as a way to redefine the governing framework established under the Dayton Peace Agreement with the prime aim to facilitate ethnic conflict management in the aftermath of war. The paper looks at the impact this has had on the direction, profile and progress in the decentralisation process and its outcomes in terms of public service delivery at the local government level. It argues that strong local political interests to preserve the status quo in terms of powers and resources vested in the intermediate levels of government have made the separation of competencies and expenditures across different levels of government complex and complicated. This has resulted in a fragmented institutional and policy framework for the provision of public services and an overall poor quality of service delivery across the country.

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The violent- conflict that engulfed Bosnia-Herzegovina for three years (1992-1995) was a trigger of the territorial reorganisation of the state. Under the terms of the Dayton Peace Agreement Bosnia-Herzegovina was organised as an asymmetric federation under the precept that it would provide a framework for inter-ethnic accommodation, create channels for democratic contestation, and ultimately usher in peace and stability. Hence, the primary motive for decentralisation was political- - to exploit its alleged potential as an ethnic- conflict management tool. This involved a particular layering of the government structures, from the central to the local level, aimed at balancing political and ethnic interests (Miovcic 2006; Sarajlic-Maglic 2006). In this context, the evolving role of local level governance can be understood primarily as one aspect of a much more complex and inter-related transformation of decentralized structures of an ethno- federal state. Regionalisation as the other salient aspect of this process has similarly been first and foremost approached through identity politics lens and in response to demands for territorial delineation, rather than from its functional role in the context of building multi-level system of governance to improve development outcomes as a prime concern (Schou and Hang 2005).

In devising the post-war constitution of Bosnia-Herzegovina concern with the merits (and demerits) of decentralisation from the development perspective, in other words, of its alleged potential to improve economic and cost efficiency, and mobilisation of resources for development was in some ways a second-order issue given the gravity of the situation.² There was no outlook as to how the political and economic mandates of decentralisation might (co)evolve in the post-war context of decentralisation along ethnic lines. The vast literature on decentralisation as a conflict- management tool within the political theory stream has provided ample evidence of its ambiguous role (Brancati 2008; Roeder & Rotschild 2005). The literature on fiscal federalism from the economics perspective has come to the similar conclusion about its uncertain economic efficiency outcomes (Bird and Vaillancourt 1998; Schou & Hang 2005). Common to both research streams is an

² This can be deduced from the fact that the critical issue of fiscal federalism was only superficially addressed (Fox & Wallich 1997)

important finding that which way the pendulum swings- whether the benefits of decentralisation will be exploited or not – depends on the local political, historical, economic, social and geographical context. As Brown posits, the impact of both- political decentralisation and fiscal federalism are “mediated by context and other institutional factors” (Brown 2008:390). In Bosnia-Herzegovina, the legacy of war and in particular that of politicised ethnicity is of critical importance in understanding power relations pivotal to the process of decentralisation and the way in which the outcomes of its political and economic mandate have shaped up.

Decentralisation in its form of extending authority to sub-central jurisdiction has evolved in a politically and administratively complex setting established as part of the peace settlement to end the war in Bosnia-Herzegovina. In the four- tier government structure devised to account for political and ethnic criteria and interests, weak central state government coexists with two strong entities i.e. the Federation of Bosnia-Herzegovina (FBiH) and Republika Srpska (RS), ten cantons as sub-federal units and the Brčko District, a self-governing unit under the direct jurisdiction of the state of Bosnia-Herzegovina. This asymmetric structure further encompasses a total of 141 municipalities – 79 in the FBiH and 62 in the RS, and five cities³. Most powers are vested with the two entities and the FBiH cantons, with only limited responsibilities originally entrusted exclusively to the central state. This has constrained the central state’s ability to perform the regulatory, distributive and harmonising roles typical of the federal system of government. The cantons, of which all but two have clear ethnic majority, exist as de facto mini-states with fully fledged legislative and executive structures (EDA 2005). The primacy of the ethno-territorial criteria behind the political settlement of the 1992-1995 conflict has been reflected in the continuing demands for the creation of new municipalities around particular ethnic group boundaries.⁴ As a result, some 40 new municipalities have

³ Cities have their own budgets, financed by own revenues, shared revenues, and grants from cantons in the Federation and from entity government in the RS.

⁴ In some cases, the demand for new municipalities were prompted by the impact the creation of post- war entity, cantonal and municipality boundaries had on access to public services.

been established since the end of the conflict whose idiosyncratic problems have added another degree of complexity to the on-going decentralisation process.

In the context of this research project, the case of Bosnia-Herzegovina rises an important question of the extent to which the existing governing framework, devised primarily with an aim to facilitate ethnic conflict management in the aftermath of war, has had an impact on the direction, profile and progress of the decentralisation process and its outcomes in terms of public service delivery at the local government level.⁵ The structure of the state as defined by the Dayton constitution is itself deeply contested and its renegotiation through decentralisation and regionalisation poses a particular challenge in terms of creating a framework within which the potential “democratic and allocative virtues” (Bird & Vaillancourt: 10) of decentralisation can be realised (for example, it plays a decisive role in defining an intergovernmental fiscal structure and ensuring the mechanisms of its implementation)⁶. A further challenge to fulfilling the promise of decentralisation stemming from Bosnia-Herzegovina’s war legacy concerns the economic and human capital impact of the conflict,⁷ and on the policy side, the complex environment created by the prominent presence and involvement in governance of a variety of external actors. Combination of all these factors creates a rather unique context of decentralisation compared to other cases included in this project.

The paper aims to map the process of decentralisation in Bosnia-Herzegovina, to identify those particular aspects that differentiate its experience from the common dilemmas associated with decentralisation, and highlight its challenges. Part one presents an overview of the decentralisation discourse, actors and institutions in

⁵ We are not in this case interested in the conflict mitigating impact of decentralization as such. This aspect is discussed in Bojicic-Dzelilovic 2003.

⁶ From an ethnic conflict management perspective decentralization is embraced for its potential to bring political deliberation within the legitimate structures of government. However in BiH legitimacy of the political authority established under the terms of the Dayton Peace Agreement remains disputed.

