

Local Self-Government: A Must for Democracy, Civil Society and EU Integration

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1. Local Self-Government as a Democratic Principle

The concept of citizens' participation in the conduct of public affairs was advanced by the liberal philosopher John Stuart Mill as early as the mid 19th century. He considered the broad involvement of citizens to be the most effective guarantee of a well-functioning democratic polity, counterbalancing the threats posed by an over-powerful and interventionist state. In his view, the citizen's opportunity to articulate his views and assert his rights afforded him the best protection against any abuse of these rights by the state (Mill 2001).

215

All modern states have developed a system of self-governing local authorities. In the majority of cases, the basic unit of local self-government is the municipality. In this article, "local self-government" denotes the (legal) guarantee and practical implementation of the citizen's right to participate in the conduct of specific public affairs within "local communities" (Smidovnik 1999: 23ff.). Over the course of history, two types of self-governing unit – cities and municipalities – have evolved at local level. The territorial boundaries of each unit of local self-government are defined by law. Local self-government is deemed to exist where a local government is established as a legal, corporate and political institution with decision-making powers. There must also be a representative body – a council or assembly that is directly elected by local citizens in a secret ballot and that has budgetary autonomy and the power to pass legislation at local level. In general, this tier of government is responsible for decision-making in those policy areas which have a direct impact on the lives of local citizens, e.g. urban regeneration, housing, schools, employment and social security, health, the arts, culture and sport, local public transport, water and energy, and regional planning. Within these policy areas, local citizens must have the opportunity to exert direct influence on policy-makers and thus participate in the decision-making

process. The concept of “local self-government” therefore not only has a legal and political dimension; it also has sociological connotations, in that it directly affects community life within a demarcated locality.


In the developed democracies, local self-government has contributed substantially to social and economic development and the emergence of a civil society. The importance of local self-government for democratic development has therefore been consistently reaffirmed by the Council of Europe. In the European Charter of Local Self-Government, adopted in 1985, the Council of Europe defines the fundamental principles of local self-government based on the European states’ experience (Council of Europe 1985). The Charter describes the local authorities as “one of the main foundations of any democratic regime” and states that the safeguarding and reinforcement of local self-government is an important contribution to the construction of a Europe based on the principles of democracy, participation and the decentralisation of power. According to the Charter, the right of citizens to participate in the conduct of public affairs is one of the democratic principles that are shared by all member States of the Council of Europe, and it is at local level that this right can be most directly exercised. The existence of local authorities with real responsibilities is the prerequisite for an administration which is both effective and close to the citizen.

The European Charter places particular emphasis on the “subsidiarity principle” as the basis of the relationship between the local and higher tiers of government. Public responsibilities should generally be exercised, in preference, by those authorities which are closest to the citizen, rather than by a higher level of government. The Charter also states that the powers given to local authorities may not be undermined or limited by another, central or regional, authority.¹ The Charter defines other principles as well, notably the legal guarantee of citizens’ rights of participation, and the local authorities’ financial autonomy. Local self-government therefore denotes the right and the ability of local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.

The Charter thus defines the parameters of local self-government at European level and urges the Member States of the Council of Europe to apply these principles in practice. In other words, the principle of local self-government must be recognised in each Member State’s domestic legislation. For Bosnia-Herzegovina (BiH), membership of the Council of Europe² has therefore presented a new challenge: to bring its local government legislation into line with European

¹ Local authorities shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to another authority.

² Bosnia-Herzegovina joined the Council of Europe on 24 April 2002.



standards in order to widen the scope for citizens' participation, make the conduct of local affairs more efficient, and bring it closer to citizens. Furthermore, Bosnia must radically overhaul and modernise its local government structures if it is to have any prospect of fulfilling the criteria for European integration.

Ten years after Dayton, this article assesses the progress achieved to date in this reform process and identifies the opportunities and obstacles arising in this context. It concludes by outlining criteria for future reforms.

