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Local Governance in Transition: A view on the Bosnian Case

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Abbreviations

BiH	Bosnia and Herzegovina
CAF	Common Assessment Framework
CCI	Centre for Civic Initiatives, Banja Luka
CSCE	Conference on Security and Co-operation in Europe
DAI Inc	Development Alternatives Inc.
DPA	Dayton Peace Agreement
EDA	Enterprise Development Agency
ERC	Educational Resource Center
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
GAP	Governance Accountability Project
LED	Local Economic Development
LSG	Local Self Governance
MDP	Municipal Development Project in Dobož Region
MDT	Municipal Development Team
MZ	Mjesna Zajednica" (Local community)
NATO	North Atlantic Treaty Organization
NGO	Non-governmental organisation
OHCHR	Office of the United Nations High Commissioner for Human Rights
OHR	Office of the High Representative
OSCE	Organization for Security and Cooperation in Europe
OSF	Open Society Fund
PARU	Public Administration Reform Unit
ProDoc	Project Document
RMAP	Rights Based Municipal and Planning Project
RS	Republika Srpska
SDA	Party of Democratic Action
SDC	Swiss Agency for Development and Cooperation
SDP	Social Democratic Party
SIDA	The Swedish Agency for International Development Cooperation
SME	Small and Medium Enterprises
SNSD	Party of Independent Social Democrats
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development

INTRODUCTION

According to a common and widespread understanding of the situation in Bosnia and Herzegovina (BiH) since the end of war and the implementation of the Dayton Peace Agreement (DPA) the structures of governance developed in BiH are highly problematical and may not lead to a sustainable development in the long run. The current state of affairs, stemming from the complex context of BiH, is influenced by an array of internal and external factors. The external factor most frequently mentioned refers to the construction of the state and its administrations (Dayton Peace Agreement), which have not grown through the country's specific historio-political development. Furthermore, there is the Office of the High Representative (OHR), an institution with a final authority in all important decision making, which classifies BiH as an international protectorate.

The purpose of this extensive involvement of International Community was, in the first phase, the maintenance of peace. Subsequently, International Community took on a more proactive role aiming at creation of democratic, transparent and participatory government, through its leading International Organisations.

Decentralisation was another concept which was brought into the process of democratising BiH. Decentralisation, meaning transfer of power, responsibility and resources from central to regional and local governments, is seen as one way of improving governance and bringing decision making closer to the people. Not so much a theory, but a common practice in most countries, it is seen as suitable way of achieving high-quality governance in the interest of the people affected by it. Closely linked to the principle of subsidiarity, decentralisation is aimed at bringing administration of public resources to the lowest level of government and delivering local services in a participatory manner.

BiH is a country in transition, not only from war to peace, but also from the communist system to a liberal democracy, a process which was initiated in the late 1980's and then followed by the war. Another complex dimension is the legacy of Communism. From a historical point of view, today's system of local self-governance in BiH has its roots in the communist system's concept of government whose features still penetrate the current system. At the beginning of the process of transition the municipal level of government seemed to be the most promising case and the level which could most easily be adapted to the democratic substitutes of a planned economy and a monistic political system. Those were to be replaced by free market economy and pluralistic political system.

However, in reality this did not prove to be the case in BiH. It seems that the difficulties that BiH faced on the national level, in fact, multiplied on the local level. Transition of institutions was achieved, yet this did not automatically lead to a more fundamental change in the way they operated. In this manner, local self-government remained undeveloped and dependant on the state as well as on informal sources of power within the municipalities themselves.

Resulting from historical and social background of the country, certain autharchic tendencies emerged in the municipalities. For example, the tendency to act in a closed and self-sufficient manner, which was especially strengthened during the war when municipalities were compelled to organize themselves in a state-like manner, though relying on local forces and often informal sources of power.

PURPOSE AND OBJECTIVE

This paper has an explorative character. After several years of practice in a municipal development project in BiH¹ we welcome the opportunity to summarise our experiences and contrast them with an actual analysis of today's system of good local governance.

Basically we are interested in the finding of recommendations with regard to (international and national) strategies in the field of good local governance. Aiming at this result we shall,

- first reconstruct the context factors of good local governance in BiH as a country in transition: from socialist system to a liberal democracy and from ethnic conflicts to a post-war situation. - From the view of the relevant context factors we shall formulate some basic principles of any strategies in the field of good local governance.
- Second we analyse the system of local governance as it works today for the average of the municipalities. This concerns the basic institutions and the legal framework (polity), the widespread style of the politicians at different levels (politics) and the impact which local developmental strategies today have on good local governance (policies). We strongly consider the participatory aspects of local governance. - Doing so we shall formulate some relevant focal points of any strategical interventions in the system of good local governance.

This paper shall serve at a later stage as a basic concept for further activities in our municipal development project (MDP).

BACKGROUND and CONTEXT

The democratisation process

BiH is a country that has never experienced stable liberal democracy and is today a case of third-party state building². By the end of war and the signing of the Dayton Peace Agreement a complex process of democratization was initiated in BiH. International organizations (such as the UN, NATO, OSCE) whose initial mission was to contain conflict after the war now found a new mission in the democratisation process. The very nature of the conflict in BiH involving national minority within a country and the East-European «ethnic definition of citizenship» appeared to be the new problems. The idea of the ethnic nation was considered as a permanent provocation to war (Chandler, 2000, p.23).

The process of democratisation in BiH shows that the agency of democratisation is less held by the demos of people (through the growth of political freedoms and liberties, self-government and sovereignty) but rather by international bodies which assume a regulative role in controlling the political process (Chandler, 2000, p.4). Today democratization in BiH, seen as an overall process of regime change involving both

¹ Municipal Development Project 2002 – 2007. Swiss Development Cooperation (SDC). Implemented by the Swiss Foundation for Development and International Cooperation (Intercooperation).

