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Decentralisation In Serbia: From Inefficient State to Strong Local Self-Government

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EXECUTIVE SUMMARY

This document provides a comprehensive insight into the most important aspects of the process of decentralisation: a description of problems that Serbia faces in the area, a review of feasible practical-political options (with examples from comparative experiences) and a set of recommendations that should be taken into account in the conception of future strategies.

The current situation in the area is outlined, including how it is characterised by a lack of quality legal solutions, the overbearing role of the state, ambivalent attitude of political parties towards decentralisation and citizens' ignorance of the subject. The study clearly shows that Serbia stands at the beginning of an important process and that a series of issues must be resolved. Reforms should be all-encompassing and should, as well as legal changes, include an overall modernisation of local administration to make it more operative and efficient. Furthermore, recommendations are offered for the future strategists of Serbian decentralisation. There is no single model for such reform, even among European Union (EU) countries, but there is a prevailing trend of transferring competences from central to lower levels of power. The examples outlined in this document can prove to be of use for Serbia, but historic, political, social and economic specifics must also be taken into account in deciding on the best long term strategy to take.

The study concludes with a series of recommendations for practical policy in the area of decentralisation, formulated at two levels: the first providing general directions (in raising awareness of citizens), and a set of concrete recommendations to improve the process.

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Decentralisation In Serbia: From Inefficient State to Strong Local Self-Government

1. INTRODUCTION

The evolution of political systems in some European nations, as well as the already established standards of the Council of Europe (CoE) and the European Union (EU), indicate that decentralisation, considered as a lever for democratisation "from bottom upwards" and as an interactive process, has been a key factor in democratic stabilisation in countries. The larger proportion of democratic nations in the world today consists of decentralised units, and the process of delegating tasks, competences and finances to lower levels of power is omnipresent. Decentralisation has helped build democracy in nations with long democratic traditions, but also in those that are still in transition. It has become clear that economic growth, sustainable development and full democratic participation are more efficient under decentralised governance. New democracies formed in Europe in the past two decades have undergone decentralisation in various ways. The transformation of those nations into modern countries, based on the principle of *subsidiarity*, was stimulated by the EU, which asked them to reform territorial governance structures in return for access to structural funds. However, the experience of European nations also tells us that there is no unique and functional one size fits all decentralisation model that could be applied in a linear manner and models for decentralisation vary from nation to nation largely dependent on country specifics.

Serbia began "shy" decentralisation only after changes in 2000, when a large number of laws were adopted reforming its economic, social and political systems. The 2006 Constitution opened questions of de-concentration, devolution and delegation as processes to delegate competence, responsibilities and resources from central to local levels of power.¹ However, the system in Serbia remains to a large extent centralised.

The process of decentralisation represents a priority for all political parties, above all ruling parties. This is why the Office of the National Council for Decentralisation was created in 2006 with the aim of formulating strategy and obtaining the best possible results of such a process. Taking into account the political and social context of transition in Serbia, certain problems can be expected to arise in the process of decentralisation.

The idea and purpose of this *policy paper* is to offer recommendations for improving the process through a review of basic problems and issues related to decentralisation. Three methodology segments were used in the course of the project.

1. *Analysis of relevant legal solutions.* For decentralisation, examining legislation gives a clear picture of not just legal regulation but deficiencies that (frequently) lead to inefficient implementation of practical policy.

¹ Dr Djordjevic Snezana, *European standards in the area of local self-government - range of reforms in Serbia*, in "Decentralisation Within The Context Of The New Constitution Of Serbia And EU Integrations", Centre for Regionalism, Novi Sad, 2008.

2. *Analysis of Serbian political parties' programmes.* This provided clear insight into concrete measures political parties intend to implement on decentralisation.

3. *Qualitative research through focus groups.* Focus groups were established in three cities (Belgrade, Nis and Novi Sad), so citizens from different regions of Serbia could express their views on decentralisation and regionalisation.

The study also used expert literature published in Serbia, particularly that prepared by the Office of the National Council for Decentralisation.