⁷ According to Bird and Vaillancourt, reaping the benefits of decentralisation is contingent on robust local administrative capacity, sufficient financial resources and a significant degree of discretionary financial control. (ibid)

Bosnia-Herzegovina and highlights how, despite tensions arising from the simultaneous centralisation and decentralisation inherent in the reforms of the existing constitutional set-up, a substantial progress has been made in modernising the legislative framework of decentralisation. Part two focuses on the key aspects of functional and fiscal decentralisation arrangements in the entity legislation and its implementation; it concludes that in reality, progress in decentralisation has been limited as a result of a complex set of factors, particularly the resistance of the entrenched political interests. Based on the field work conducted between February 2010 and February 2011, and recent available studies, part three discusses a number of the core issues pertaining to the position of local units of government in the Bosnia-Herzegovina government structure, the factors that constrain its work and the consequences for public service delivery outcomes. Part four turns to the issue of regionalisation and points out its deeply politicised character which has led to profound neglect of the regional aspects of development, and hence an absence of an explicit regional policy in Bosnia-Herzegovina. The last part concludes by identifying the lack of political consensus as a key challenge to prospects for decentralisation and regionalisation as a possible trajectory to bring about lasting economic and political stability of Bosnia- Herzegovina

Decentralisation: Discourse, Actors and Institutions

The dysfunctional nature of the complex constitutional arrangement established under the terms of the Dayton Peace Agreement, and devised primarily with an aim to stop the war, became all too clear very early in the post- conflict reconstruction process spearheaded by the international community. The international community through its various actors and initiatives has been effectively the main driving force behind the reform of the Dayton-agreed framework of government ever since. As a result, two parallel processes have been at play, with repercussions in terms of the direction, patterns and the speed of the decentralisation process. On the one hand, the international community with the most ardent support of the Bosniak political parties, but also a number of other political parties such as the Social Democratic Party of Bosnia-Herzegovina and some segments of civil society, have put their weight behind reforms leading to the strengthening of the central state. On the

other hand, efforts and pressures for further decentralisation have proceeded apace, supported by a plethora of international agencies which see the two dynamics as complementary and indeed essential for establishing a functional and effective system of multi-level government. In Bosnia-Herzegovina's political ambience, however, this has created more ambiguity regarding decentralisation itself. Decentralisation has been approached with caution and reluctance by the key political actors at the higher levels of government. This is primarily because of the uncertainty surrounding the pending constitutional reform and its likely repercussions on the position of the intermediate level of government i.e. the entities and the cantons, which had effectively taken over many of the prerogatives which the units of self-government had enjoyed in the pre-war period. In the local political discourse, the strengthening of the position and the role of local government has been approached as a process that goes to the very heart of the contestations over the nature of the state of Bosnia-Herzegovina. Consequently, in the ethnically polarized context of post-war Bosnia-Herzegovina decentralisation has been consistently framed in an explicitly politicised way. So for example, the Federation Law on the Principles of Local Government ended up subject to an adjudication of the Federation Constitutional Court after Bosnian Croats claimed that some of its propositions threatened their vital national interest.⁸ Similarly, the evocation of the vital national interest constitutional clause by the Bosniaks in the RS parliament contributed to a delay in the adoption of the new law on local self-government in that entity. Because local government is under the entity and cantonal levels mandate, the political coalitions and forces opposed to territorial changes and in favour of only incremental local government reforms have remained strong, particularly in the initial post-war period.⁹ The lack of enthusiasm for decentralisation has also been to a certain extent discernible in the stance of the

⁸ This was the reason why eventually the Law was adopted as the law on the Principles rather the Law on local government.

⁹ The UNDP National Human Development Report claims that: "the absence of [decentralisation] strategies has not come about by chance or benign neglect, but as a direct consequence of dominant political forces' implicit opposition to change. It is a depressing prospect but the key obstacle to decentralisation may not be systemic weaknesses but outright political opposition". Bosnia-Herzegovina National Human Development Report 2005, p135

mayors in some municipalities eager to preserve the status quo and deflect deeper reforms which would inevitably touch upon the existing territorial boundaries of some of those municipalities.¹⁰

The first entity laws on local government were adopted in 1995-1999. But it was Bosnia-Herzegovina's membership in the Council of Europe in 2002 that marked an important milestone in the way local authorities have approached decentralisation ever since. The membership entails an obligation to align local legislation with the principles of the European Charter of Local Self Government, which coupled with Bosnia-Herzegovina's obligations under the Stabilisation and Association Process (SAP with the European Union (EU)), has increased pressure on local authorities to step up the transformation and modernisation of the legislative and regulatory framework for local government.

The institutional framework which exists in the two entities is different. In the RS, the Ministry of Administration and Local Self-Government is the key institution in charge of local government issues alongside the Ministry of Finance. No equivalent counterpart exists within the FBiH government structure. Rather, in the FBiH, the primary responsibility for local government rests with the FBiH and cantonal governments¹¹ and their relations with municipalities vary significantly, depending to a large extent on political objectives and local power dynamic. Although the role of international actors in driving the decentralisation agenda in Bosnia-Herzegovina forward has been decisive, the two entity Associations of Cities and Municipalities occupy distinctive place among the local actors actively supporting the decentralisation agenda. For example, they were actively involved in an initiative spearheaded by the United Nations Development Programme (UNDP) and the Swedish development agency SIDA, in collaboration with a number of local non-governmental organisations, to draft the Bosnia-Herzegovina Strategy for Local Self-Government in 2004. The Strategy set in motion a chain of legislative changes that

¹⁰ Open Society Fund Bosnia and Herzegovina 2005

¹¹ The Ministry of Justice and the Ministry of Finance are in charge of overseeing the implementation of the Law on the Principles of Local Self-Government.

put local governance in Bosnia-Herzegovina on a qualitatively new footing. This genuinely bottom- up initiative has resulted, among other aspects discussed in greater detail in the subsequent sections of this paper, in the establishment of a more institutionalised role of the two Associations of Cities and Municipalities within the legislative and regulatory procedures governing the work of local government.

Functional and Fiscal Patterns of Decentralisation

The complex governmental set-up of Bosnia-Herzegovina has created a fragmented legal and administrative framework for decentralization in which governing authority, functions and budgets are divided across several layers of government. Prior to 2006, the system of intergovernmental finance suffered from both horizontal and vertical imbalances. The mismatch between the allocation of responsibilities and funds led to under-funding of local government and poor provision of public services. The fiscal position of individual municipalities varied significantly both across as well as within the entities, despite the RS having in place basic equalization mechanism¹². In the FBiH, because of its complex administrative composition, the existence of ten intergovernmental systems at the cantonal level undermined its fiscal coherence and sustainability¹³ whilst creating a non-transparent and highly unpredictable pattern of relations between the cantons and municipalities, ultimately affecting the public service delivery outcome at the local level.

Functional Decentralisation Arrangements

The adoption of the new set of local government laws, first in the RS in 2004, and then in the FBiH in 2006, embodying some of the key principles of the European Charter of Local Self- Government, marked a new phase in the evolving legal framework for local government in Bosnia-Herzegovina. The laws (with some variations) clarified functional assignments to municipalities, their revenue sources, specified the role of local communities as the sub-municipal local- governance

¹² The formula used to decide the share of individual municipalities was non- transparent, implemented arbitrarily and often in an ad hoc manner.

¹³ D. Sarajlic-Maglajlic 2006

structure and in the FBiH provided a legal framework for the participation of the Association of Cities and Municipalities in the legislative and policy making process.¹⁴ A further related development was the change in the electoral system providing for the direct election of mayors in 2004, which altered the political power balance locally and increased the stake in the outcome of local government performance. The entity laws on local governance were accompanied by the new Law on Public Revenue Allocation in the Federation and the amendments to the Republika Srpska Budget System Law, which were adopted in 2006, and provided for the adjustment in the financial framework for funding local government.

