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**Aspects of Good Administration in the
Self-Government Reformation in Albania**

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Abstract: In 2015 Albania introduced the Law No. 139 on “Self-Government in the Republic of Albania” as one of the most relevant reformations, in the framework of the integration of the country into European Union. Indeed the aim of law, is to provide a more effective, efficient and a closer local government to the citizens, introducing in this way the European concept of good administration. In this paper we intend to treat the promotion of citizen’s participation in the decision-making process, as one the key elements of the good administration. Hence we will analyse if the citizens are involved to the decision-making process in local government, after three years of the implementation of the law. Thus, through the comparative methodology between the old and new legislation on local government, we will highlight what are concrete innovations, in terms of inclusion of citizens in the decision-making, in order to know what to expect from the law. Moreover, through the examination of the recent studies, we will try to figure out, how the most important municipalities in Albania such as Tirana and Durrës, are including the citizens in the decision-making processes. In addition we will look through the public hearings, as a tool of citizen’s participation in the decision-making process, by analysing the published minutes at the municipalities’ website. Therefore the results will induce to a comprehensive panorama of good administration at local government in Albania, in terms of citizens’ participation to the decision-making process. Such outcomes will lead to some recommendations for future improvement which are addressed to the public administrators and to the legislators as well.

Keywords: good administration; self-government; local government; Albania

1. The Concept of Good Administration and the Self-Government Law in Albania

As the concept of good administration grown up gradually, it is developed in a wider set of values and principles regarding different aspects, which covers behavior, actions and decision-making processes (Kopric, Musa & Novak, 2011). In accordance to SIGMA, the good administration as European idea, that improved through different historical phases and combined with modern democratic governance, gave to the citizens the role of active members who can contribute for the development of the society. Therefore the participation in the decision-making is a condition for democratic and efficient governance (Sigma, 2012). In accordance to J. Rusch the good administration can be implemented only if the process of making decisions is promoting citizens’ participation in the decision-making process (Rusch, 2015).

Without doubt, the most significant European document that defines how the self-government should deal with good administration and specifically with the inclusion of the citizens in the decision-making process, is the European Charter of Self Government of Council of Europe. Actually, Albania accessed

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it in 1998. Thereupon, the research question of this paper is “Is it really Albania determined to follow and apply the European principles of citizen’s involvement in the decision-making”?

From the historical point of view, the local government reformation started in 1992 with the Law No. 7572 for the organization of local government, in accordance to which the territory was divided in 36 districts, 44 municipalities and 313 communes. The municipalities and the communes, are structured in local councils, head of communes or Meyers, which are elected by the respective population. In the same year, was introduced also the Law No. 7608 on the prefectures, in accordance to which 12 new prefectures were organized as entities directed by the prefects hired by the Council of Ministers. Every prefecture was including 2-4 districts in its territory. In the period of time between 1992 and 2000 some addition amendments were presented, but the territory division didn’t submit further modifications.

In addition, Albania signed the Charter of Self Government of Council of Europe in 1998, which was ratified through the Law No. 8548 by the parliament and as a result, the concepts of local autonomy became part of the constitution (Co-Plan, 2018), which the population approved in 1998 through a national referendum. The next reform on local government, reformation started in 2000 by introducing the regions through the Law No. 8653, in order to fulfill requirements of local autonomy as the Charter requests. At this point, there were three levels of government: central, regional and local.

