CONSTITUTIONAL AND LEGAL POSITION OF MUNICIPAL AND CITY GOVERNMENTS IN STRATEGIC PLANNING AND PROMOTING LOCAL ECONOMIC AND INFRASTRUCTURE DEVELOPMENT

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Abstract

Nowadays, the importance of the local community is growing all over, but the fact that Bosnia and Herzegovina (hereinafter: BiH) has no state law on local self-government that would clearly define the position and the role of citizens in the system administration, is not officially recognized at the state level. Also, it is important to note that this area is not under the direct jurisdiction of any of the ministries. Given that there are entity laws and cantonal laws, or municipal statutes, there are cases of overlapping responsibilities of higher and lower levels of government, for example between entities and cantons or between cantons and municipalities. Here it is matter of the fulfilment of the obligations of BiH in terms of implementation of the principles contained in the European Charter of Local Self-Government of the Council of Europe.

BiH Constitution did not specifically specify constitutional and legal position of municipal and city governments. In terms of the constitutional provisions, in the Federation of BiH cantons have all the responsibilities that are not expressly granted to the Federal Government. The Constitution of the Republic of Srpska also, among other things, determines the constitutional order based on local government. In the Brčko Distrikt situation is somewhat simpler because the District is considered a single unit of local self-government, and in this sense instruments of international law are directly applicable.

Local Governance in BiH is devoted adequate attention through special entity laws. Separate entity legislation does not end the process of division of the system of local self-government, because each canton in the Federation of BiH has a law on local self-government, and in addition, municipalities have statutes. As in RS there are no regional or cantonal laws on local self-government, the municipalities are considered the base units of local government. This is an advantage in RS compared to the Federation of BiH in which the system of local government is compounded by the existence of a cantonal law.

“The system of local government shall be regulated by law. A law may entrust the performance of local government tasks to the city. The city and the municipality shall be entitled to revenues determined by law and shall be provided with the funding for the performance of

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their duties.” The Act contains a specific provision on the so-called local governments that have followed different laws.

**Keywords:** Local communities, Municipalities, Constitution, Economic status, Regional development.

### Legal status of municipalities in Bosnia and Herzegovina

This work is limited to the legal aspects of the existing position of municipal and city authorities in terms of their capabilities and limitations to stimulate local economic development and infrastructure development. The importance of the local community is growing all over, but the fact that Bosnia and Herzegovina (hereinafter: BiH) has no state law on local self-government that would clearly define the position and the role of citizens in the system administration, is not officially recognized at the state level. This article discusses the legal aspects of local self-government. In addition, this work will cite the individual studies that dealt with these problems. This work also examines complex constitutional system. Therefore, it especially exposes the legal aspects of this issue in BiH as a state, its Entities and Brčko Distrikt as well. In addition, it will give the basic overview of best practices in EU for local government. In this paper, comparison between domestic circumstances in this area will be presented.

BiH Constitution did not specifically specify constitutional and legal position of municipal and city governments. Article I, section 4 (movement of goods, services, capital and persons) defined that there is freedom of movement throughout the country. Neither Entity shall carry out any checks on the entity border.

Sarajevo was designated as the capital of BiH. According to the Article III of the Constitution of BiH, jurisdiction and relations between the institutions of BiH and the Entities are not determined by a special authority of state institutions as opposed to the local community. This applies to the jurisdiction of the Parliamentary Assembly and the Presidency of BiH. Same Article (Item 3, b) provides that the entities and their subdivisions shall fully comply with the Constitution, which supersedes inconsistent provisions of the law of Bosnia and Herzegovina and of the constitutions and law of the Entities, and with the decisions of the institutions of Bosnia and Herzegovina (Anon. 1995).

In terms of the constitutional provisions, in the Federation of BiH cantons have all the responsibilities that are not expressly granted to the Federation Government (Chapter III, Article 4), and are particularly relevant in the adoption of: f) regulations on the use of local land including zoning; g) Regulating and promoting local business and charitable activities; h) regulating and ensuring the availability of local energy production facilities; i) making policy concerning radio and television
facilities, including decisions concerning regulation and provision thereof. Only in Chapter VI (Articles 1 and 2) certain powers of municipalities are mentioned in detail. Thus, in the exercise of their responsibilities, each municipality: a) takes all necessary measures to ensure protection of the rights and freedoms set forth in Articles II. A. first to 7 and instruments listed in the Annex; b) take into account the ethnic composition of the population in the municipality (Anon. 2003b).