The Republika Srpska Law on Local Self-Government, which came into force at the beginning of 2005, marked a rather notable improvement compared with the previous local government framework in that it set out the city and municipal competencies in detail; it listed the sources of revenues and granted local government the power to set local tax rates and service fees; and it stipulated that the transfer of competencies to the entities would be made in consultation with local authorities and in parallel to revenue transfer to finance them.¹⁵ Likewise, the Federation Law on the Principles of Local Self-Government, which followed in the main the key propositions adopted in the Bosnia-Herzegovina Strategy for Local Self-Government, was a major step forward in clarifying and improving the status, the role and funding of local government.¹⁶ Under the FBiH constitutional arrangements, the split between the entity and cantonal level in regulating local government matters had created a proliferation of laws and regulations, leading to a system of overlapping responsibilities, and unclear and unfunded local government mandates. In some cases, and not unlike in the RS¹⁷, even where the division of responsibilities

¹⁴ The World Bank 2009, p26

¹⁵ UNDP 2005, *ibid.*

¹⁶ In its commentary of the Law, the Federation Association of Cities and Municipalities identified only a small number of issues that would need further clarification and improvement. See: Udruženje gradova i opština Federacije Bosne i Hercegovine 2007

¹⁷ Republika Srpska 2004 Law on Local Self- Government allowed for a wider range of autonomous municipal competencies compared to the 1995 Federation Law on the Basis of Local Self- Government. However, municipal autonomy was effectively limited through supplementary legislation which detailed the scope of municipal competencies and their implementation.

was clear, municipalities' autonomy of action was restricted by the cantonal government's effective control. Added to this, was a maze of canton and FBiH-level sectoral laws which were often poorly aligned with the provisions of the laws on local government duties and responsibilities in a particular area, leaving local service delivery provision without a robust legal and regulatory framework.

Against this background, the new Law made important inroads in tackling those shortcomings. Besides defining the role of local government in more precise terms, the scope of municipal responsibilities was expanded. Importantly, under the new Law, municipal competencies included a borrowing right the absence of which in the past was a strong barrier to financing capital investment at the local level. As far as the responsibility for local economic development is concerned, and quite contrary to the general mood and emerging general consensus on the growing role of local level governance in generating economic development in the academic discourse and policy practice, both entity laws give municipalities only limited prerogatives, with some inter-entity variations. In both entities, cities and municipalities have the responsibility to prepare spatial and urban plans and in addition in the FBiH to create the conditions for economic development. The responsibility for mobilising economic resources for development and economic development policy making however remains within the realm of competences of the entity and cantonal governments.¹⁸ Overall, despite notable advances, the FBiH 2006 Law as one providing a more advanced legal and regulatory framework for local government compared to the RS, stopped short of assigning significant autonomous (mandated) competencies to local government. The mandated competences were kept within the traditional remit of exclusive responsibility for waste, water, local roads and sanitation, alongside a number of other areas in which municipality competencies are shared with the entity and cantonal levels, similar to the arrangements in the RS (for example education, health, electricity supply and housing). As far as education and health services are concerned the delegation of tasks to the local government

¹⁸ The two entities never formally adopted economic development strategies and the only country-wide strategy was the Poverty Reduction strategy 2004-2007. The follow up economic development and social inclusion strategies have been drafted and were in the process of public consultation at the time of conducting this research.

level has been extremely limited in both entities. In the FBiH the most significant spending responsibilities other than pre-school education are retained at the cantonal and entity level. Similarly, in the RS, other than some aspects of primary health protection, health and education remain centralised with the municipality in charge of the partial maintenance of secondary school buildings and healthcare facilities.

Municipal Expenditure Assignments

| | FBiH | RS |
|------------------------------|--|---|
| Local utility infrastructure | Water & sewage; solid waste; local roads and public transportation; heating; cemeteries; lighting | Water & sewage; solid waste; local roads and public transportation; heating |
| Education | Pre-school (not all cantons); primary education (cantonal variations in the type of expenditures) | Pre-school; secondary education capital improvements only |
| Health | Ambulance service | Primary health |
| Administrative services | Birth & death certificates; building permits/ cadastre/ land survey services; business licensing (partly); culture, sport & leisure; communal inspections; social welfare (shared with cantons); housing | Birth & death certificates; building permits; business licensing; culture, sport & leisure; communal inspections; social welfare; housing |
| Social welfare | Shared responsibility with cantons | Social protection |

Source: Adapted from World Bank (2009)

Fiscal Decentralisation Arrangements

The introduction of the Value Added Tax and the transfer of the indirect tax revenue collection to the Single Account with the state-level Indirect Taxation Authority in 2006 was a major watershed in the development of fiscal arrangements pertaining to all levels of government in Bosnia-Herzegovina. A Single Account revenue sharing

formula¹⁹ was introduced assigning specific vertical shares of revenue to each level of government. Under the new funding system, a pre-defined percentage of the entity share of the Single Account is allocated to municipalities, FBiH cantons and the entity road funds. Through this arrangement, municipalities are provided with a more stable, autonomous and predictable source of revenue compared to the derivation-based formula for the sharing of sales and income tax which had existed under the previous system. Besides introducing a unified and transparent system for securing municipal revenues²⁰, and following in the RS footsteps, the formulas for allocating individual cantonal and municipality shares as a rough equalisation mechanism have also been introduced in the Federation Law on Public Revenue. The two entity formulas are similar and take into account the size of the municipal population as the key parameter, combined with the territory and the number of school children, and in the FBiH in addition include the level of development of the local government unit. The overall system, however, remains centralised in that locally generated revenue sources are few and local government has no influence on setting the tax rates upon which the bulk of its revenue depends (i.e. indirect tax).

Local Governance and Public Service Delivery Outcomes

The significant changes in the legal, regulatory and financial framework for local governance underway since 2004, have normatively improved the position of this level of government as far as its competencies, powers and available resources are concerned. At the same time, there are on-going challenges related to the implementation of the Federation Law on the Principles of Local Government—particularly the harmonization of cantonal legislation²¹ with the Law, and the delay

¹⁹ The revenue sharing formula is to be phased in over six year period.

²⁰ These were previously regulated by individual cantonal laws.