In this paper we deal with the issue of decentralisation and its future in Serbia, examining current problems and offering recommendations.

2. PROBLEM DESCRIPTION

2.1. Too strong state and weak local self-government

The most important political actors in Serbia agree that decentralisation is necessary. Practice, however, shows that very little has been done in the area. Problems with the implementation of decentralisation can be traced back to the Serbian Constitution. The Constitution did not create conditions for the implementation of a model of governance organisation that would lead to Serbia's full decentralisation.² It paid particular attention to decentralisation and state obligations towards regional development and provides, among others, for territorial (provincial) autonomy and local self-government, and the creation of new or abolition or merging of existing, autonomous provinces. But under the Constitution provinces do not have equal status.³

The Constitution guarantees citizens the right to local self-government and local authorities the right to ownership. However, there is a serious legal and constitutional deficiency in that there is no legislation governing local authority property, which brings its autonomy into question. Serbian cities and municipalities have no property and have not been awarded major competencies while the Constitution also effectively introduces a situation where a representative body elects an executive body, which means that local authorities are obliged to accept a "weak Mayor" model because he/she cannot be elected in direct elections⁴. Under the new Law on Local Self-government (2007), the "weak Mayor" model came back into practice.

A precondition for decentralisation is the expansion of local authorities' competence and financial autonomy. However, in Serbia there is no developed network of levels of local self-government. There are municipalities and towns, but there are also regions which are not de facto levels of local self-government. Statistical regions were created last year to enable use of European regional funds. Regions are therefore not a separate level of organisation of

² Dr Djordjevic Snezana, *Models of decentralisation in European Union countries*, Belgrade, 2011.

³ Dr Djordjevic Snezana, *European standards in local self-government - range of reforms in Serbia*, in "Decentralisation within the context of the new Constitution of Serbia and EU integration," Centre for Regionalism, Novi Sad, 2008.

⁴ *Ibidem* (2008), p. 112

local authority, but represent an instrument for financing and implementing projects⁵. It is also worth noting that Serbia has Europe's largest regional differences.⁶

Serbian decentralisation problems are seen most clearly when examining competences and tasks of local self-governments. Municipalities and towns were granted some competences in the area of education, but, schools cannot elect their headmasters as this is done by municipalities, most frequently under party and not professional criteria (and after the approval of the relevant minister). Salaries for employees in schools come from the state and not from the municipality. There are similar situations in health care, social care, and urban planning and construction. These are just some examples of why reforms are needed that will substantially support and enable decentralisation.

2.2. Views of political parties on decentralisation

Political parties' programmes clearly indicate that there is a declarative agreement where the necessity of decentralisation is concerned. But problems occur with concrete strategy, its elaboration and implementation of ideas.

In all major political parties' programmes - the Democratic Party (DS), Serbian Progressive Party (SNS), G17 Plus, Socialist Party of Serbia (SPS), Democratic Party of Serbia (DSS), Serbian Radical Party (SRS) and Liberal-Democratic Party (LDP) - decentralisation is addressed.

The DS emphasises the need for stronger connections between state bodies and citizens. "The closer the decision making bodies are to citizens, the greater the possibility of control, and the chance that decisions will meet the needs of citizens. Decentralisation of power motivates people to participate in public affairs, as well as their responsibility for the implementation of decisions", reads the party's programme.⁷

G17 Plus (member of the URS) says that the party supports a balance between state administration and local self-government and the development of all areas of the Republic of Serbia.⁸

The SPS⁹ emphasises more efficient state functions by de-concentrating power. In its *Basic programme goals* the biggest opposition party in Serbia (SNS) says that regional development and the decentralisation of Serbia are a precondition of its further

⁵ Regional administration of the state presents a particular form of institutional organisation of a state, which is characterised by the division of power between different levels of state organisation. The latest change to the Law on Statistical Regions, where Serbia is divided into five regions according to the NUTS classification, occurred in 2010. Although it could be said that the statistical regions are the first step towards regionalisation, this has yet to be achieved fully.