According to the Constitution of the Sarajevo Canton, local governments are established in the municipalities; municipalities have statutes that must be in accordance with this Constitution and cantonal legislation. According to Article 15 of Constitution of Sarajevo Canton, the Canton can transfer its competences in the field of education, culture, tourism, local businesses and charitable activities, radio and television to the municipalities in its composition. These competencies shall be expressly transferred to those municipalities where the majority of the population according to the national population structure is not a population which makes up the majority in the area of the entire Canton. Canton can transfer some of its responsibilities to the Federal Government if this would ensure their efficient and rational exercise. The decision on the transfer of powers is delivered by the Assembly according to the (Article 35). Within the Canton a number of municipalities as units of local government are established according to the European Charter of Local Self-Government and the law and regulations of the Federation of BiH. Number of municipalities and their territorial coverage is determined by regulations issued by the Assembly. In the process of establishing, municipality is obligated to obtain the opinion of citizens, at a referendum, of the part of Canton which wants to organize a municipality. Municipalities may have original jurisdiction and responsibilities delegated by Canton through a special regulation in accordance with the Constitution. Municipalities in the Canton area may have different responsibilities depending on the global policies of functioning and development of Canton, and depending on the economic, spatial and other position of individual municipalities. In order to ensure efficiency and unity in the functioning of government, in exercise of their jurisdiction municipalities are obliged to establish mutual cooperation as well as cooperation with the authorities of the Canton. Municipalities bring their statutes in accordance with the Constitution of Sarajevo Canton and the Constitution of the Federation of BiH (Article 36).

The Constitution of the Republic of Srpska also, among other things, in Article 5 determines that the constitutional organisation is based on local government. Municipalities and cities are granted a special place in this Constitution. Thus (according to Articles 102 and 103) a municipality through its bodies and in accordance with the law: adopts development programme, urban plan, budget; regulates and ensures the provision of municipal services; regulates and provides for the use of urban development land; takes care of the construction, maintenance, and use of local roads, streets and other public facilities of public interest: provides for the specific
needs of citizens in culture, education, health and social welfare, physical culture, public information, arts and crafts, tourism and hospitality, environmental protection and other areas; enforces the laws, other regulations and general acts of Republic of Srpska whose execution is entrusted to the municipality, provide for the execution of regulations and general acts of the municipality; establishes bodies, organisations and services to meet the needs of the municipality and regulates their organisation and work, and performs other tasks based on the Constitution, the law and the statute of the municipality. The system of local government shall be regulated by law. A law may entrust the performance of local government tasks to the city. Furthermore, towns and municipalities are entitled to revenues determined by law and funding for the performance of their duties. The Constitution contains a specific provision on the so-called local governments that have held separate local governments. They are realized in local communities as a mandatory form of local self-government. The law, therefore, is committed to the establishment of the local community as a unit of communication and cooperation between citizens and local authorities, and with the political representatives (Anon. 2006d).

Local governance in BiH is devoted adequate attention through special Entity laws. In the Federation of BiH there is in force Law on Principles of Local Self-Government of the Federation of BiH (Official Gazette, Federation of BiH, no. 609/06). This law regulates: the definition of local self-government jurisdiction, the local authority, relations between the council and the mayor of the local government, finance and property, transparency, direct participation of citizens in decision-making, administrative supervision, cooperation of local governments and higher authorities, the relationship and cooperation between the federal and cantonal authorities and local self-monitoring of laws, and other issues. In the Republic of Srpska, these issues are regulated by the local self-government unit (Official Gazette of RS, no. 101/04, Local Self-Government Law). This legal act governs the local government, the manner and conditions of their education, jobs in local government bodies, property and finance, acts of organs of local self-government, public scrutiny of local government, the administrative supervision of the local government, the cooperation of local governments, protection of the rights of local government, forms of citizen participation and the rights, obligations and responsibilities of employees in the administrative service of the local government. This Law requires municipalities and cities to adopt mechanisms that would enable citizens to participate in decision-making, stating that as a way of encouraging people they can use all ways that do not conflict with other laws. As means of participation the Law states referendums, citizen’s initiatives, local communities, citizens’ panels, mayor’s authorities (Anon. 2006e; Anon. 2004a).