2. Legal Bases of Local Self-Government in the Immediate Post-Conflict Period

In the immediate post-conflict period, new laws on local self-government were adopted in both entities, but these failed to comply with modern standards. In the Federation of Bosnia and Herzegovina (FBiH), the Law on the Principles of Local Self-Government was adopted in 1995 on the basis of the 1994 Washington Agreement and the Federation's Constitution of the same year. In Republika Srpska, corresponding legislation was not passed until 1998. Neither entity's legislation accorded with the principles defined in the European Charter of Local Self-Government, and as opinion polls revealed, there was also very little public awareness of the Charter in Bosnia.³

217

Compared with the other post-Communist countries, BiH has considerable ground to make up with respect to its administrative restructuring. This state of affairs is a direct consequence of four years of war. Although systems of local self-government were gradually put in place after Dayton, the legal and institutional framework for this process was totally inadequate. Tensions between the two entities – Republika Srpska (RS) and the Federation of Bosnia and Herzegovina – and between the two entities and the state of Bosnia-Herzegovina were the dominant feature of the post-conflict period and are still having an impact today. These tensions, along with differences in the two entities' administrative structures, impeded the establishment of an effective system of local self-government in Bosnia.

FBiH is subdivided into cantons which have been granted substantial powers in a number of key policy areas, notably education, budgetary policy and regional planning. This federal structure has improved the opportunities to develop units of local self-government with financial autonomy. In the

³ In response to the question whether they were familiar with the European Charter of Local Self-Government, 58% of respondents in the FBiH stated that they were unaware of it. See Vocekic-Avdagic/ Nuhanovic (1999:156).

RS, however, conditions were less favourable. Due to the high degree of centralisation, there was little scope at first for the municipalities to achieve full autonomy within a system of local self-government.

Despite this situation, neither entity undertook a radical reform of its administrative structures at first. No constitutional or legal guarantee of the relevant rights existed, and no reform of administrative and organisational structures or territorial boundaries was introduced. In a few isolated cases, territorial boundary changes were adopted in municipalities along the inter-entity border, but these failed to meet current standards governing the establishment of units of local self-government. The changes produced a number of very small municipalities which were largely non-viable in economic terms (e.g. Srpski Drvar, Srpski Mostar, Srpsko Gorazde and Srpski Stari Grad along the inter-entity border in the RS, and Sapna, Dobretici and Ustikolina along the inter-entity boundary on FBiH territory).

Until 1992, Bosnia-Herzegovina had 109 municipalities and one city, Sarajevo. At the end of the war in 1995, it had 146 municipalities and four cities: Sarajevo and Mostar (FBiH), Banja Luka and Srpsko Sarajevo (RS).

Which type of administrative structure should be adopted for the larger cities? This was a major problem for both entities, which applied different approaches to resolving this issue. In Republika Srpska, the system established during the war was retained. Banja Luka became a self-governing unitary authority with city status within the territorial boundaries of the pre-war municipality of Banja Luka. Six other municipalities located around Sarajevo on RS territory (Pale, Srpsko Novo Sarajevo, Srpska Ilidza, Trnovo, Srpski Stari Grad, and Sokolac) also became self-governing cities. These municipalities had been newly established as administrative units for political reasons during the war, but generally lacked a major urban centre of their own.

The example of Sarajevo shows how the concept of the “city” as an urban, cultural, economic and historical entity has been completely destroyed, initially by the war and then by administrative reforms which were often motivated by ethnopolitical criteria and which entrenched the territorial divisions established during the war. Until 1992, Sarajevo consisted of ten municipalities: Centar, Novo Sarajevo, Ilidza, Novi Grad, Stari Grad, Hadzici, Trnovo, Vogosca, Ilijas and Pale. Today, Sarajevo’s city government is the unit of local self-government in just four municipalities, all of which are located in or around the city centre (on FBiH territory): Stari Grad, Centar, Novo Sarajevo and Novi Grad. The situation is made more difficult by the lack of coordination between the various administrative bodies within the FBiH. Furthermore, the assignment and redistribution of competences to the city of Sarajevo were not properly