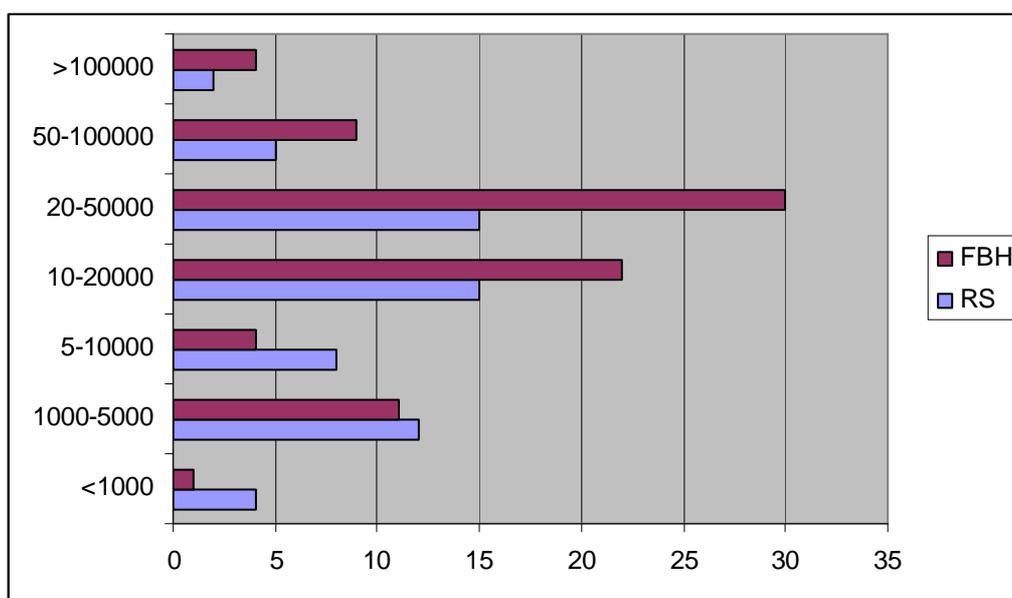
²¹ FBiH cantons were required to harmonize their legislation with the Federation Law on the Principles of Local Self- Government until March 2007. However, the process has been very slow and partial. In October 2010 for example, the Federation Constitutional Court passed a verdict by which Canton Sarajevo has to transfer responsibilities for pre-school, primary and secondary education to the City of Sarajevo and municipality Sarajevo Centre. The Sarajevo City and Sarajevo Centre municipality took the Canton to the court after it changed the legislation to rescind the responsibilities of the City and the municipality in the area of education, just month after the Law had been passed in July 2006. Source: www.pulsdemokratije.ba/index.php?a=print&l=bs&id=1993

in the RS's adoption of the new law on local government which is expected to further advance functional and fiscal decentralization. In this context, the actual experience and practice of local governance in Bosnia-Herzegovina remains rather different from what the normative framework outlined in the existing legislation would imply, which has had repercussions on the public service delivery outcomes.

As far as the implementation of the legal and regulatory framework for decentralization is concerned, Bosnia-Herzegovina complex multi-level governance system and the uncertainties surrounding the direction constitutional reform will take are a critical aggravating factor. But equally, the specific aspects of the local context – namely, the configuration of local government units in terms of their territorial composition, economic profile and specific, war-related problems – make for particularly challenging implementing environment, the complexity of which is insufficiently reflected in the existing legal and regulatory provisions on local governance. One of the consequences of the radical, politically motivated, redrawing of Bosnia-Herzegovina's post-war map is the high degree of variation in the size of municipalities, both in terms of territory and population which impacts on all aspects of public service delivery. Municipal territory ranges from 10.2 square kilometres in Doboju-Jug (in the Federation) to 1,232 square kilometres in Banja Luka (in Republika Srpska).²² Some of those micro municipalities have no more than around 60 inhabitants compared with 225,123 inhabitants in Banja Luka. In terms of the average area they cover Bosnia-Herzegovina's municipalities are on a medium to large end compared with the rest of Europe²³.

²² Source: Ministarstvo uprave i lokalne samouprave (2010) *Strategija razvoja lokalne samouprave u Republici Srpskoj*, Banja Luka, p.59; Federalni zavod za programiranje razvoja(2010), *Socioekonomski podaci po opcinama Federacije Bosne i Hercegovine u 2009 godini*, Sarajevo

²³ EDA (2007), *Kocka do kocke - dobro je dobro graditi - modeli organizacije lokalne samouprave*, Banja Luka, p.194

Figure 1 Bosnia-Herzegovina Municipalities Population*

*Estimate

Source: Strategija razvoja lokalne samouprave u Republici Srpskoj (2009-2015), (2010); Federalni zavod za programiranje razvoja (2010)

In the RS in particular there is a large number of small municipalities, municipalities are geographically dispersed and in some cases rather isolated because of underdeveloped and inadequate infrastructure (EDA, 2007; Strategija razvoja lokalne samouprave u Republici Srpskoj 2010). The levels of economic development, administrative and fiscal capacity of the local units of government also differ significantly both across the entities but also within the entities themselves. Thus, for example, in the FBiH, municipal (estimated) GDP per capita ranged from KM1,172 (€598) to KM28,469 (€14,522) in 2009.²⁴ Regional disparities are pronounced, and growing according to some estimates.²⁵ In the absence of relevant data, and for illustrative purposes, the overview of the FBiH cantonal data, based on estimates of the population size, is presented in Table 1.

²⁴ KM is the abbreviation for Convertible Mark, Bosnia-Herzegovina currency.

²⁵ Republika Srpska Strategy for Local Self-Government (2009-2015)

Table 1: Federation of Bosnia-Herzegovina – Cantons: Level of Development, 2009²⁶

| Canton | Employment % | Unemployment % | No of pupils (primary & secondary) per 1000 inhabitants | GDP per capita KM | Index Absent population | BH Federation= 100 | | | | | Development Index | Rank |
|----------------------|--------------|----------------|---|-------------------|-------------------------|--------------------|--------------|---------------------|----------------|-------------------|-------------------|------|
| | | | | | | Employment | Unemployment | Pupils per 1000 inh | GDP per capita | Absent population | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| SAK | 28,2 | 35,7 | 133 | 12.371 | -14,1 | 153,9 | 121,4 | 94,4 | 189,9 | 109,3 | 133,8 | 1 |
| ZHK | 17,5 | 39,0 | 174 | 5.419 | -8,2 | 95,6 | 114,1 | 123,5 | 83,2 | 147,5 | 112,8 | 2 |
| HNK | 18,6 | 41,3 | 140 | 7.095 | -15,6 | 101,5 | 109,0 | 99,5 | 108,9 | 100,1 | 103,8 | 3 |
| TK | 16,4 | 52,2 | 140 | 4.791 | -4,9 | 89,6 | 85,1 | 99,3 | 73,5 | 168,4 | 103,2 | 4 |
| ZDK | 17,7 | 48,1 | 145 | 5.754 | -16,4 | 96,6 | 94,1 | 102,5 | 88,3 | 94,6 | 95,2 | 5 |
| BPK | 14,8 | 46,4 | 113 | 6.186 | -20,1 | 80,7 | 97,9 | 80,0 | 94,9 | 71,0 | 84,9 | 6 |
| USK | 11,4 | 54,2 | 142 | 4.142 | -16,4 | 62,1 | 80,5 | 100,4 | 63,6 | 95,0 | 80,3 | 7 |
| SBK | 14,6 | 50,1 | 155 | 4.579 | -24,8 | 79,8 | 89,7 | 109,5 | 70,3 | 41,2 | 78,1 | 8 |
| K - 10 | 12,1 | 46,4 | 112 | 4.842 | -30,3 | 65,9 | 97,8 | 79,1 | 74,3 | 5,5 | 64,5 | 9 |
| POK | 13,0 | 52,4 | 131 | 5.703 | -37,3 | 70,7 | 84,6 | 93,0 | 87,5 | -39,2 | 59,3 | 10 |
| BH Federation | 18,3 | 45,4 | 141 | 6.516 | -15,6 | 100,0 | 100,0 | 100,0 | 100,0 | 100,0 | 100,0 | |

Source: Federalni zavod za programiranje razvoja (2010), Socioekonomski pokazatelji po opcinama, Sarajevo