Separate Entity legislation does not end the process of division of the system of local self-government, because each canton in the Federation of BiH has a law on local self-government, and in addition, the municipal statute. As in Republic of Srpska there are no regional or cantonal laws on local self-government, the municipalities...
are considered the units of local government. This is an advantage in the Republic of Srpska in comparison to the Federation of BiH in which the system of local government is compounded with the existence of a cantonal law. All this would not be a big deal if the municipal statutes, cantonal and entity laws would clearly define the responsibilities of local governments. Thus it often happens that there is overlapping of responsibility which reduces the efficiency of the functioning of the system of local government.

In the Brčko Distrikt situation is somewhat simpler because the District is considered a single unit of local self-government and instruments of international law in this field are directly applicable. Brčko Distrikt has also adopted the document “Principles of partnership” based on shared values and civic initiative which stems directly from Article 4 of European Charter of Local Self-Government, Article 2 of Constitution and Article 15 of Statute of Brčko Distrikt. In this way, the Brčko Distrikt improved efficiency of the system of local government, and through adoption of basic principles proved that it understands the importance of citizen participation in the decision making process.

Legal status of municipalities in Europe

Here it is matter of the fulfilment of the obligations of BiH in terms of implementation of the principles contained in the European Charter of Local Self-Government of Council of Europe (hereinafter referred to as: the Charter) which was adopted in 1985 and since then is opened for signature. The main objective of the Charter is to minimize the lack of common European standards for identifying and preserving the rights of local authorities which are closest to the citizens and to give them the opportunity to participate effectively in decision-making related to their everyday surroundings. The Charter commits the parties to applying basic rules guaranteeing the political, administrative and financial independence of local authorities. It is thus a demonstration, at European level, of the political will to give substance at all levels of territorial administration to the principles defence since its foundation by the Council of Europe, whose task is to keep the Europe’s democratic conscience and the defence of human rights in the widest sense. Specifically expressed is the belief that the degree of self-government enjoyed by local authorities can be considered an indicator of genuine democracy. The Charter is the first multilateral legal instrument that defines and preserves the principles of local autonomy as one of the pillars of democracy, and the function of the Council of Europe is to protect and develop it (Anon. 1985; Kaganova et al. 2006).

Strategic Plan for the development of local self-government in BiH is a key outcome of the project of creating a strategy for the development of local government in BiH by key local actors (Rodić 2008). Partnership Group for the development of
local government, consisting of the leading municipalities and non-governmental organizations, and the team of experts, composed almost entirely of practitioners who have achieved respectable results in the improvement of local government in BiH. The strategic plan is based on a critical, comprehensive and detailed analysis of the situation, adopted by the Partnership Group in May 2005. At the heart of the development vision is a new local government, that citizens perceive both as a right and an obligation to act responsibly and proactively manage local development and jobs according to the principles of the Charter, achieving a new quality of life, both in their local community as well as throughout the country. Such local government runs several important, strategic orientations, defined in the form of seven strategic goals, which include: the substantial and simultaneous functional and fiscal decentralization, ensured modern leadership, competent and motivated staff, significantly improved quality and efficiency of services, increased direct participation of citizens and civil society organizations in public affairs, partnership and responsibility of all levels of government and the productive collaboration of local government, with active participation in regional networks and initiatives.