coordinated between Sarajevo city government and the municipalities, on the one hand, and the cantonal government, on the other. The idea that Sarajevo should initially become a district and then revert, over the long term, to its pre-war city status with ten municipalities came to nothing. As a result of the decision to make Sarajevo a city with just four municipalities, the city's powers and competences have been massively curtailed. The status of the Sarajevo authorities is not guaranteed by the Constitution, and they have no powers to legislate on public affairs of major interest to the city and its citizens. For the city of Sarajevo, this "administrative reform" was actually a retrograde step, but it suited the political forces that wanted to see power concentrated in monoethnic territorial units.⁴

The local authorities' personnel policy, too, was largely determined by ethnopolitical criteria during and after the war. Vacancies were not filled on the basis of candidates' qualifications but according to party-political affiliation and ethnicity. This has greatly undermined the efficiency of the local authorities, which have failed to keep pace with modern administrative procedures and are trailing far behind European standards, especially in the fields of information technology and data processing. This is causing major problems and obstructing the development of closer links with the European Union. Very few municipal authorities have achieved compliance with ISO 9001-2000, as required by the EU. Due to this lack of efficiency, many authorities are experiencing real difficulties in processing all the correspondence and requests received from local citizens, resulting in serious delays and backlogs. This is especially problematical in relation to housing. As a consequence, citizens are losing confidence in their local authorities, as is evident from the very low turn-out at the local elections in October 2004, when only 46% of all Bosnians of voting age bothered to vote.

In the field of human rights and minority protection, too, the work carried out by the local authorities in Bosnia in recent years has left a great deal to be desired. Above all, the local authorities are failing to deliver on issues relating to refugee return and the minority communities' right to equal representation. In some municipalities with a numerical predominance of one particular community, the minority groups' representation in the administrative bodies has amounted to just 1-2%. Both in the FBiH and in Republika Srpska, recruitment to vacancies in the local authorities has, in most cases, continued to be based on monoethnicity. Unless this trend is broken, there is a real risk that the ethnic divisions established in war will become entrenched over the long term.

⁴ For a discussion of the situation and structure of cities in the Federation of Bosnia and Herzegovina, see Omer Ibrahimagic, Slavo Kukic and Mirko Pejanovic (2003: 14, 23 and 34).

Nonetheless, a few municipalities in Bosnia are positive exceptions to the negative overall picture, with some local authorities working successfully to develop local enterprises, promote employment, housing and public services (including services for refugees and returnees) and adopting new management techniques. Notable examples are Gracanica, Laktasi, Prijedor, Gradacac, Modrica, Tuzla, Vitez, Centar Sarajevo, Ljubuski, Citluk, Siroki Brijeg, Tesanj and Kiseljak. This shows that there is some scope for development. So the question is this: what are the long-term prospects for local government reform in BiH, and in which areas is it possible? This question will be explored below.

3. Reform Efforts after Bosnia-Herzegovina's Accession to the Council of Europe

Previous attempts to reform local government in BiH were limited to partial projects that were only supported by the Assembly/Parliament of the entity concerned. In each case, it was the international community, i.e. the High Representative, who initiated the reform measures or intervened to bring them about. The question whether a law on local self-government should be adopted by Bosnia-Herzegovina's State Parliament has been the subject of frequent debate by experts in administration and law in recent years, but no consensus has emerged. There is still no unified, overarching programme of local government reform which is supported by all the various tiers of government in Bosnia-Herzegovina. For this to be achieved, cooperation between BiH's Council of Ministers and the entity governments of the RS and FBiH is essential.