²⁶ Note on methodology: GDP, employment, unemployment and absent population (the gap between the current number of residents and the 1991 census) are estimates. Development index is an aggregate of the five indexes listed in the columns 7-11. Source: Federalni zavod za programiranje razvoja (2010), Socioekonomski pokazatelji po opcinama, Sarajevo

According to the Republika Srpska Ministry of Administration and Local Self-Government, 33 out of 62 municipalities were classified as underdeveloped (of which 15 extremely underdeveloped) in 2009,²⁷ compared to 30 out of 79 municipalities in the FBiH (of which 12 are extremely underdeveloped)²⁸. Some of Bosnia-Herzegovina's largest municipalities are among the least developed, as they tend to cover rural and sparsely populated areas.²⁹ Although the level of economic development is not the key determinant of the level and the quality of public services, it is nevertheless a good approximation. The above data suggest that in a significant number of municipalities the economic context in which local governments operate is precarious and limits the potential for improvement in local service delivery outcomes. In some of the new municipalities created as part of the post-war territorial reorganization of Bosnia-Herzegovina public administration accounts for as high as 90% of total employment,³⁰ and in some cases salaries and operating costs take up to 80% of the municipal budget³¹. Furthermore, besides the constraints posed by a lack of adequate resources, particularly in the newly created municipalities, the municipal administration in some cases had no previous experience in local government matters, and hence no adequate skills³² to run public administration³³. The demand for public services and priorities are different across localities, particularly where refugees and displaced people account for a sizable proportion of the local population,³⁴ which affects profoundly the composition of local government expenditures and the potential for fiscal space improvement.

²⁷ Source: Službeni Glasnik Republike Srpske, 2010/107, p5

²⁸ Federalni zavod za programiranje razvoja, ibid

²⁹ EDA (2007)

³⁰ Interview, Department of Economics, Sarajevo, 3.3.2010

³¹ Strategija razvoja lokalne samouprave u Republici Srpskoj (2009-2015), ibid, p8

³² Interview, Department of Economics, Sarajevo, 3.3.2010

³³ The lack of adequate skills remains a general problem at the local government level. This was recognised for example in the Republika Srpska Strategy for Local Self-Governance (2009-2015) which has been accompanied by the Strategy for the Training of Local Unit Employees in Republika Srpska (2011-2015).

³⁴ Refugees and internally displaced population account for 12-46% of municipal population in the Federation and 22-39% in the RS. World Bank (2009), p22

Among the municipalities with the largest number of internally displaced persons are Sarajevo, Banja Luka, Bijeljina, Tuzla and Prijedor, Bosnia-Herzegovina Sector Assessment (2010): www.waterwiki.net

The above short summary highlights some of the aspects characteristic of the local context within which the legal and regulatory framework for decentralised delivery of public services has evolved and is implemented in Bosnia-Herzegovina. Because of the complex organization of the system of multi-level governance in Bosnia-Herzegovina and the variations in the decentralisation models which are effectively in place in the two entities, the following discussion, aimed at illustrating some of the pertinent shortcomings and limitations of the decentralisation process in Bosnia-Herzegovina and its implications on the public service delivery outcomes is limited to a few selected issues: competencies, funding, and local government property status. In the course of the interviews conducted as part of this research those three aspects have emerged as being of key concern from the perspective of creating an improved platform for local government to fulfil its mandate.

Limited and Unclear Local Government Competences

Despite improvements in the decentralisation legal and regulatory framework in Bosnia-Herzegovina identified in section 2 of this paper, the actual experience and practice of local governance still suffer from many of the prominent problems that used to beset the earlier system and which have been aggravated by the post-war institutional adjustment. One of the main reasons is systemic in nature. The new framework has retained at its core the principle of the monotype municipality under which irrespective of the variations in the individual circumstances of local government units, they all have the same legal status and responsibilities. The inevitable outcome has been an extreme unevenness in the extent to which municipalities have implemented those responsibilities, given the lack of resources and the diverse municipal fiscal position. The functioning of local government remains framed by a myriad of different legislations, creating an unclear and unpredictable legal framework³⁵. This situation is particularly complex in the FBiH where different cantonal legislations create large variations in the status of individual municipalities. Cantons deal in an ad hoc manner with the constraints imposed by the rigid legal framework,³⁶ but not necessarily in a politically untainted way. Since under the current constitutional set-up the cantons act as mini-states, the distribution of responsibilities depends very much on the

³⁵ Interview, Banja Luka City Administration, Banja Luka 28.1.2011

³⁶ According to several interviewees, the legal complexity is compounded by an increasing number of legal acts that to some degree refer to local government.

local power relations. Consequently, there is neither a clear nor a transparent separation of responsibilities in particular policy areas under the local government mandate, especially since the degree of decentralisation across those areas varies significantly (for example between water utilities and local road maintenance). The complicated legal framework is made more complex by a lack of harmonization between the laws regulating inter-governmental functional assignments for public service delivery and sectoral laws. The practice of unfunded mandates continues as municipalities are frequently still not consulted by higher levels of government regarding the delegation of responsibilities.³⁷ At the same time, municipalities are in charge of some public services which by their character might be better placed within the remit of the central state. An illustrative case is the provision of social protection services in the RS where social protection cash benefits are under the local government mandate. This results in huge inter-municipal variations – from KM41 per beneficiary in Čajniče to KM200 in Banja Luka.³⁸ Another is when, under the pressure by the citizens, local governments embark on activities which fall within the realm of entity or cantonal government, effectively co-funding the central state at their own budget expense.

The overall range and scope of mandated local government competences remains restricted despite increasing demands on local government particularly with regards to the promotion of local economic development. Most municipalities have local development plans (although unlike in the Bosnia-Herzegovina pre-war local government system, they are not compulsory) which however are not linked to the strategic documents at the higher levels of government, and for which they lack the implementing instruments.³⁹ This in itself is a reflection of a narrow and archaic view of the role of local government as the provider of basic public services. But it is also indicative of strong political interests to cling to the powers accumulated at the entity and the canton level, and to control the degree of autonomy that local units of government enjoy.⁴⁰

³⁷ Interview, Banja Luka City Administration, Banja Luka 28.1.2011

³⁸ Interview, Banja Luka City Administration, Banja Luka 28.1.2011

³⁹ Interview, Sarajevo Institute for City Development Planning, Sarajevo 31.3.2010. UNDP in particular, through its Integrated Local Development Project, has worked on capacity building for local development planning. By February 2011, some 21 municipality adopted development plans based on the UNDP methodology. See www.undp.gov.ba.