Analysis of a number of documents in the last decade related to the subject of local government can be used to summarize weaknesses, threats, strengths and advantages of local communities. This would be one special SWOT analysis that is tailored to the needs of local communities in BiH (Miovčić 2006). High level of aligned interests of municipalities unites local authorities throughout the country in the requests for a balanced functional and fiscal decentralization, respective redistribution of responsibilities and material resources for the benefit of local government levels. Local level of government of the Brčko Distrikt is the only government in BiH which provides example of positive and progressive effects of functional and fiscal decentralization. Municipal practices in the exercise of jurisdiction, the provision of services and efficient use of available financial resources are best compared with other levels of government. Constant exposure to local government assessment and control by the citizens as service users is essential. When the Charter was ratified by BiH it was the beginning of its implementation into national legislation. Basic presented negativities are: inadequate and uneven treatment of local government in the legal system of BiH, incompatible with European standards; jurisdiction centralization of the entities and cantons; practice of taking “attractive” jurisdictions from the municipalities and assigning them to cantons and entities; threatening principle of administrative proceedings on two instances of decision making; inadequate and often vague and imprecise distribution of responsibilities between local and other levels of government in practice often results in inefficient service delivery; misunderstandings and conflicts; very uneven territorial structure of local government, where legal framework does not allow for performing some common tasks among several municipalities or connection of territorial interests.
Furthermore, there is no difference in the legal status of municipalities, with simultaneous enormous differences in: the degree of urbanization and infrastructure equipment, collisions between the law on local self-government and other laws governing jurisdiction, income disparity between the financial capacity of municipalities and their responsibilities and needs. Municipalities with modest income are sharing their revenues under the control of senior levels of government. System of revenue collection is set up so that the municipality cannot cause an increase in efficiency, and allocation system stimulates municipalities to stay underdeveloped. Distribution of powers and fiscal instruments is blocking municipalities in attracting investments and economic development. Imbalance of the municipal financing system is present, and therefore financial management system and multi-year financial planning in the municipalities are poorly developed. Also, more problems are lack of cooperation and self-organization of municipalities in order to influence policy-makers, autarchic tendencies in the municipalities and the tendency towards closure and self-sufficiency. (Miovčić 2006)

Project activities and their results in Bosnia and Herzegovina

Project activities and their results could be presented as opportunities, challenges, threats and strengths.

Outlined opportunities and challenges are:
• full implementation of the principles of the Charter and European good practice in terms of the competence of local self governance,
• full implementation of the principles of the Charter in terms of finance,
• proactive approach to the current level of local public administration reform in BiH,
• coordinated functional and fiscal decentralization,
• using the available experience in countries that joined the EU,
• creation of models of flexible structures by the local government,
• flexible solutions in terms of the legal status of local government,
• interest and functional connectivity,
• creating modern territorial organization,
• fast and complete transfer of assets to municipalities with emphasized support of key donors and international partners to strengthen the position of municipalities,
• local government development strategy in BiH,
• access to EU regional funds through regionalization and economic development strategies, development of the system of fiscal equalization,
• the introduction of local taxes,
• the formation of capital markets for the municipality,
• a partnership of public and private sector in local economic development,
• capital investment,
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- infrastructure services (Anon. 2009a).

Most notable threats are the following:
- there is no clear and strong political commitment in support of the development of local government,
- the unwillingness of central, entity and cantonal authorities, and international actors in BiH to make a real functional and fiscal decentralization,
- the continued practice of the reform of public administration,
- functional and fiscal redistribution in BiH, running only between central and entity authorities,
- partial and selective application of the Charter,
- the current fiscal centralization,
- slow reform of tax policy relating to taxes that belong to municipalities,
- the continued practice of avoiding consultation with municipalities regarding issues related to financing,
- lack of safeguards in cases of violations to the detriment of the municipality,
- insufficient transparency of the allocation of funds to municipalities from higher levels,
- frequent changes and instability of certain municipal revenue,
- lack of effective financial planning,
- continuing practice of financing activities and needs that are not relevant for municipalities or are not awarded funds,
- continuing practice of seizure of property of the municipality,
- continuing delays in the transfer of assets to the municipalities,
- managing the privatization of utility companies exclusively or predominantly by higher levels of government,
- noticeable decline and probable imminent cessation of donations for the renovation and construction of municipal infrastructure (Anon. 2009a).