It is also important for Bosnia's own politicians and decision-makers to play a key role in driving forward the reform process and adopting appropriate initiatives. All the government structures, i.e. BiH's (state) institutions as well as the authorities at entity, cantonal and municipal level, must work pro-actively to achieve compliance with European standards if Bosnia-Herzegovina is to fulfil the criteria for accession to the European Union. This applies to conditions in the labour market, e.g. cutting unemployment, improving the quality of public service delivery by the local authorities, developing the local infrastructure, establishing well-functioning local public institutions, improving the efficiency of regional planning processes and quality of life in the local communities, and introducing effective mechanisms to protect human rights and the environment. In order to achieve these improvements, the existing system of local self-government must be radically overhauled. This reform must focus on several segments:

- a) Reforming the legislative and normative dimension of local self-government,
- b) Functional reform of the local authorities, i.e. capacity-building, in order to improve the quality of public services, and
- c) Territorial reorganisation of municipalities.

This type of comprehensive reform has yet to take place. As a result of BiH's accession to the Council of Europe, initial steps have been adopted – but again, only by the entity legislatures.

3.1. Reform of Legislative and Normative Competences

This reform segment relates primarily to changes in the constitutionally guaranteed legislative competences of local self-government. These must be brought into line with the principles contained in the European Charter of Local Self-Government.

In the FBiH, a constitutional amendment was drafted in 2004 which greatly improved the legal basis for the development of local self-government.⁵ Finally, a new law on local self-government was framed; it was adopted on 27 September 2004 by the Local Government Commission established by the FBiH Parliament.

In Republika Srpska, similar legislation has been drafted in recent years to replace the 1995 law. The Law on Local Self-Government was passed by the RS Assembly in September 2004. A number of proposed amendments to this legislation have been tabled, but have not yet been adopted, in the RS Assembly's Council of Peoples (COP). The draft legislation for the RS contains a commitment to the proportional representation of all ethnic groups in local government bodies in accordance with their distribution across the territory of the state of Bosnia-Herzegovina in the pre-war period, based on the 1991 census. It also states that the chairman and vice-chair of a local assembly may not belong to the same ethnic group. Similarly, the heads of department within the local administration must be appointed on a proportional basis from all the ethnic groups and minorities living within the municipality.⁶

⁵ Amendment CVIII to the Constitution of the Federation of Bosnia and Herzegovina establishes the principle of local self-government on a binding basis. See Amendments to the Constitution of the Federation of Bosnia and Herzegovina, Constitutional Commission of the House of Representatives (Amandmani na Ustav Federacije BiH, Ustavna komisija Predstavničkog doma), Sarajevo 23 September 2004.

⁶ The six amendments were presented by the President and Vice-President of the Council of Peoples of the Assembly of Republika Srpska on behalf of the Bosniak and Croat communities. See Amendments to the Law on Local Self-Government (Amandmani na Zakon o lokalnoj samoupravi), Banja Luka, 4 October 2004.

So is there any compatibility between the concepts of local government organisation and distribution of powers set forth in the draft legislation for the RS and the FBiH respectively? Both laws are clearly at pains to comply with the principles established by the Council of Europe. They both define municipalities and cities as the building blocks of local self-government. Aside from a few minor discrepancies, both laws set out identical criteria for the granting of unitary, i.e. city status.

However, unlike the draft for the RS, the proposed legislation for the FBiH states that municipalities must have a population of at least 10,000 in order to qualify for unitary status. This means that in the FBiH, Tuzla, Zenica, Bihac, Travnik, Livno, Gorazde, Konjic, Siroki Brijeg, Ljubuski, Bugojno, Jajce, Orasje, Sanski Most, Gradacac, Lukavac, Zivinice and Zavidovici will be eligible to become unitary authorities, i.e. cities. The legislation for the Federation defines “city” as an urban, economic, cultural and administrative unit which is not subdivided into different municipalities.⁷ The FBiH law also proposes that the status of Sarajevo, as the capital of Bosnia-Herzegovina, be regulated in separate legislation and that the development of its organisational and administrative structures be guided by the experiences of cities in other European democracies. Unlike the FBiH law, the legislation for the RS states that any urban area forming a coherent geographical, social, economic and historical unit is eligible for city status. In the RS, a city may or may not be subdivided into municipalities.