⁶ MA Vucetic Dejan, *Nis and decentralisation, experiences of decentralisation in the world and in Serbia*, NDK conference, Niska Banja, March 2007. Available at: www.decentralizacijarsrbije.net

⁷ *The programme of the Democratic Party*, Political Institutions for 21st century Serbia. Available at: www.ds.org.

⁸ *The programme of G17 Plus*, State programme: Sovereign Serbia in the European Union, Decentralisation. Available at: www.g17plus.rs

⁹ *The programme of the Socialist Party of Serbia*, Social and Political System, Available at: www.sps.org.rs

development. However, it says decentralisation does not mean provision of territorial autonomy, but only broader rights and competences of local self-governments.¹⁰

2.3. Citizens and decentralisation: from misunderstanding to support

Citizens lack information on the process of decentralisation and thus cannot see substantial differences where regionalisation is concerned. Decentralisation and regionalisation of Serbia frequently go "hand in hand" and are often a subject of public debate, but neither politicians nor citizens are sufficiently aware of the difference between the two. Politicians talk of decentralisation (mainly in election campaigns), while citizens living in provincial Serbia see decentralisation as an opportunity for prosperity – their own and their town's.

Decentralisation has negative connotations, a remnant from the last century when just mentioning the idea could be considered dangerous for the wider state. After the changes in 2000, the idea shed its burden of the past and became part of the Serbian everyday political scene. This, however, does not mean that the idea has been without political controversy and certain events have led to discourse connected to it being abandoned temporarily. Three events which caused this were Montenegrin independence (2006), Kosovo's declaration of independence (2008), and confirmation of the Statute of the Autonomous Province of Vojvodina in the National Assembly in 2009. This tells us at least two things: 1) decentralisation is still not a subject of serious and strategic consideration within the institutions of government, and 2) it remains a highly politicised issue.

Public opinion surveys have shown that a third of the population has no firm opinion on decentralisation and regionalisation. When undecided interviewees are removed from the analysis, the conclusion is that those who are able to form a view mostly support the processes of decentralisation and regionalisation rather than not. This is the foundation upon which a serious policy of regional development can be built.¹¹

There are two basic factors that define attitudes towards decentralisation - one comprises political orientation (decentralisation and regionalisation still represent predominantly political issues in Serbia; support is mostly divided along political party lines); the second is where a person lives, as life in regions that traditionally have political, economic and cultural specifics of their own stimulate views towards decentralisation.

Research has shown that citizens lack sufficient knowledge about the very idea of decentralisation, and know even less about what the process should comprise in the practical sense.¹² One of their primary associations (where decentralisation is concerned) is with money, or the possibility of local authorities alone deciding its distribution. Another association of decentralisation is the possibility of strengthening relations between citizens and local institutions, which is very important to many people. This is why raising awareness among citizens about the importance of decentralisation is extremely important and one in which the state, third sector and media can all play a large role.

¹⁰ *Serbian Progressive Party, Ten basic principles of progressives' activities.* Available at: www.srpskanaprednastranka.org

¹¹ Public opinion research, *ReSOURCE*, CeSID, May 2009

¹² Reports from focus groups, (Belgrade, Nis and Novi Sad), CeSID, Belgrade, December 2010/January 2011

3. FEASIBLE PRACTICAL-POLITICAL OPTIONS

3.1. Types of decentralisation

Decentralisation has many aspects. It has a *political dimension* that deals with the strengthening of local governance autonomy, more active citizen participation in the decision making process, and raising of the democratic capacity of power. *Administrative decentralisation* comprises state modernisation, more precise definition of each level of authority individually, and establishes partnership instead of the prevailing hierarchical relationship. *Fiscal decentralisation* is crucial for decentralisation, particularly for devolution - this means that local authorities have constant, secure and predictable financing resources and that local authorities define basic tax rates, collect taxes and make other financial decisions. *Economic decentralisation* is extremely important in that it prevents the state directing the economy and distributing resources in monopolistic ways.¹³

European nations' experience of regionalisation and decentralisation has shown this process has never been fully completed but remains in constant institutional adaptation, mainly towards broader decentralisation.