The territory was submitted to a new division in 2014 when the Law No. 115 “On the Administrative Division at the Republic of Albania” entered into force. The Constitution of Albania (art. 140, pt. 2) and the European Charter of Self Government, establishes that boundaries of territory can be completed only by asking the respective inhabitants of the territories. However, the population was not officially asked if agreed with the new separation. The drafting process was directed from a central group composed of local and foreign experts and other 12 groups peripheral groups for each region and all of them, were technically and financially assisted by an international projects, supported by USA, Swedish government, Swiss government, PNUD, Council of Europe, and OSCE etc. The entire drafting process consisted in analysis, round tables, research, conferences, seminars and consultations with the local authorities all over the country. Moreover, was conducted a survey on a population of 16.000 residents, where results that 67% of them, support the draft-law (Ministry of Local Affairs, 2014)

The opposite party filed a lawsuit at the Constitutional Court of Albania, who rejected the claim, arguing that, as a matter of fact the Constitution is not defining any specific methodology how the population should be asked (Constitutional Court: 2015). Likewise, the Charter of Self Government of Council of Europe, defines that changes in local authority boundaries should be done by prior consultation, possibly by means of referendum, where this is permitted by statute (1985, art. 5).

Afterwards, the reformation of local government continued with the approval of the Law no. 139 in 2015 “On the Self-Local Government in the Republic of Albania”. Indeed the law aims to provide a more effective, more efficient and a closer local government to the citizens. The purpose of the law is to stimulate the effective participation of all citizens in the local government, intending here woman and man, without distinction. In addition, the law establishes that the transparency of the decision-making at the local government institutions is a legal obligation. Consequently, the administrative units should ensure the participation of the citizens through an ad-hoc coordinator for the public consultations, assuming here that the citizens’ participation is a crucial element to implement.

At this point, it is fundamental to examine, how actually the self-government is being implemented in Albania after three years of new legislation implementation. Firstly, it is necessary the comprehension of how the new elements of citizens’ participation are foreseen within the law, in order to envisage a probable reality. Secondly, by observing how the law is being executed in practical level, we can create

a panorama where we can conclude some aspects which worked and others that need some improvement. For this reason, we choose the Municipality of Tirana as the biggest in Albania, to see how the decision-making process is taking place. Afterwards, we will observe the public hearings as a mechanism of inclusion to the decision-making practice. We will analyze the reports and the information published in the website of the Municipality of Durrës, as the second most important municipality in Albania. In the same time we will review the last studies undertaken on this issue by different NGO's, think tanks and researchers in Albania.

Finally, we will make a general prospect on the self-government in Albania in the context of the European concept of good administration. Hopefully after having in consideration facts, results and legal instruments, the process will lead to some recommendations, on how the local government can be managed following the European concept of good administration.

2. The Legal Framework and the Novelty to Understand and Implement

From a general point of view, the old and new legislations, do not have significant differences as both of them foresee in their missions the knowledge of the diversities, respect of rights and freedom, public serviced, and self-government. Likewise, the structure of the levels in local government are the same. The region as the middle level of government is still unclear, as there is not any specific competences recognized by the law. Moreover, functions of the municipalities are almost the same, because both laws charge the municipalities with competences such as the water supply and sewage, irrigation and drainage, local road infrastructure, forest and fire protection and pre-university education. Thus, the only difference is the classification of the competences in three kind of categories as: (i) own functions; (ii) common functions; (iii) delegated functions.

Anyway, the innovation of the law is the reduction of the administrative units from 65 municipalities and 373 communes, to 61 bigger municipalities, which included the 373 old communes, within their jurisprudence as units, reducing the number of units by 80%. Also the legislation introduced the regions (qark) without any clear competence and functions (Congress of Local and Regional Authorities, 2017). So, if previously the municipalities were mainly based on urban population, now have included some rural administrative units (former communes) becoming mixed administrative units, with urban and rural population to manage in the same time. Nevertheless, the reformation was supported largely by European Union (DEU, 2018), other international organizations and partners with the idea to bring a more efficient administration.

Conversely, on the other hand, it has avoided the representation of the rural population at the local decision-making process. For instance, in accordance to the old legislations the communes based on the number of inhabitants, could elect their head of communes and councils members. Actually, the rural units are governed by administrators which are hired by the meyers of the municipalities, and the decision-making process is centralized at the municipality councils. Even though, the constitution defines that the political representation is equal and based on the number of residents in terms of parliamentary elections, it does not define how this principle could be respected in local elections. In the same time, neither the electoral code, nor the law on self-government, is taking care of the equal representation of different units of the municipalities at the municipal councils. Actually, there is a legislation vacuum on the representation of the rural units at the Municipal Council, letting the rural population without representation at all. (Bedini & Allmuça, 2018) Such lack of legislation is admitted by the minister of local affairs too (Çuçi, 2015).

