**Report on the consideration of DLDP’s recommendations**

The Government of Albania recently has approved the two main documents based on the Administrative Territorial Reform and Decentralization Reform. The Council of Ministers adopted on 29 July, the cross-sectorial strategy for decentralization and local governance 2015 – 2020, which was finalized as the final version on 23 July 2015. This strategy envisages the further progress undertaken by the government on the administrative-territorial reform, and the new reforms that the government will implement for local governments. Also, the Albanian government has delivered the first draft of the new organic law of organization and functioning of local governance.

For drafting these two documents, DLDP has provided a number of recommendations in order to respect the rule of law and the main principles of European Charter for Local Governance. Based on these recommendations, this document reflects the recommendations that are taken in consideration and the reverse, in the content of the new local organic law and in the cross-sectorial strategy for decentralization and local governance 2015 – 2020.

Of the foregoing, there are a number of DLDP’s recommendations that are reflected in the contents of the both documents.

1. Regarding the Decentralization principles, the recommendation to maintain and further specify the principles of subsidiarity, fiscal decentralization and collaboration are reflected in both documents.
2. The official document approved by the government of the cross-sectorial strategy for decentralization and local governance 2015 – 2020, determines that the main aim of the strategy will be the consolidation of local autonomy through the support for the efficient function of executive, community and representative structures of local government at all levels. Also, the draft of the new local organic law determines the subsidiarity as the principle of exercising the functions and competencies of local government.
3. The decentralization strategy and the draft law establish clear normative relations between central government and local government, based on the consultation principal as a new principal.
4. The draft law stipulates that relations between the local government bodies and government institutions are based on the principle of subsidiarity, consultation and collaboration for solving common problems.
5. Both documents contain for the first time the principle of asymmetric decentralization based on the principle of subsidiarity.
6. Based on the recommendation of fiscal equivalence both documents have a tendency to be considered by determining respectively:
7. The strategy provides as a strategic objective the improvement of stability, simplicity and equity transfer system along with increased transparency;
8. Unconditional transfer is set as a fixed percentage of revenue versus public revenue in the law of local finances and is distributed according to the formula set by law.
9. Both documents provide the insurance that the transfer of functions will be accompanied with the transfer of financial instruments for their implementation.
10. Specific issues in the law for the right to fiscal autonomy
11. Both documents provide the recommendation of increased flexibility of the municipalities to make and arrange the items of expenditure in the framework of Institutional Financial Independence.
12. Allocation of local functions
13. Both documents have involved the recommendation to elaborate a methodology for the allocation of functions and finances which respect the basic principles of decentralization.
14. Regarding the methodology that should be approved as a secondary legislation, is not fully considerate.
15. The recommendation to consider establishing sub categories of local functions like exclusive functions (voluntary, mandatory, horizontal collaboration functions, shared functions with partial or little flexibility), the decentralization strategy takes it, in consideration but the new organic law introduces a new typology of separation of functions by abolishing the shared functions
16. The recommendations regarding the function and the competencies of the Mayors and the municipal council, both documents provide the enhanced powers of Mayors towards new municipal management, including the adoption competence and organizational structure of the municipality. Also, the role of the council and municipal councilors has been reviewed in the context of transmitting the voice and interests of citizens in local decision-making