Highlighted strengths are:
- a growing group of municipalities as leaders of change,
- growing interest of municipalities to modernize the municipal administration with good practice and innovative solutions in the management of quality,
- customer orientation,
- the realization of citizens’ participation,
- the use of information technology,
- applying for international funds, regional cooperation,
- self-reliance initiative,
- growing group of practitioners, experts and organizations with credible results in the introduction of good governance at the local level,
- established solid domestic NGOs and consulting organizations specialized in providing training and development of local government,
- complementary programs and facilities,
• examples of successful cooperation between local authorities and local NGOs in the modernization of the administration,
• advocacy and the creation of mechanisms for the active participation of citizens,
• the tradition of achieving citizen participation in local communities,
• the introduction of benchmarking models in comparison and learning from best practices,
• creating centres for human resource management in local government training centres and municipal offices,
• the creation of knowledge centres for the development of local government,
• retraining programs,
• additional training and education for local government staff,
• the introduction of professional managerial jobs and positions in local government,
• using the successful experiences of other countries,
• horizontal and vertical networking (among municipalities, with other bodies and organizations, with other levels of government),
• government, and especially local government, is becoming an increasingly attractive market for manufacturers of electronic equipment and software,
• creating competing jurisdictions/alternative forms of service delivery,
• entrustment of the public affairs to competitive non-governmental organizations and the private sector (Anon. 2009a).

Special attention should be paid to:
• strategic documents for the reform of public administration
• fact that IT companies do not operate in the area of local government,
• some key principles of good governance such as customer orientation, efficiency and effectiveness, quality, e-government, are not promoted by normative acts which regulate local governance in BiH,
• the current normative solutions do not provide adequate employment and reward for quality,
• there is no adequate educational infrastructure or professional training programs for staff in local government,
• weak institutional support for human resources management at the local level,
• no adequate educational infrastructure or professional training programs,
• the current organizational structure of municipal administration has impractical demands of modernization,
• unfavourable age structure of employees,
• surplus in employees with obsolete skills,
• bureaucratic mentality and clerical approach, with a concurrent lack of quality personnel and modern knowledge in adopting European standards and inclusion in the information society,
• lack of internal evaluation system for contribution and promotion of employees,
• a huge lack of managerial skills and knowledge in the municipal administration,
the lack of key management instruments in municipalities (development, spatial, urban plans) and insufficient capacity of consultants to quickly answer the large demand for quality,

the gap between user oriented, high quality municipal administrations equipped with information technologies and the majority of others with still emphasized bureaucratic environment,

weak computer equipment and software in a number of municipal administrations in BiH,

still weak political will of decision makers at the local level to embrace and stimulate active participation of citizens on the one hand and poor awareness and ability of citizens to actively participate on the other hand,

the use of a small number of mechanisms of direct citizen participation, with a very modest impact (Anon. 2009a; Bojčić-Dželilović 2011).

In relation with the above stated, in order to better understand the problems it is necessary to analyze following legal documents:

- the Constitution of BiH,
- the Constitution of Republic of Srpska,
- the Constitution of the Federation of BiH,
- Brčko Distrikt Statute,
- Law on Local Self-Government of Republic of Srpska,
- Law on Principles of Local Self-Government in the Federation of BiH,
- Law on Construction Land of Republic of Srpska;
- Law on Construction Land of the Federation of BiH,
- Law on Concessions of Republic of Srpska,
- Law on Concessions of the Federation of BiH,
- Law on Spatial Planning of Republic of Srpska,
- Law on Spatial Planning of the Federation of BiH,
- Law on Agricultural Land in Republic of Srpska,
- Law on Agricultural Land in Federation of BiH,
- Law on Spatial Planning and Land Use at the Level of Federation of BiH,
- Law on Communal Activities in Republic of Srpska,
- Law on Establishment and Transfer of Rights over the Property of the Local Government Units in Republic of Srpska,

European Declaration of Urban Rights defined some basic rights and obligations based on solidarity and responsible coexistence of citizens of European cities. The declaration came from the European Urban Charter, adopted by the Council of the European Standing Conference of Local and Regional Authorities of Europe (CLRAE) on 18 March 1992, at a meeting held during the annual Plenary Session.
According to the Declaration (European Urban Charter), citizens have the right to:

- **SECURITY** – to a secure and safe town, free, as far as possible, from crime, delinquency and aggression;
- **AN UNPOLLUTED AND HEALTHY ENVIRONMENT** – to an environment free from air, noise, water and ground pollution and protective of nature and natural resources;
- **EMPLOYMENT** – to adequate employment possibilities; to a share in economic development and the achievement thereby of personal financial autonomy;
- **HOUSING** – to an adequate supply and choice of affordable, salubrious housing, guaranteeing privacy and tranquillity;
- **MOBILITY** – to unhindered mobility and freedom to travel; to a harmonious balance between all street users – public transport, the private car, the pedestrian and cyclists;
- **HEALTH** – to an environment and a range of facilities conducive to physical and psychological health;
- **SPORT AND LEISURE** – to access for all persons, irrespective of age, ability or income, to a wide range of sport and leisure facilities;
- **CULTURE** – to access to and participation in a wide range of cultural and creative activities and pursuits;
- **MULTICULTURAL INTEGRATION** – where communities of different cultural ethnic and religious backgrounds co-exist peaceably;
- **QUALITY ARCHITECTURE AND THE PHYSICAL SURROUNDINGS** – to an agreeable, stimulating physical form achieved through contemporary architecture of high quality and retention and sensitive restoration of the historic built heritage;
- **HARMONIZATION OF FUNCTIONS** – where living, working, travelling and the pursuit of social activities are as closely interrelated as possible;
- **PARTICIPATION** – in pluralistic democratic structures and in urban management characterised by co-operation between all the various partners, the principle of subsidiarity, information and freedom from over-regulation;
- **ECONOMIC DEVELOPMENT** – where the local authority, in a determined and enlightened manner, assumes responsibility for creating, directly or indirectly, economic growth;
- **SUSTAINABLE DEVELOPMENT** – where local authorities attempt to achieve reconciliation of economic development and environmental protection;
- **SERVICES AND GOODS** – to a wide range of accessible services and goods, of adequate quality, provided by the local authority, the private sector or by partnerships between both;
• NATURAL RESOURCES – to the management and husbanding of local resources and assets by a local authority in a rational, careful, efficient and equitable manner for the benefit of all citizens;
• PERSONAL FULLFILLMENT – to urban conditions conducive to the achievement of personal well-being and individual social, cultural, moral and spiritual development;
• INTER-MUNICIPAL COLABORATION – in which citizens are free and encouraged to participate directly in the international relations of their community;
• FINANCIAL MECHANISMS AND STRUCTURES – enabling local authorities to find the financial resources necessary for the exercise of the rights as defined in the Declaration;
• EQUALITY – where local authorities ensure that the above rights apply to all citizens, irrespective of sex, age, origin, belief, social, economic or political position, physical or psychological handicap. (Congress of Local and Regional Authorities 1992)

Economic aspects

The basis of this approach to local development is a new local government, which implies an active approach to citizens and their participation in the development and management of local affairs, according to the principles of the Charter (Bertović et al. 2004).

The question of ownership and management of resources at the local level is essential in the process of decentralization, economic empowerment and development of local government. The Constitution of Republic of Srpska and Constitution of Federation of BiH as a form of ownership envisage state property so that the property of the local government is treated as part of state property and entities appear as its owner. Analysis of the situation in the area of fiscal decentralization in BiH indicates that local governments do not have adequate financial and material resources necessary to ensure the quality of jobs that are under their jurisdiction, and for the development of local communities in accordance with the needs of its citizens. Assets such as material resources needed to carry out the functions of local government units on the territory of BiH, are often either partially or not at all owned by them. Local units have almost no impact on the management of local resources and local communities often do not benefit from their use (Anon. 2005; Anon. 2003b; Anon. 2006d).

This study designs and introduces the possibilities of disposal and ownership of the local resources in BiH, and also provides answers to many questions (Anon. 2005). In the Republic of Srpska, the local government is under the jurisdiction of the Republic of Srpska Government, especially the Ministry of Public Administration and Local Self-Government and the Ministry of Finance. These Ministries promulgate by-laws,
they decide on how to distribute revenues from indirect taxes, and create proposals of legislative solutions. Cities and municipalities are in direct contact with the relevant ministries and entity’s Assembly. This situation has led to the fragmentation of local government, and many municipalities, due to lack of adequate resources and difficulty to service the obligations and responsibilities, diminish the quality of their work, to the detriment of their citizens. In addition, in cities and larger municipalities there is a problem of distribution of competences and financing of expenses. The best examples of this are the institutions in the field of culture and education, which are under the responsibility of the entities and logically have claim to part of the entity budget. However, the funds for these purposes are modest, and since mayors are under pressure from citizens, they distribute these funds to institutions that are part of local government. This way, every local community can be only partially funded by the entity, so they have reduced funds for activities within their jurisdiction. (Miovčić 2006; Rodić 2008; Miličević 2005)