Moreover, there are suspicions from the opposition that the boundary of the territory served as a tool for the application of gerrymandering, assuming here electoral benefits as a result of redefinition of electoral zones. Nevertheless such claims are not yet confirmed (The Congress of Local and Regional Authorities, 2016).

The law was supposed to change the financing scheme of the local government, giving more autonomy to the municipalities, but such mechanisms are not regulated yet as by laws and additional regulations are still missed. For instance, the law on self-government foresees that automotive circulation taxes and 2% of the revenues from the income taxes, should be generated and administrated by the municipalities, but in order to apply such disposition, amendments to the tax law and income law are necessary, which the government is not undertaking up to this moment. In other words, local financing autonomy is not taking place and almost 90% of the revenues are coming from the central government (Guga, 2017). Moreover the delegation of additional competences are still missed (Council of Europe, 2016.)

Nevertheless, in terms of propaganda the minister for the local government emphasizes the successful performance of the law implementation, because the state has been able to gain 15 million dollars in addition in local taxes (Ministry of Local Issues, 2018), but this is not possible to translate it in a wider financial autonomy. On the other hand, the new intermediary agency Regional Development Fund is created to allocate grants to the municipalities due to competitions (Regional Development Fund, 2019), but these funds are decided by an ad-hoc commission led by the prime minister and composed by other ministers (VKM 1, 2018). Practically the municipalities are still depending from the government. Moreover, there are claims by Albanian Municipalities Association, that the government is using such fund as an instrument, to penalize the municipalities governed by the opposite parties (Albanian Municipalities Association, 2019).

3. The Decision-Making Process in Local Government

In accordance to the Constitution of Albania the decision making-process is an exclusivity of the municipal councils and communes, which are also representatives of the citizens (art. 113). In addition the law on self-government defines that the decision-making institution at the local government are the Municipal Council, composed of councillors elected by the citizens. In the same time, the institutions of local government are obligated to guarantee the public participation in the decision-making process as a law obligation (art. 16) and every unit should hire a coordinator for notification and public consultations, in order to accomplish such obligation. The law on self-government, highlights that the consultations are supposed to place in accordance to the law on the notifications and public consultations. But, the scope of action of the law on the notifications and public consultations, are all the public organizations, where are included also the local government organizations with administrative functions (art. 2, point 9) (Law 146, 2014). At this point, this law is not acting on the municipal councils which are decision-making and not administrative institutions. At a result, it is assumed that the municipal councils, which are contemporary the only decision making institutions, are not supposed to base their activity to law on public consultations, but only to the dispositions of the law on self-government.

If we look at law on self-government, in the successive article 17 defines that the meetings of the municipal councils are opened for the general public, which should be informed previously through public notifications. In addition, the consultations with the public are compulsory when specific decisions are undertaken like: local taxes, nomination of the secretary, organization of the commissions, internal audit of the municipality (art. 54 points a. dh. e. f), approval for the budget, alienation of

properties (art. 77, points a, dh, e, f, k). In other words, it results that within the same law, the public consultations are treated in two different ways. Firstly, in the article 16 where is defined that public consultations are obligatory in the decision-making process, in accordance to the law on public consultations. Secondly, in the article 18 where is established that the public consultations are obligatory only for specific issues like taxes, budgets, properties etc. As a consequence, the law itself is realising the councils from the obligation of consultations during the entire decision-making process. In addition, in accordance to the law, the concrete tools for realising the public consultations are defined by the regulations of the Municipal Councils (art. 18, point 2). Thus, in one hand the consultations are an obligation from two laws, but on the other hand the municipal councils can determine by themselves how. From the practical point of view the public consultations are de facto something defined by a sub law act.