Decentralisation is carried out through levels of local authority, i.e. municipality, town, county and region. Statistical standards have been adopted in Europe facilitating the introduction of standards and harmonisation of all levels of power. The NUTS classification is as follows: NUTS 1 - state, NUTS 2 - regions, NUTS 3 - counties, NUTS 4 - larger municipalities and NUTS 5 - small municipalities and settlements. For NUTS 2, there is a range of between 800,000 and 3 million inhabitants and for NUTS 3 from 150,000 to 800,000 inhabitants.¹⁴

At the moment, Serbia has NUTS 1, NUTS 3 and NUTS 4. Reforms (fiscal, property and administrative), should see municipalities in Serbia divided into two levels. One would comprise larger municipalities consisting of a smaller urban centre with several rural areas and these larger municipalities would deal with problems of population, urban planning, issues in village-town relations, economic and social development, and development stimulation. Such municipalities would have local self-government, legal subjectivity and income resources, and populations of between 10,000 and 100,000.¹⁵

Smaller municipalities would also need to be formed. They would deal with minor community problems, creation of smaller regulation plans (local urban planning) and solution of day to day citizen needs. Their population would be less than 10,000, and, if needed could pool capacity with neighbouring municipalities. This would create conditions for the development and creation of NUTS 3. Finally, counties would be integrated into so-called macro-regions, or NUTS 2, where they could either be autonomous or opt for recognition as statistically planned, with an option of obtaining future autonomy. Macro-regions would thus have executive, partially legislative and judicial power if autonomous, but under state administration if statistically planned. They would have a population of between 800,000 and 3 million people.¹⁶

¹³ Dr Djordjevic Snezana, *Models of decentralisation in European Union countries*, Belgrade, 2011.

¹⁴ MA Vucetic Dejan, *Nis and decentralisation, experiences of decentralisation in the world and in Serbia*, NDK conference, Niska Banja, March 2007. Available at: www.decentralizacijaserbije.net

¹⁵ Ibidem (2007), *Experiences of decentralisation in the world and in Serbia*

¹⁶ Ibidem (2007), *Experiences of decentralisation in the world and in Serbia*

3.2. Models of decentralisation

Decentralisation in EU nations can be divided into different models.¹⁷ One is that of *federal states* such as Switzerland, Germany, Austria and Belgium. Regions perform federal state functions, taking on broadened capacities and some state tasks. The state, federal units, counties and municipalities function in partnership, via the principle of subsidiarity.

Another model is *the strong regional state*, exemplified by Spain and Italy. The strengthening of regions in Italy (established in the 1948 Constitution), had led to their extreme power over time. In Spain and Italy, regions have legislative competences and decision-making powers at central level via a second house of parliament or other forms of consultations and negotiations.¹⁸

The third model is *the weak regional state*, where regions within states have different levels of strength. Counties are administrative, self-governing regions have been introduced and regional elections take place. There are several modalities in this model: Scotland (stronger regions), France and Poland (moderately strong regions), Slovakia and the Czech Republic (weaker regions), and Hungary and Romania (statistical, administrative regions).¹⁹ Hungary has introduced regions but their substance remains unfinished and insufficiently clear. This is because there has been no clear division of competence between municipalities, towns, regions and statistical NUTS 2 regions. This has led to sharp criticism from the CoE and the EU as a whole.²⁰

The remaining model is *unitary states* – consisting of decentralised *states*, *moderately decentralised* and *weakly decentralised states*. Examples of decentralised states are Sweden and the Netherlands, which have very strong counties and municipalities. Municipalities, counties and the state interact in partnership, not hierarchy. Moderately decentralised states include Croatia and Slovenia, which have self-governing counties, while weekly decentralised states (with counties or without them) include Bulgaria, Cyprus and Malta.