The finding of the cited Study is: the key problem successful implementation of the Law on Local Self-Government is a single stage system (so called: monotypic) of local government, which is characterized by a high degree of unevenness of local self-government in all relevant characteristics (demographic, spatial, financial, development, urban, etc.) (Anon. 2005). Law on Local Government of Republic of Srpska satisfactorily positioned municipality/city in terms of competence and powers, but the problem is that other laws, particularly those governing the disposal and ownership of local resources, do not comply with this law, encourage local government passivity and make them less responsible for their own development.

Recommendation of the cited Study is: harmonization of legislation and by-laws relating to the resources available to local governments according to the Law on Local Self-Government and introducing of multifunction structure of local government (Anon. 2005).

The provisions of the local government are pointing to the fact that the local authorities in the Federation of BiH are under the strong influence of the federal and cantonal authorities. Thus, it is envisaged that the Federal and Cantonal authorities are considering initiatives, proposals and suggestions of local governments, and inform them about their attitude and take action. On the other hand, in the exercise of certain powers, local governments apply all the instructions and guidelines provided by the federal and cantonal authorities. The government has the right to execute delegated authority to adjust to local conditions when it is envisaged by law or when so authorized by the competent federal or cantonal authorities (Anon. 2005).

The main finding of cited Study is quoted: the analysis shows that the Constitution of the Federation of BiH does not treat the municipality as the basic territorial political community, not giving it a chance to express themselves in their primary specific
needs and obligations, as well as to determine the directions of its development, in accordance with the specific local conditions and development assumptions, which she herself best recognizes (Anon. 2005).

Recommendation of cited Study for Federation of BiH is the same as for the Constitution of Republic of Srpska (Anon. 2005).

Finding related to the Law is that the Law provides a basis for greater autonomy of local governments in the Federation of BiH in securing the material resources to service their own jurisdiction and powers. However, the way in which jurisdiction of local government is defined in this law implies that they are practically excluded from activities related to the economy at the local level or activities for creating any new value. Her responsibilities are purely ancillary and subordinate in function of Cantons and the Federation of BiH, without being able to influence the destiny of their own economic development (Anon. 2005).

The main recommendations of the Study are: amendments to the Law on Principles of Local Self-Government of the Federation of BiH to enable municipalities/cities greater powers to create their own development policies (Anon. 2005).

One of the very important elements needed for effective management of local resources is the existence of an adequate database on these resources and assets in the municipalities. Regarding this matter, some researches were conducted, in order to form a database that would contain information about the resources and assets that are owned by municipalities. Such database can be used in order to optimise further development. Unfortunately, the situation in BiH is far from favourable in terms of existence of such a database. Municipalities in BiH, regardless of the level of development, size, association or entity, canton, organization of municipal administration, population, or other characteristics, in general do not have a register of assets and resources which are on their territories and are their property (Anon. 2005).

Analyses were made as part of a strategy for local government in BiH, and other projects have shown that local governments do not have the necessary resources to perform functions that belong to them. Assets such as material resources required for performance of the functions of local government units are often not at all or are only partially owned by them. Also, except for urban construction land, local government formally and practically has no effect on the available resources which are on their territories, therefore revenues are symbolic on that basis, and cannot be used to solve development problems. On the contrary, they very often suffer direct losses caused by the exploitation of these resources. These problems were identified as the main obstacle to the development of sustainable local communities in BiH (Miovčić 2006).
The principle of decentralization of power means that local governments must own property necessary to carry out their responsibilities, but also a significant degree of financial sovereignty. Adequately defined ownership position of local governments in the management of local resources would undoubtedly attain this and would cause their increased responsibility and better material conditions to carry out their responsibilities. Common position of all local communities should be that all facilities that are constructed from the voluntary and community infrastructure should be governed by local communities. This holds because local communities have interest in well functioning of these facilities. (Bojčić-Dželilović 2011; Kaganova et al. 2006; Miovčić 2006)

A new approach to local development is based on the assumption that the new local government implies an active approach to citizens and their participation in the development and management of local affairs.