⁴⁰ Within former Yugoslavia, Bosnia-Herzegovina had a strong tradition of local communes “Mjesna Zajednica” (MZ) as the form of local community organization below municipal level. These still exist

Uneven Fiscal Space and Resources

Since the new system of indirect tax collection and redistribution was put in place in 2006, the revenue transfers from the Single Account have become the most important source of municipal revenue. Indirect tax revenue is now the largest source of municipal tax revenue, its share increasing over the years since the introduction of the VAT. It accounts for 80% of municipal tax revenue in the RS and (taking out municipalities in the Sarajevo canton) and 60% of the FBiH, up from around 50% and 30%, respectively before 2006.⁴¹ The early results of the equalization mechanisms being phased in since 2006 suggest that some degree of equalization has taken place. In 2006, the indirect tax revenue per capita amounted to around KM21 to KM190 in the FBiH; by 2009, the distribution gap narrowed to KM59 to KM147.⁴² However, overall local government budget envelope rarely matches the responsibilities of the municipalities, which causes eventually their selective and partial implementation. For example, in the RS expenditures on social protection in small municipalities range between 1% and 5% of the municipal budget compared to 15-20% in larger municipalities.⁴³ Across the municipal level of government in Bosnia-Herzegovina the fiscal position displays a significant degree of diversity; for example in the RS the budget of Banja Luka is 536 times the budget of Kasindol.⁴⁴ There are differences in terms of own revenue generation, transfers from higher levels of government, borrowing levels and potential, and expenditure structures.⁴⁵ Own revenues, which consist mainly of user fees and charges comprise a relatively small share of total municipal revenue (around one third).⁴⁶ The scope for enhancing the proportion of the revenue raised by local governments is limited given the complexity created by a confluence of factors including in particular: the legal status of local government, the difficult economic context and the existing

in many municipalities as an important aspect of local democracy. This further level of decentralisation is compulsory in the FBiH, whereas in the RS it is left at the discretion of municipality. The centralizing tendencies at the municipal level burden the relations with MZ and their more effective integration into local governance process. See: EDA 2007, p204.

⁴¹ Source: Uprava za indirektno oporezivanje, Bulletin 52/53, November/ December 2009 and Bulletin 28/29 December 2007

⁴² Uprava za indirektno oporezivanje, Bulletin No 52/53, November/December 2009, p. 6.

⁴³ Strategija razvoja lokalne samouprave u Republici Srpskoj (2009-2015), p.9

⁴⁴ Ibid, p.8

⁴⁵ World Bank (2009), p9. The report provides detailed overview of the differences in the municipal expenditure structure.

⁴⁶ Ibid.

administration of public finance, especially in the RS. In fact under the current regime even the most developed municipalities would not be able to rely mainly on own revenues⁴⁷. In a number of municipalities carved out in the post-conflict territorial settlement, some of which are by any criteria non-viable and yet are sustained for political purposes, own revenues are negligible. Borrowing rights are in practical terms circumscribed by the existing entity legislation, local economic potential and weak capacity for fiscal management at the local level. The composition of expenditures, as noted earlier, varies in line with the profile of each municipality in terms of size, location (urban or rural) and level of development. Municipalities with large displaced and refugee population face additional specific constraints in terms of meeting the needs of this particular segment of local population. Consequently, the ability to shift the composition of expenditures to improve the fiscal position and public service outcomes varies. In particular, since public administration is among the key employers at the local level the wage bill forms a large and unavoidable share of municipal spending, further limiting the ability of the local governments to adjust expenditure to respond to changing needs. Despite substantial and growing needs and demands on local government, the composition of municipal expenditures in both entities is skewed towards recurrent expenditures and there is a chronic shortage of capital investment. Although the borrowing rights have formally softened constraints on capital investment, given their diverse fiscal position, only a minority of municipal governments have turned to loans to fund long term investment.

Unresolved Local Government Property Status

The legal and regulatory framework in Bosnia-Herzegovina contains provisions regarding municipal property rights over the resources required for the implementation of local government responsibilities. However, in practice the legal changes required to reverse the effect of the transformation of the former 'social property' to state property which took place in 1993 have been slow and partial. As a result, local government units, deprived of any property rights through that process of property transformation, still encounter problems of limited jurisdiction over agricultural land, construction land, infrastructure, mineral resources and other resources on their territory. The repercussions of the limited or

⁴⁷ Interview Banja Luka City Administration 28.1.2011

absent municipal property rights over those resources are manifold. Perhaps the most glaring example is that of communal infrastructure. Although communal services such as heating and water supplies are a municipal responsibility, the physical infrastructure is not owned by municipalities, affecting the quality and reliability of the service.⁴⁸ In this framework, the lack of property rights represents not just a barrier to investment, but also deprives the municipalities of effective control over particular services which directly impacts on its performance as the public service provider. Furthermore, the unresolved municipal property rights prevent municipalities from exercising their right to raise property tax as a source of municipal revenue. The extent to which local government can pursue its role in promoting development, for example through attracting investment including concession agreements, is also directly affected by its lack of property rights over the resources at its disposal.⁴⁹

Local Level Public Service Delivery Outcomes

As a result of Bosnia-Herzegovina's specific politico-administrative structure, the organization of public services is dispersed across different administrative and government levels, involving different degrees of decentralisation. For example the health sector consists of thirteen 'sub-systems': two entities, ten cantons and the Brčko District. Similar administrative organization also applies to the education system which operates in an equally complex institutional framework of twelve ministries and the Department of Education in the Brčko District. Although in the FBiH the responsibilities for health and education are devolved across two levels of government, in contrast to the RS where the organization of these services is centralized, local government in both entities is entrusted with similarly limited responsibilities. The arrangements however differ further by municipality and among cities; for example, the city of Banja Luka is responsible for the salaries of teachers but not of the medical doctors. The sheer complexity of the two systems makes the assessment of the outcomes of decentralization in those two sectors rather difficult and outside the scope of this research. Instead, in the remainder of this section,

⁴⁸ Interview Republika Srpska Ministry of Administration and Local Self- Government, Banja Luka 28.1.2011

⁴⁹ Ibid.

In the RS the law on transferring property rights over communal infrastructure to municipalities is under preparation.

some of the main findings from the recent (and so far the only) study⁵⁰ of local governance performance in public service delivery in Bosnia-Herzegovina will be discussed. The study looked in particular depth into the municipal provision of water, heating, sewerage and local roads maintenance, but also covered education, healthcare, electricity, heating and housing which are municipal responsibilities shared with higher levels of government.

The results of the World Bank survey show that on many aspects the municipal provision of basic services such as water, sewerage, and heating and local road upkeep has been inadequate and rather poor. Almost a third of population of Bosnia-Herzegovina has no access to running water or waste removal; about a quarter of citizens rely on non- asphalted roads; some half a million people lack any sanitary services, and only 65% of households receive their water from the public system.⁵¹ Other studies, which have looked at the particular sectors including water supply (which is entirely devolved to the local government level) and sewerage, corroborate those findings. In the RS for example, 46% of the population is covered by municipal water supply system compared to 56% in the FBiH. The coverage in the sewerage sector in the RS is 33%, which is considerably below the EU average of 75%.⁵² Although no comparable FBiH-wide data exist, its sewerage system is equally underdeveloped and ill-maintained. As far as the municipal performance in other areas are concerned, namely: education, healthcare and heating, the World Bank research provides interesting insights into the citizens' level of satisfaction with those services, as an important element in the overall assessment of the public service delivery outcomes. According to the study, around 74% of citizens are satisfied with the state of school buildings and healthcare facilities whose maintenance is under the local government mandate; 70% are satisfied with the heating and 62% with sanitation facilities.⁵³ The