A further common feature of both entities’ draft legislation is the definition of the competences of units of local self-government.⁸ Both draft laws assign the local authorities the power to conduct all public affairs not explicitly granted to another authority. Higher tiers of government may not deprive the local authorities of these rights and powers. The legislation thus complies with one of the key criteria defined in the European Charter of Local Self-Government.

⁷ Initially, the FBiH’s provisions allowed cities to be subdivided into several municipalities. As a result, however, the development of municipal self-government was obstructed to such an extent that this solution was abandoned and cities have now been granted the right to establish their own structures in accordance with their constitutions. A city thus has the same legislative competences as a municipality in relation to transport, water, environmental protection, establishment of settlements, culture, maintenance of public spaces, sports and recreation facilities, etc. but its regulatory processes are usually far more complex.

⁸ The FBiH’s draft legislation contains 30 provisions on this issue. See the draft Law on the Principles of Local Self-Government in the Federation of Bosnia and Herzegovina, Article 9, Local Government Commission set up by the House of Representatives [Nacrt Zakona o principima lokalne samouprave u Federaciji BiH, clan 9, Komisija za lokalnu samoupravu Predstavnickog doma Parlamenta Federacije BiH], Sarajevo, Septembar 2004. In the Law on Local Self-Government in the RS, the municipality’s competences are regulated in Articles 12-26. See the Law on Local Self-Government in Republika Srpska [Zakon o lokalnoj samoupravi Republike Srpske], Banja Luka, 13 Septembar 2004, which came into force on 1 January 2005.

Both sets of legislation also deal with the division of competences between the municipal council and the mayor. In the FBiH's draft law, the mayor, who exercises the executive function within the local authority, has the right to dissolve the local council and call an election if the council proves incapable of adopting the municipal budget within the time limits prescribed by law. This clause prevents a total obstruction of decisions and functions that are in the interests of all citizens.

Both entities' legislation also grants greater autonomy to local bodies in relation to budgetary policy and the management of municipal property. The units of local self-government are largely financed through taxes, charges, payments received for building ground, and income from assets. Both draft laws introduce various forms of citizens' direct participation in local decision-making: the draft law for the FBiH offers the options of referenda, local citizens' assemblies, and citizens' or NGO initiatives, while the draft law for the RS also provides for citizens' hearings and consultations with local citizens in the municipal assembly. The processes and procedures for citizens' participation in administrative decisions are regulated by the constitution of the city or municipality.

An important innovation for democratic development in Bosnia-Herzegovina is the introduction of directly elected mayors in both entities. The first elections organised in line with this principle were held in December 2004. This has created fresh scope for democratisation and marks a break with some of the political practices that had been cemented by the nationalist parties. However, the extent to which this opportunity can be utilised and implemented via new policy approaches at local level will only become apparent over the next few years.

In sum, it is clear that as regards the *first segment – legislative and normative competences* – the draft legislation on local self-government for the FBiH and the RS largely complies with the European Charter of Local Self-Government and therefore forms a viable basis for legal reform in Bosnia-Herzegovina. The following section will examine the extent to which this applies to the *second segment*, i.e. *functional reform of the local authorities*, which encompasses capacity-building and improving the quality of public services.

3.2. Functional Reform of the Local Authorities: Capacity-Building and Improving the Quality of Public Services

This reform segment relates to measures aimed at improving the quality of public service delivery by the local authorities and municipal enterprises. It includes the development and maintenance of a local infrastructure, such as roads, water and sanitation, waste disposal, energy, etc. Citizens' quality of life within the local community depends to a large extent on the modernisation of administration

in these areas. Citizens are demanding better services at local level, a well-functioning public transport system, maintenance of roads and infrastructure in communities and settlements, better equipped schools and a more reliable health service. In order to improve the quality of the services delivered by municipal enterprises, it is important to introduce some elements of competition. The local authorities should be able to select the best and most affordable service provider from a wide range of potential suppliers. Competition between a larger number of service providers can do much to improve the quality of local services.