In a study conducted by Albanian Centre for Issues of Public Information (here in after Infoçip) on the thematic evaluation of the law on self-government, it results that such kind of expression creates difficulties of interpretation. Therefore, even the implementation with be tough to realise. It would have been more acceptable if the article 18, should have come after the article 16, because this article express the pre decision – making process where the public consultation should take place (Infoçip, 2017).

In one hand, a new mechanism such as the local referendums (art. 18, point 2) is foreseen to enforce the citizens' participation in the decision-making process. But, on the other hand, the constitution of Albania defines that the self-government is expressed also by local referendums, which should take place in accordance to the specific law on the referendums (art. 151, point 2). As currently Albania is missing a law on the local referendums, such kind of mechanism cannot be beneficial at all.

Conversely, the law on self-government recognises the citizens' initiative, through a petition signed by at least 1% of the administrative unit's population, but the procedures on how such initiatives can take place are defined at the municipal council's internal regulations. Anyway, as Infoçip argues in its report, this mechanism can't take place as soon as there is not any legislative base. Indeed the constitution of Albania defines the citizens' initiative only regarding the national legislative process (Infoçip, 2017). Nevertheless, the Municipal Council of the Municipality of Tirana is still working with the old regulation based on the old legislation of 2000 (Municipality of Tirana, 2019) and the Municipality Council of Durrës is still working on the regulation of 2004. Actually, the Municipal Council of Vlora has approved the internal regulation, where is not defined any kind of public consultation outside the dispositions of the law.

It seems like the law of self-government, even though is introducing some European concepts of good administration, it is not able to guarantee all the necessary tools to implement an inclusive decision-making process.

But how is actually taking place the decision-making process in the municipal councils? In a previous study conducted at the Municipality of Tirana, through the interviews conducted with councillors of results that the decision-making process is organised in collaboration between the administration of the Meyer as the executive branch of the local government and the municipal council. It results that the administration prepare the draft-decisions, sent them to the municipal council's commissions. Afterwards the drafts with comments is addressed again to the administration which prepare them for the public sessions (Bedini & Allmuça, 2018). In practice there are not undertaken public hearings or consultations unless there are not on the mid-term budgeting or other decisions regarding the issues foreseen by the law.

4. The Public Hearings: What is Done, What is Left?

Generally the two most important municipalities of Albania, Durrës and Tirana have organized public hearings regarding the decision of the midterm budget. For instance the Municipality of Durrës has organised in 2017, 14 public hearings in all the administrative units with different thematic like: local taxes; economic and territory development; education culture and sports; social services; infrastructure; agriculture and forestry, in terms of budgeting. In a total of 14 public hearings, 493 habitants out of 323.147 attended in six administrative units (Municipality of Durrës, 2019), marking a week participation of 0.15% of the total population.

In accordance to a survey conducted with a champion of 246 citizens distributed in two rural units and two urban units of Durrës, it results that 124 habitants or 50% have enough information on the management of the municipality and 122 out of 246 do not know anything on the duties and responsibilities of the municipality. On the other hand, the interviewers have been asked if they are informed about the public hearings, and it results that only 60 out of 249 (24%) are informed about the public hearing. Likewise it fallouts that the rural population are more informed that the urban population. Moreover, the interviewers have been asked if they have been invited in electoral meetings during the local electoral campaigns and it results that 170 out of 246 (69.1%) have been invited and participated in different electoral meetings (Velia & Lata, 2019). Based on these results we can conclude that the information of the population is possible, but for public hearings seems somehow difficult to reach the citizens. Also the information and the participation of the citizens in rural areas is higher even in this case. Most of the interviewers have been asked to participate in public hearings

In addition, in accordance to a study in two rural units of Tirana, it results that there is a special connection between the population and the administrators of the rural units. People are active in electoral meetings and also in public hearings even because they do hope that their problems can be solved by political representations. In this case this can be interpreted with the primitive rural culture of the population (Bedini & Allmuça, 2018)

Nevertheless, there are also good practices, like at the Municipality of Elbasan where citizens are informed with fryers door to door about the time and place of public hearings and the participation is in considerable levels. In the same time the citizens have the opportunity to vote regarding the options for different decision. The weak aspect is that sometimes the citizens are not informed on the results of their involvement in the changes at the decisions, as a result of their activation (IDRA, 2017) and this is not helping the growing of citizens' confidence to the local government institutions.