Annex I. The Matrix

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *DLDP’s Recommendation* | *The new draft local organic law* | | *The cross-sectorial strategy for decentralization and local governance 2015 – 2020* | |
|  | Are or are not reflected? | Measure of reflection | Are or are not reflected? | Measure of reflection |
| Decentralization principles |  |  |  |  |
| Maintain and further specify the following principles: subsidiarity principle; fiscal self-efficiency; and collaboration principle. | Are reflected  Article 2, article 3,4 | Fully reflected the principles of subsidiarity and collaboration  Fiscal self-efficiency not clearly | Are reflected | The principles of subsidiarity and collaboration are fully reflected. |
| Include principle of fiscal equivalence (or institutional symmetry). | Institutional symmetry is reflected also the fiscal equivalency  Article 10, 11, 12 | Institutional symmetry is fully reflected.  Are provided the some instruments for fiscal equivalency | Are reflected | Institutional symmetry is fully reflected.  Are provided the some instruments for fiscal equivalency |
| Make sure that these principles are fully respected in a methodology of function allocation and funding of functions carried out at local level. | Is reflected  Article 15, 16,17, 21,22 | These principles are fully respected in a methodology of function allocation | Is reflected | These principles are fully respected in a methodology of function allocation |
| Fiscal autonomy |  |  |  |  |
| More substantial own revenues, more discretion to set tax rates | Is reflected  Article 34,35,36,37 | Partially reflected for the reason to provide them in the draft Law "On Local Finances" | Is reflected | Totally reflected |
| Specify modalities for putting pool of shared taxes into practice | Is reflected  Article 37 | Partially | Is reflected | Is reflected | Partially |
| Specify what own revenues, unconditional grants and conditional grants should cover | Is reflected  Article 35,37 | Partially | Is reflected | Partially |
| Establish a system of fiscal equalization | Is reflected  Article 34 | Partially | Is reflected | Partially |
| Allocation of local functions |  |  |  |  |
| Elaborate a methodology for the allocation of functions and finances which respect the basic principles of decentralization | Is reflected  Article 21,22,etc | Totally | Is reflected | Totally |
| Consider establishing sub categories of local functions like exclusive functions (voluntary, mandatory, horizontal collaboration functions, shared functions with partial or little flexibility). | Is reflected  Article 2 and other Articles of Functions and competencies | With a different view by abolishing the shared functions. The LGUs have now own functions and delegated ones. | Is reflected | Totally |
| Try to disentangle responsibilities for functions wherever possible. Not too many shared functions. | Is reflected  Articles of Functions and competencies | Totally | Is reflected | Totally |
| Whether responsibility for the functions should be comprehensive (including operation, maintenance, and capital investment) or partial (ex. Only operational). | Is reflected  Articles of Functions and competencies | Totally | Is reflected | Totally including the new allocated functions |
| Sectorial laws should respect the implications of the functional allocation methodology and a process should be set-up to screen and adjust all relevant sectorial laws | - | - | - | - |
| Nation-wide standards for exclusive functions |  |  |  |  |
| No national possible standard, has to be set by local level through qualified majority of number of LGUs and qualified majority of share of population | Is reflected | Partially | Is reflected | Partially |
| Establish a mechanism for declaring these standards binding nation-wide | Not reflected | Not reflected | Not reflected | Not reflected |
| *Authorities* |  |  |  |  |
| Specify power balance between Mayors and local councils. Mayors provided with more executive powers, while local councils given a higher monitoring role. | Is reflected  Article 51,53,54,59,64 | Totally | Is reflected | Totally |
| Ensure fair and proportional representation of territories and population through election formula for local councils. | Is reflected  Article 46,47, 48,53,55 | Totally | Is reflected | Totally |
| Provide more freedom of mayors in establishing human resource management standards, including remuneration. | Is reflected  Article 64 | Totally | Is reflected | Totally |
| Role of women |  |  |  |  |
| Strengthen the role of women in politics at local level | Is reflected Article 3 understandable by the context | Not clearly, but is understandable by the context | Is reflected | Not clearly, but is understandable by the context |
| Increased representation of women in local elected structures (local councils, village structures, etc.) | Is reflected  understandable by the context |  | Is reflected |  |
| Gender issues | Is reflected  Article 3 understandable by the context | Not clearly, but is understandable by the context | Is reflected | Not clearly, but is understandable by the context |
| Other recommendations |  |  |  |  |
| Revision of the role of Qarks, There is much un clarity on the functioning of Qark | Not reflected | Not reflected | Not reflected | Not reflected |
| Functions related to education, health care and some other sectors should give more authority to the mayor (such as appointing directors of schools, etc.) or be entirely transferred to local government. | Is reflected  Article 64 | Totally | Is reflected | Is reflected |