Administrative reform also entails changes in the management of service providers and the recruitment of well-qualified candidates to posts in their administrations. More professionalism is essential in order to bring the local authorities into line with ISO 9001-2000, as required by the EU. Modern information technology and computerised administrative systems are especially important. It would also be helpful to harmonise the systems adopted by the two entities' local authorities, in order to ensure that their solutions are compatible.

Creative solutions must be identified for local government funding as well. In large areas of Bosnia-Herzegovina, the local authorities are still coping with the aftermath of war and the task of reconstruction. Many of them need far more investment, and cheaper loans for the local authorities would therefore be very helpful in this context. This is especially important in relation to the funding of urban regeneration and regional planning, housing, environmental protection, water, electricity and sanitation, and the construction of sports and arts facilities.


However, the local authorities can only plan and adopt decisions if their territorial boundaries are demarcated appropriately.

3.3. The Territorial Reorganisation of the Municipalities

In Bosnia-Herzegovina, the number of municipalities as units of self-government has steadily decreased over the last 150 years, from around 3,000 during the Austro-Hungarian period to around 400 after the Second World War and, finally, to 109 in 1992. This figure has now risen to 146 as a result of the war, although this increase was the outcome of political endeavours to establish "ethnically" homogeneous communities and was not part of a reform programme aimed at modernising the administration and improving efficiency.⁹

At present, there are enormous differences between the municipalities in terms of their population, physical size, access to natural resources and economic

⁹ After the different municipalities existing in Mostar were dissolved in 2004, the total number of municipalities fell to the current figure of 140.



performance. Experience in other countries has shown that reforms to increase the efficiency of the local administration must go hand in hand with a territorial reorganisation of municipalities. Bosnia-Herzegovina still has considerable ground to make up here.

No citizen wants to live in a municipality whose economic performance is so poor and whose coffers are so empty that it cannot adequately perform its statutory tasks of developing and maintaining the local infrastructure that is essential to satisfy the local community's needs. Social development also creates new social and economic conditions, leads to the emergence of new settlements, and gives rise to new human needs. A territorial reorganisation of the municipalities must therefore be dynamic and take full account of political, demographic, sociological, economic and legal factors. It must be coordinated with the governments and administrations of the cantons and entities. It must reflect the interests of local citizens and accord with the positions of the political parties, local authorities and assemblies. In short, consensus-building is the starting point at every stage of the reform process.

This is a pressing issue which cannot be postponed indefinitely. With expert support, all the cantons in the FBiH, for example, could participate in this debate in order to achieve the best possible solutions to the territorial reorganisation of municipalities. It is important to bear in mind, in this context, that many of the current local authority boundaries in Bosnia-Herzegovina were drawn during or immediately after the war, e.g. along the inter-entity border, and do not comply with demographic or, indeed, any other criteria relevant to regional planning. Many communities therefore do not have a sound basis for sustainable socio-economic development. It is in their interest to rectify this state of affairs and redraw their boundaries in accordance with efficiency criteria.

In the territorial reorganisation of local government in Bosnia-Herzegovina, Switzerland's municipal structures could serve as a useful model. The Swiss system of local self-government is extremely advanced, and citizens have numerous opportunities to participate in the conduct of local affairs. As a rule, outside the major cities, the municipality is a small territorial unit in which local self-government takes place with the greatest possible involvement of citizens. Switzerland and Bosnia-Herzegovina are roughly the same size, but Switzerland has 3,000 municipalities in total. Alternatively, the Swedish model of local self-government could offer acceptable solutions for Bosnia-Herzegovina, especially as regards the size and number of municipalities.

4. Conclusion and Outlook

Over recent decades, the Western European states' cultural and economic development has been largely determined by the European integration process. The EU Member States' successful economic and cultural development is based on shared values and standards. Bosnia-Herzegovina has two compelling reasons for seeking to join the European Union and adopting these values and standards: firstly, its interest in establishing a lasting peace, and secondly, its interest in economic development and democracy-building. However, in the wake of the Bosnian war, conditions in BiH, especially its outdated administrative structures and political obstruction, have greatly impeded the realisation of these interests, even though they are endorsed by many of its citizens.