5. Conclusions

Firstly, from the legislation analysis above it turns out that the new laws which are approved since 2014 are a step forward towards the good administration in terms of European concept. The reformation undertaken by the Albanian government seems an effort, but is not enough.

Since the beginning is obvious that the new legislation is not coordinated with the constitution. For instance the constitution still determine the communes and municipalities as administrative units, while the new legislations has abolished the communes.

Secondly, the constitution needs amendments regarding the citizens' initiative on local decision-making, because it is foreseeing it only for the national legislation. Moreover, Albania needs a law on the referendums, including here both national and local ones.

Thirdly, there are necessary some amendments to the Electoral Code, as the only legislative base that defines how the democratic representation is taking place in Albania. The code does not provide any form of equal representation of the habitats of administrative units as components of the municipalities at the municipal councils.

Fourthly, the law of self-government is not effecting properly as it is not completed with by-laws or internal regulations which could give a push to the self-government and autonomy.

Fifthly, the municipalities are not having concrete tools to be have more autonomy. Their financing is still depending from the government.

Sixth, the consultations which are the most effective mechanism to guarantee the participation of the citizens in the decision-making process are taking place only for the midterm budget. In order to have an all-inclusive participation it would be necessary to broader the spectre of consultations for different kind of decision-making. Moreover, the midterm budget is not fully comprehensive for general public which sometimes is not even informed on the results of their interventions. In addition the participation of the public in public hearings is still low.

Seventhly, there is a lack of compliance between the law on self-government and the one on notifications and public consultations. Indeed the law on self-government cannot be grounded on the law on public notifications and consultations, because its field of action fall only on the administrative institutions, where can be included only the Meyers, letting outside the municipal councils, which are de facto the only decision-making institutions recognised both by the constitution and the law in the same time.

6. Recommendations

Before taking in consideration the participation of the citizens in the decision-making process as part of the good administration, it would be necessary to regulate the political representation. It is assumed that there is not participation without representation. It is highly recommend appropriate amendments to the electoral code in order to fix up the representation of the citizens of different units in the local government. After the democratic participation in accordance to the democratic principles of equity, we can start taking provisions for the inclusion to the decision-making process.

Moreover, it would be beneficial for Albania to join the Protocol of the European Charter of Self Government of Council of Europe of 2009, because it clearly emphasizes the right to participate in the affairs of local authorities. Concretely, the right to seek, to determine or to influence the exercise of local authority (art. 1) as well as the right to participate as voters and candidates in the election of members of council (art. 1, point 4.1), is clearly highlighted in the Protocol. Moreover, the protocol established concrete measures and tools on how to implement the participation with consultative process, local referendum, petitions (art. 2, point 2), which Albania needs in order to complete the self-government legislation (Additional Protocol of the European Charter of Self-government, 2009).

Furthermore, it is necessary to inform the citizens on the new rights gained as a consequence of the law on self-government. As argued by the authors Solomon and Domide the authorities should find way and tools to educate the citizens with the new regulations (Solomon, Domide, 2013), otherwise they will never exercise their right to participate and the law will never effects in terms of good administration. Probably, such process can be realised by the activation of civil society as partners with the municipalities.

In addition the decision-making process can improve if new processes of consultations can be included as part of the decision making process. Therefore it would be necessary to determine public consultations as obligatory part of the decision-making practices, foreseen at the internal regulations of the municipal councils.

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