According to expert opinion²¹, the federal model is unrealistic for Serbia in the long term, while the regional state could be achievable in the long-term. The third and fourth models (with all their modalities) could be implemented as phases or alternatives within decentralisation in Serbia, but it must be remembered democratic culture and procedures would substantially condition the effects of this process.²²

¹⁷ Dr Djordjevic Snezana, *Models of decentralisation in European Union countries*, Belgrade, March 2010.

¹⁸ Dr Skenderovic Cuk Nadija, *Regionalisation and Euro-regional cooperation - overview of modern European trends* in "Decentralisation within the context of the new Constitution of Serbia and the EU integrations", Centre for Regionalism, Novi Sad, 2008

¹⁹ Dr Djordjevic Snezana, *Models of decentralisation in European Union countries*, Belgrade, March 2010

²⁰ Dr Skenderovic Cuk Nadija, *Regionalisation and Euro-regional cooperation - overview of modern European trends* in "Decentralisation within the context of the new Constitution of Serbia and EU integrations", Centre for Regionalism, Novi Sad, 2008

²¹ Dr Djordjevic Snezana, *Models of decentralisation in European Union countries*, Belgrade, March 2010.

²² *Ibidem* (2010), Possible options for Serbia

4. CONCLUSION AND RECOMMENDATIONS

The current situation regarding decentralisation is characterised by a number of important elements.

- 1) State competences remain too great;
- 2) The attitude of the state toward local authorities is hierarchical and not one of partnership;
- 3) Regions exist only statistically, not autonomously;
- 4) Counties are without real competence, while municipalities remain financially and politically dependant on central authority.

These facts suggest the process is at its very start.

The basic purpose of this *policy paper* is to help speed up the process, and we are therefore offering a set of recommendations which could be of use for all *decision makers*.

We have divided the recommendations into two parts:

1. *General recommendations*. The research clearly leads to the conclusion that Serbians are not sufficiently informed about decentralisation and we therefore make the following recommendations:

- Citizens' awareness of the importance of decentralisation needs to be raised;
- Political party elites in general should be more committed to the issue, which should also be introduced into public debate;
- The opinions of civil society representatives already active in the field and who have presented different modalities of possible decentralisation must be taken into account;
- The public should be included in decision making, public debates;
- The ratio between the process's cost and possible benefits should be calculated;
- Prepare communication strategy (public debates, conferences, campaign in the field, etc.) with the aim of making the proposed strategy for decentralisation (once it is prepared) more available to citizens.

2. *Strategic recommendations*:

- Implement substantial reform of local self-administration via adoption of strategically important laws;
- Raise local administration capacities, and enable them to carry out subsequent reforms, with a priority on modernisation to make administration more efficient;
- Restitution of property to local authorities. This is one of the first concrete steps towards the implementation of decentralisation²³;

²³ *Decentralisation, No 2, Conclusions of the national conference on decentralisation*, periodical of the Office of the National Council for Decentralisation, March 2010

- Move competence for immediately dealing with citizens from central to local government. This will allow citizens to solve problems among themselves at local level, and is also the firmest guarantee such tasks will be carried out efficiently.²⁴
- Promote and introduce the principle of subsidiarity to bring about a change in the relationship between all levels of authority, changing the relationship from the current hierarchical to one of partnership²⁵;
- Reform the Law on Election of Councillors to strengthen the connection between citizens and their elected representatives. Current processes substantially breach the principle of democracy, as well as citizens' opportunities to elect the individuals they believe will properly perform certain functions;²⁶
- Provide for direct Mayoral elections as this reinforces the link between citizens and the "first man" of the city and provides additional legitimacy to his/her function.

²⁴ *Ibidem* (2010), p 24

²⁵ *Ibidem* (2010), p 24

²⁶ More details on suggested solutions in: CeSID, *Recommendations for changes to electoral legislation in Serbia*, OSCE Mission in Serbia, 2008.

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