All the reform projects undertaken in Bosnia-Herzegovina, including local government reform, have been initiated with the aim of facilitating the country's integration into the European Union. However, BiH will only fulfil the criteria for EU accession once all the local authorities throughout Bosnia-Herzegovina have brought their administrations and institutions into line with the ISO standards endorsed by the EU.

The laws on the reform of local self-government, which were initiated with the support of the international community after Bosnia-Herzegovina's accession to the Council of Europe, have greatly improved the conditions for this process. The framework and content of the reforms are designed to help BiH achieve European standards in local government and the conduct of public affairs. The aim is to establish local authorities and administrations which are effective and as close to the citizen as possible. Local government institutions are one of the main foundations of any democratic regime. The rights of citizens to participate in the conduct of public affairs can be achieved most effectively at local level. This is why the subsidiarity principle is so important; in line with this principle, public responsibilities should generally be exercised, in preference, by those authorities which are closest to the citizen, not by a higher tier of government.

A further key challenge in the reform of local self-government in Bosnia-Herzegovina is to enable local governments to take over responsibilities and executive functions in the conduct of public affairs in local communities and to exercise these functions in the interests, and with the involvement, of local citizens. In this context, the local authorities in Bosnia-Herzegovina still face a steep learning curve. Not only must they take on a far greater share of responsibility; above all, they must achieve far more transparency in their working practices in order to meet local citizens' needs.

The *legislation drafted* in the FBiH and RS is an important step towards a comprehensive reform of local government. The two draft laws create the legal bases for *a functional reform* which aims to improve public services and for *a territorial reorganisation* of cities and municipalities. The two entity laws make it possible to move much closer towards an alignment of local government practice in Bosnia-Herzegovina with the principles contained in the European Charter of Local Self-Government, which defines the primary responsibilities of the local authorities in the conduct of public affairs. The legislation also offers new opportunities for urban municipalities to acquire city status. Cities can thus become (or revert to being) unitary authorities, since they form an urban social and cultural unit and have attained a specific level of development that can have a positive impact on the development of the surrounding area as well. Local self-government also entails financial autonomy and the right to administer the municipality's assets. The legislation also opens up opportunities for citizens' participation in the local decision-making process, at least in principle; above all, it allows the mayors of cities and municipalities in BiH to be directly elected by local citizens. This very significant innovation came into effect in 2004.

In sum, clear progress has been achieved in relation to the *normative and legislative segment of the reform*. However, the new legislation merely establishes a framework for reform and has yet to be translated into practice by the local authorities. The success of the reforms will be measured, above all, by the results achieved in the *second, functional segment*, i.e. the extent to which the cities and municipalities respond flexibly to the reorganisation of their internal structures and procedures. Both the municipal administrations and the local service providers have no option but to modernise their technological systems and amend their personnel policies and management practices in the interests of more efficient public service delivery. The provision of affordable loans for local authorities as a means of funding local infrastructural measures would also do much to underpin the reform process.

By contrast, the *third reform segment*, which relates to the *territorial reorganisation* of the municipalities, leaves much to be desired compared with the other two fields of action. There is an urgent need for improvement in this segment. It is the most politically contentious issue, and there has been systematic prevarication in this area in the ten years since the signing of the Dayton Agreement. But if Bosnia-Herzegovina has a genuine desire to establish viable communities and comply with the standards set by the European Union, the territorial reorganisation of its local authorities cannot be postponed any longer and must be undertaken in parallel to the other local government reforms. Here, Bosnia-Herzegovina can draw on the wealth of experience gained by the

EU Member States, many of which undertook similar reforms during the 1980s. Bosnia-Herzegovina should adopt a model which offers the best prospect of establishing socially and economically sustainable local authorities that satisfy the needs of all local citizens. The Swedish or Swiss model could be a viable solution for Bosnia-Herzegovina, especially as regards the size and number of municipalities.