⁵⁰ The World Bank conducted a survey of 2,000 households in 20 Bosnia-Herzegovina municipalities looking at the performance in the delivery of ten services, both mandated and the devolved ones, which are the responsibility of local government. World Bank (2009), *From Stability to Performance: Local Governance and Service Delivery in Bosnia and Herzegovina*, Washington

⁵¹ World Bank 2009, p.11

⁵² Bosnia-Herzegovina Sector Assessment (2009),

www.waterwiki.net/index.php/Bosnia_Herzegovina/sector_assessment

The Sector Assessment Study was prepared as a background for the assessment of Bosnia-Herzegovina progress in meeting the millennium development goals targets: UNDP (2010), *Bosnia-Herzegovina Millennium Goals Development Progress Report 2010*, New York

⁵³ World Bank 2009, p12

findings of the research on citizens' level of satisfaction with services reveal that waste has the worst level of satisfaction out of all ten services surveyed by the World Bank, whilst water and health receive the highest score (with approval by about 60% of the population).⁵⁴

Besides the low access to and generally poor quality of public services provided by municipalities, the World Bank survey reveals great unevenness in the access to those services across Bosnia-Herzegovina. The differences between rural and urban municipalities are particularly striking; for example, a third of rural households has no connection to municipal water supply network and must use water from unsafe sources.⁵⁵ At the same time, other studies show that even urban municipalities themselves, which also tend to be more developed, do not necessarily enjoy better public services; for example, in the RS the urban sewerage systems cover just over two-thirds of the population, while large cities such as Banja Luka and Dobož are confronted with major sanitation problems⁵⁶. Thus the level of economic development, while important, is not the decisive factor behind the variations in public service provision in Bosnia-Herzegovina.

The merits of decentralisation in Bosnia-Herzegovina, as suggested in the introduction of this paper, require careful balancing of its alleged conflict management and economic efficiency improving potential. Therefore, it is of great significance that the social groups worst affected by the poor access to and low quality of public services in Bosnia-Herzegovina seem to be the most vulnerable and marginalized segments of the rural population. These often include a large proportion of returning refugees, typically from ethnic minorities, to whose needs local governments have often turned a blind eye. As the findings of one study claim: "...minority returnees are discriminated against in almost all sectors of life, including [...] water supply, electricity and communications".⁵⁷ The legacy of conflict also extends to other aspects of local public services provision. Inter-ethnic sensitivities play a role in the under-provision of services with geographical spill overs,⁵⁸

⁵⁴ Ibid.

⁵⁵ Ibid, p.11

⁵⁶ Bosnia-Herzegovina Sector Assessment (2009), *ibid.*

⁵⁷ IMDC 2008, p.228, quoted in: Bosnia and Herzegovina Assessment 2009, *ibid*

⁵⁸ World Bank (2009), *ibid*, p29

while the lack of inter-ethnic trust prevents inter-municipal cooperation across politically determined municipal boundaries. Although the legal framework for local government allows for municipal cooperation in public service delivery, in practice that cooperation has been rather limited.⁵⁹

Regionalisation and Regional Development: Discourse, Actors and Institutions

The issue of regionalisation is subsumed within the broad debates on the modalities of decentralised organization of government in Bosnia-Herzegovina. And it is a fair claim that it represents by far the most politically sensitive and most ferociously argued aspect. The reason is that any move towards (re)organizing the country on a regional model has to start from the existing administrative regionalisation and its attendant distribution of political and economic powers. Regionalisation has been approached both by the segments of the local constituency as well as the international agents as a potential solution to the disfunctionality of the existing government arrangements in Bosnia-Herzegovina. It has been the focal point of the on-going negotiations over the constitutional reform deemed necessary for establishing an institutional framework conducive to democratic dialogue and conflict management without external involvement. Although not its formal condition, the change in the Dayton-agreed constitution is also inevitable in the context of Bosnia-Herzegovina's aspiration for EU membership.

Regionalisation has found its place in the programme of every major political party. Various proposals of its actual form have become the key battle ground in the political struggle over the direction the constitutional reforms should take, and were for example at the forefront of political campaigning in the last round of general elections held in October 2010. Those proposals reflect conflicting visions among the main political players of what kind of state Bosnia-Herzegovina should be.

⁵⁹ Rodić D. at al.,2008

Interview in the Republika Srpska Ministry for Administration and Local Self-Government, Banja Luka 28.1.2011

| Regionalisation in the programs of main political parties |
|---|
| <p>Socijaldemokratska Partija Bosne i Hercegovine (orientation: left) Decentralised country of 4 regions based on functional, economic, territorial, geographic and communication criteria but also culture & tradition No cantons; no entities</p> |
| <p>Stranka za Bosnu i Hercegovinu (orientation: centre) Regions as a starting point for state reorganisation based on geographic, economic, communication and cultural criteria; regions to have legislative and executive powers No cantons, no entities</p> |
| <p>Stranka Demokratske Akcije (orientation: centre right) Country of multi-ethnic regions based on economic criteria and local self-governance based on European standards No entities</p> |
| <p>Hrvatska Demokratska Stranka Bosne i Hercegovine (orientation: centre right) Regions as one of at least 3 levels of government with legislative, executive and judicial powers</p> |
| <p>Stranka Nezavisnih Socijalnih Demokrata (orientation: left) No regionalisation; Preserve the RS</p> |
| <p>Partija Demokratskog Progresa (orientation: centre) No regionalisation Preserve the RS</p> |

Outside political party contestations, other segments of Bosnia-Herzegovina society have also engaged in debates over regionalisation⁶⁰. The Non-government Organisations (NGOs), the Catholic Church, and the expert community are among some of its most vocal proponents, albeit starting from different vantage points in terms of the goals, criteria and proposed regional configurations. Nevertheless, the international community has remained in the driving seat when it comes to championing regionalisation, although not in an uncontroversial manner having followed different criteria for regionalisation depending on the issue area.

⁶⁰ For an overview see: Pejanović and Sadiković 2010

The way in which regionalisation has been deployed as an instrument in the course of the reforms to establish more functional governing arrangements in Bosnia-Herzegovina has not only kept regionalisation as a central issue in political debate, but has at the same time created a confusion over its purpose and direction to the point that its very meaning has become compromised⁶¹. For example the design of the indirect tax reform system involved defining tax administration regions, as did various proposals for the police reform- - but those regions had no semblance to one another in terms of the areas each covered. Adding to this dissonance was the Regional Economic Development Programme (EURED), a major initiative of the European Union to shift the whole discourse towards the importance of regional level from the economic development perspective. The EURED had several inter-related goals⁶²: to define a regional development framework; to set up and support regional development agencies; to draft the national strategy of regional economic development; and to secure co-funding for regional development projects. The backbone of the project was the identification of six economic regions, each hosting a regional development agency. The political fallout from this initiative has been significant. The RS government has rejected the proposal, refused to allow the setting up of one of the regional development agencies on its territory, and even threatened municipalities willing to participate in the activities of the Sarajevo-based development agency SERDA with the withdrawal of financial assistance provided by the entity government.⁶³ The main reason for this opposition was the fear that the proposal to set up regional development agencies crisscrossing the inter-entity boundary line would prejudice the eventual outcome of the renegotiation of the constitutional set-up of Bosnia-Herzegovina in that those regions could eventually evolve into administrative-territorial units. Although the Ministry of Foreign Trade and Economic Relations was involved in the project, the proposal to define macro-regions was never put on the government's agenda, suggesting a lack of political support for the idea. In fact, the EURED regionalisation proposal became a stumbling stone in talks on constitutional reforms, and eventually faded from the public agenda.⁶⁴