Management of local resources is transparent, efficient and citizen oriented process of maintaining and creating value through increased revenue, expenditure control, risk management, compliance with regulations and ensuring adequate maintenance of the physical assets of local communities.

Creating a new model of management of local resources is linked to the new role of the local government units and their greater responsibilities in this area. To avoid the trap of inadequate management of local resources after transfer of jurisdiction and powers from higher levels of government to the municipalities/cities, it was necessary to precisely elaborate the possible organizational form of governance, with the ultimate goal that resources have to be available for the benefit of citizens of the local community.

The existing system of access to local resources in BiH significantly restricts the rights of local governments to use local resources according to the principle of good governance and improve the quality of life in the local community on this basis. Extremely restrictive right to dispose assets (profit, sales, transfer, establishing mortgage, renting, setting up public-private partnerships, etc.) limit the capacity of local communities to invest in local economic development and infrastructure, and reduce material base for servicing assigned responsibilities and powers and authorization (Bojčić-Dželilović 2011; Kaganova et al. 2006; Miovčić 2006).

The proposed new model of disposal and ownership of local resources in BiH is just an attempt to resolve the path drawn by the quality of this obviously very complex problem. Its main characteristics are:
- the basis of the model is resolving ownership and property rights issues, with a focus on access to and ownership of local resources,
the basic principle of the model is that assets should not be transferred to local authorities without transfer of responsibility and authority,
- model is designed to take into account the demands of the real decentralization manifested in need for new territorial and functional organization of local government in BiH entities,
- model consists of amendments to, and harmonization of the regulatory framework and recommendations for the efficient management of local resources (Miovčić 2006).

The new governance model and access to local resources is related to:
- land (construction and agricultural),
- concessions, and
- municipal infrastructure and enterprise (Miovčić 2006).

The model includes three groups of changes in legislation in the entities:
- changes in the constitution,
- harmonization, amendments to existing laws, and
- the adoption of new laws, but also all other regulations pertaining to this matter which should comply with these legal documents, at the same time taking into account the principle that these laws are *lex specialis* to all other regulations in this area (Miovčić 2006).

The model assumes that the local government is:
- independent in the exercise of property rights,
- limited only by law in respect of property rights, and
- Committed to expanding of property rights acting as good hosts, all while taking the public interest into account in a transparent way. (Miovčić 2006)

Creation and introduction of disposal and ownership of local resources in BiH model predicts changes and harmonization of the legislative framework in BiH with the aim of transferring the ownership of local resources and recommendations for effective management of these resources by local governments. This model assumes that when local governments receive ownership over local resources, they should also be assigned to a new role with more responsibility. (Miovčić 2006)

Conclusions

In conclusion, the improvement of relationships within the community and achievement of effects is stressed.

In order to improve relationships within the local communities, following steps should be taken:
• redefining the legal framework relating to existing status of local communities,
• preparation of amendments to the law in terms of empowering local communities,
• preparation of draft amendments to the law that will be required in the first phase of strengthening local communities, in accordance with the analyzes,
• harmonization of laws and procedures,
• analysis of the legal heritage of the EU in terms of harmonization of our legal system, with the ultimate aim of improving the position of local government units,
• redefining ways of funding local communities,
• resolving problems of asset management at the local government level,
• analysis of the effects of access to local resources and its upgrade.

Provided the above is fulfilled, the following effects would be achieved:
• redefined position of the local community,
• better funding and greater autonomy,
• developed and adopted system of criteria for the distribution of rights of disposal and management of local resources,
• clear procedures for the normative and practical implementation of new solutions,
• transferred assets owned by local governments in accordance with the legally given jurisdictions,
• more efficient and effective development of local communities on the basis of effective use of available resources,
• strengthened capacity development of local governments,
• created conditions for the establishment of sustainable local government that can service the assigned responsibilities and powers,
• relieving entity governments in the performance of certain functions of local importance,
• set database and the degree of computerization would be raised to a higher level.

Constitutional and legal positions of municipal and city governments in strategic planning and promoting local economic and infrastructure development are very important and have to improve in EU accession process.

Resources

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