A division into cities, municipalities and counties offers a sound basis for a territorial reorganisation that promotes democracy-building, for it offers the best framework for citizens' participation. Unfortunately, the Bosnian authorities have made very few contributions of their own to the reorganisation of local authorities in Bosnia-Herzegovina. It therefore seems likely that the reform programme will continue to rely on the international community's mediation efforts and intervention for the foreseeable future.

Overall, the process of reforming the Bosnian system of local self-government can only succeed if Bosnian politicians and decision-makers show a willingness to drive forward the process themselves and if the two entity governments are prepared to work together and coordinate their efforts. This is the only way to ensure that effective, high-quality local authorities are established at local level in order to improve the living conditions of citizens in Bosnia-Herzegovina.

To achieve more efficient conduct of public affairs, it is also essential to coordinate the local and the entity level. This means that institutional bodies must be established within the entity administrations to deal with issues relating to the development of local government. The RS has established a separate Ministry to deal with local self-government and administration. No such institution is envisaged for the FBiH at present.

The development of local self-government must also be supported at state level in Bosnia-Herzegovina, and the central government should play an active role in this context. Ideally, the principles governing local self-government should be enshrined in the Bosnian Constitution. Bosnia-Herzegovina's State Parliament could start this process by adopting a resolution calling for the implementation of the principles enshrined in the European Charter of Local Self-Government, which is discussed in detail above. The State Parliament should also work pro-actively to set up a dedicated Agency for the Development of Local Self-Government. Its task would be to improve cooperation between the municipalities across the country and build relations between the cities and municipalities within the framework of the Congress of Local and Regional Authorities of the Council of Europe.

The success of the reforms will depend on whether the elected representatives at all three levels, i.e. state level, the RS and the Federation, work together to

overhaul local self-government in BiH and develop a joint programme which covers all three reform segments (legislative and normative competences, functional reform, and territorial organisation).

Bosnia's politicians and society must accept that they need to undertake more intensive and concerted efforts to reform the country's public institutions in order to open up the prospect of integration into the European Union in due course. However, they must also acknowledge that mere compliance with ISO quality standards at administrative level is not enough to guarantee well-functioning local communities. It is local citizens themselves who build relationships within communities. Their willingness to take an active interest and play a pro-active role will determine the future of local democracy in BiH. Bosnia-Herzegovina's culture of civic engagement has generally been weak in recent decades – but there is no alternative to more intensive efforts to make it stronger. The key challenge is to convince the people of Bosnia that closer relations with the European Union not only offer economic benefits, but also open up the opportunity to integrate into the European community of values.

Literature

- Constitutional Commission of the House of Representatives 2004. *Amendments to the Constitution of the Federation of Bosnia and Herzegovina*. Sarajevo, 23 September 2004.
- Council of Peoples of the Assembly of Republika Srpska 2004. *Amendments to the Law on Local Self-Government*. Banja Luka, 4 October 2004.
- Council of Europe 1995. *European Charter of Local Self-Government*. European Treaty Series No. 122, 15 October 1995. conventions.coe.int/treaty/Commun.
- Held, David 1999. *Modeli demokracije*. Zagreb.
- Ibrahimagic, Omer, Slavo Kucic and Mirko Pejanovic 2003. Situation and Structure of Cities in the Federation Bosnia-Herzegovina and the Development of Local Self-Government in Mostar, in: *Zbornik saopštenja i diskusija*. Sarajevo: Centar za razvoj lokalne i regionalne samouprave Fakulteta politickih nauka u Sarajevu.
- Mill, John Stuart 2001. *On Liberty* (first published in 1859). Kitchener: Batoche Books. (The text can also be downloaded from the following website: socserv2.socsci.mcmaster.ca/%7Eecon/ugcm/3ll3/mill/liberty.pdf.)
- Musabegovic, Nijaz et al. 1999. *Lokalna samouprava-traganja i iskustva*. Sarajevo: Centar za promociju civilnog drustva.
- Smidovnik, Janez 1999. *Lokalna samouprava*. Univerzitetaska knjiga. Sarajevo.