⁶¹ Interview Department of Economics, Sarajevo 30.3.2010

⁶² Osmanković and Pejanović 2006:181

⁶³ Interview at SERDA, Sarajevo 31.3.2010

⁶⁴ Expert community was also critical of the proposal arguing that it sidestepped a historic experience of regionalization in Bosnia-Herzegovina, where the distinct regions had formed along

An acknowledgement of the risks associated with the idea of regionalisation has been reflected in a shift in the international actors' approach following the open and unequivocal rejection of the EURED proposals by the government of the RS. Within the EURED program itself the support to the regional development agencies is being gradually phased out (after all, the agencies have to eventually become commercially viable) and the program has shifted its support towards the local community level. Similar trends can be identified with some bilateral agencies. At the same time the World Bank, which has over the years lent significant support to local and regional development issues, has tended to shift its agenda towards the implementation of the millennium development goals. Even the Stabilisation and Association Progress Reports for Bosnia-Herzegovina as an instrument aimed to steer and monitor EU accession progress no longer mention the issue of regional development. This in itself is telling since a concern to assist the country to prepare for eventual EU membership drove the EURED initiative in the first place.

Unlike most of her neighbours, Bosnia-Herzegovina does not have regional development strategy. The controversial nature of regionalisation and regional development in the context of local ethno-politics has meant that neither the strategic development document – the “National Development Strategy 2008-2013”, currently in the final stage of preparation – nor the earlier (first) “Poverty Reduction Strategy Paper 2004-2007” address regional development in specific terms⁶⁵. In addition, the Entities have neither regional development documents nor the institutions with an explicit mandate in that area. In 2009, as part of its obligation under the terms of the EU Partnership Agreement, the Bosnia-Herzegovina Council of Ministers adopted the “Strategy for the Development of Small and Medium Sized Enterprises in Bosnia-Herzegovina 2009-2011” but its implementation has been slow and fragmentary. The RS government supports local economic development through the Agency for Small and Medium Sized Enterprises. In the FBiH a variety of institutions at the cantonal and entity level are involved in supporting small and medium size enterprises, which is an area also of intense activity of the international donors and agencies. Political obstructions prevented the adoption of the new spatial plan in the Federation during the former

functional-gravitational lines, which were disturbed by the political redrawing of the border. See for example: Osmanković and Pejanović (2006)

⁶⁵ This is yet another illustration of a perennial problem of a lack of coordination within the international donor community in this case the World Bank and the EU

government replaced in October 2010, without which the creation and implementation of a regional development policy is not possible. The five regional development agencies established under the auspices of the EURED exist in a grey zone, lacking a strategic and/or unified legal framework. Every single regional development agency has drafted a regional development plan but those exist as effectively stand-alone documents (for example, although Sarajevo canton is one of the founders of SERDA regional development agency, there is no mention of SERDA in the cantonal development strategy).⁶⁶ In the current economic climate of post 2008-09 economic crisis, the member-municipalities have found it difficult to finance the agencies on a regular basis, leaving them to face an uncertain future, especially in view of the absent political support. Despite the odds, some of those agencies have managed to establish a respectable profile in some sectors such as agriculture and wood processing.

To complete the complicated picture of the state of regionalisation and regional development policy in Bosnia-Herzegovina, despite facing a problem of uneven regional economic development, the Bosnia-Herzegovina government has not even started a debate over the NUTS⁶⁷ regions which are important from the perspective of capacity to utilise future EU assistance. The reluctance to address the issue is due to political considerations discussed extensively throughout this paper, which again have to do with avoiding any action that might prove detrimental to particular ethnic group interests in the context of the pending constitutional reform. Instead, the RS government has taken the definition of the NUTS regions as an entity responsibility, and envisages their identification in its “Strategy for Local Self-Government 2009-2015”.

Conclusions

The character and structure of local politics have played a critical role in establishing the framework for decentralisation in Bosnia- Herzegovina which has aimed as its priority to manage ethnic conflict. This has shaped the formation of local government in Bosnia-Herzegovina and has had profound effects on its performance in terms of public service

⁶⁶ Interview SERDA, *ibid*

⁶⁷ NUTS: the Nomenclature of Territorial Units for Statistics is the classification of territorial statistics in the EU. EU accession countries are required to define the regions corresponding to this classification which enables the collection of the regional-level statistics.

delivery outcomes. Decentralisation and regionalisation are at the core of the transformation of the state created by the Dayton Peace agreement. In the context of politicised ethnicity and contested statehood they have been approached exclusively in identity terms. Strong local political interests aiming to preserve the status quo in terms of power and resources vested in the intermediate levels of government have made the separation of competencies and expenditures across different levels of government more complex and complicated than elsewhere in the region which is covered by this research project. As a result, a fragmented institutional and policy framework has been in place undermining the potential political and economic benefits of decentralisation. This applies not just to the formal legislative process, but equally to how it is implemented. Disrespect for legal provisions, arbitrariness, and discretionary handling of local government matters by the ethnic elites at the higher levels of authority have been commonplace alongside formal improvement in the local government institutional framework.

Decentralisation has been confronted with strong limitations posed by the inadequate level of administrative and fiscal capacity of local government units, which are to a significant degree a consequence of the recent war experience. Bosnia-Herzegovina's specific post-war context of arbitrary territorial borders, massive population displacement and a weak economy has created vast and diverse needs, which local governments by and large have found difficult to respond to. The problem of uneven access to public services has been additionally complicated by the fact that often those communities and individuals worst affected by the impact of war tend to be at the greatest disadvantage.

The role of international actors in driving the process of decentralisation forward has been pivotal. On the one hand, the requirements and conditionality associated with Bosnia-Herzegovina's EU pre-accession process have brought about notable improvement in the legislative framework for decentralisation. On the other hand, strong international involvement on the ground in the activities related to everyday practice at the local government level, has had an influence on the changing perceptions of its role and in its actual performance, helping to create bottom up demands for improvement in the decentralisation process. At the same time, international efforts to shift the discourse of decentralisation to issues of economic development and improved mobilisation of

developmental resources by focusing on the regional level have been controversial. Not only does the EU-sponsored initiative to define economic regions usurp territorial and power patterns established under the terms of the Dayton Peace Agreement, but it also goes against the historical experience of regionalisation in Bosnia-Herzegovina. As a result, regionalisation as a decentralisation track has been suspended despite evidence of growing regional disparity and a need to put in place a framework to address it in a coherent manner. Defining an appropriate balance between the local and higher scales of government through democratic debate so that decentralisation can work towards the internal reintegration of the state remains the biggest challenge in the context of Bosnia-Herzegovina's ethnically distorted politics and unfinished state-building.

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