² Third-party state building is a relatively recent practice in international relations. Its earliest expression lies in the efforts by colonial powers to strengthen the capacity of territories under their jurisdiction in anticipation of the eventual transfer of sovereignty to local authorities. Today, it is undertaken in response to weak/failed states or as part of international assistance to war-torn societies. (Caplan, 2004, p.2)

transition to a liberal democracy and its subsequent *consolidation*, necessitates international guidance and support. (Chandler, 2000, p.8)

From a critical point of view it is arguable that copied and transplanted institutions that lack the moral and cultural infrastructure on which the 'original' model in Western Europe can rely are likely to produce a democratic culture. The top-down process of democratisation, driven by the international community, has little or none impact at the local level as far as democratic institutions seem to be imposed instead of grown up from below. The identification of citizens with such institutions is not given. A civic culture as it is the basis of western liberal democracies did not grow from the bottom. From this view the democratisation approach of the international community has left a deficit to the functioning of local self governance. Ownership of the democratisation process did involve parts of the national political elite but did not or scarcely integrate the local actors of self-governance. This hinders the social reconstruction of the political concept of citizenship in a practical sense at the local level.

The Dayton Agreement

The territorial impact

The context of BiH, the one of an ethnically divided society, stresses the need to recognize *more* than the individual rights of members of ethnic groups but *less* than the kind of full group rights that might give rise to claims of sovereignty and self-determination.

BiH is a federation consisting of two entities, the Republic of Srpska (RS), with predominant Serb population and the Federation of Bosnia and Herzegovina (FBiH), with predominant Bosniak and Croat population. Each entity has its own constitution and is vested with all state functions. The RS Constitution qualifies RS as a unitary state with the municipality as the basic level of local self-government. FBiH is a federation within a federation, consisting of cantons as federal units. This cantonal division is established in order to ensure ethnically homogeneous governments. The FBiH Constitution grants most responsibilities to the Cantons, while the domain of the Federation government is very limited. A Canton, in turn, may delegate responsibilities to a municipality and is, in fact, obliged to do so if the majority of the population in the municipality is other than that of the Canton as a whole. Moreover, there is the third administrative unit, the Brcko District that remains within the borders of the pre-war municipality of Brcko, combining territories from both entities and being under direct supervision of the OHR.

The internationally supervised state functions entailed by the Dayton agreement are to manage the ethnic balance and the integration of the military forces, the composition of the police, an International Commission of Human Rights, ombudsmen and a Human Rights Court. International institutions assume regulative administrative powers over BiH due to the fact that all three BiH ethnic groups were weak and dependant on international support. The agreement provided institutions with the High Representative as the final authority with extensive powers regarding interpretation of the agreement and monitoring its implementation. Furthermore, it emphasised 'compliance' and 'co-operation' of Bosnian representatives with international organisations.

Although the agreement is focused on the political project of democratising BiH and reconstructing its society, the powers of international bodies were subsequently increasing instead of diminishing. Even locally, the international community took on a more interventionist role, in the sense of dismissing obstructive officials at the local level,

and later also the 'election' (imposition) of mayors by the OSCE with disregard to local election results. (Chandler, 2000, p.88)

Ethnicity and citizenship

The BiH setting under the DPA is characterized by a weak central government dominated by ethnically segregated entities. Those constitutional arrangements were made, in the first place, in order to preserve ethnic identity and ensure that no single ethnic group has the power to dominate national political structures.

While until 2000, ethnicity was regarded as a sole criterion for citizenship according to both Bosniak/Croat and Serb Entity constitutions, in 2000 the Constitutional Court of BiH declared that all ethnic groups are *constituent peoples* and, thus, equal across the entire BiH territory. By doing so, the Court recognized *collective rights*, but only to the extent that such rights do not threaten *individual (human) rights* across the entire BiH, at the same time eliminating any constitutional approval of segregation in the two ethnically distinct entities.

Yet the term 'constituent peoples' is often paired with the principle of self-determination of *ethnic groups*, which is exactly what the Court sought to avoid by amending the Constitution. This, so called, 'constitutionalisation' of ethnicity is presenting a legal paradox, since its objective was to integrate all people into a unified BiH, while the integration itself is based on the same principle which initially divided BiH, that is the principle of ethnicity.³ The lack of clear definition of 'people', ethnicity and citizenship often leads to subjective reasoning in this matter.⁴

The DPA has been up to now primarily a peace keeping strategy between the three ethnic groups. The concept of citizenship has been bound inside the boundaries of ethnic membership although the national and international political actors try to expand a concept of citizenship which is based on individual rights. Yet at the local level citizenship still stays an unclear notion of local self-governance. This affects the perception of citizens' rights concerning the participation at local decision making as well as a civic culture of equality among citizens addressing the equal access to public services in a negative way. Various attempts of the international community to balance inequalities among citizens as members of different ethnic groups with the strategy of the Human Rights Based Approach remain therefore unrealised.

³ This is further accentuated in the fact that the presidency of BiH consists of three members, who in turn, must act, on the one hand in consensus with each other, and on the other, according to the 'vital interests' of their respective entities. As the Constitution does not precise the definition of 'vital interest' it is then up to the presidents to act according to their judgement, which in turn, most often goes in line with ethnic interest.

⁴ The right of self-determination was originally derived from notions of *freedom, equality and peace* and that right is granted only to colonized territories to free themselves from external domination as well as in cases where a population is systematically denied equal representation in its country's political system. Morawiec, Mansfield, 2003.

Civil Society

After the establishment of formal democratic procedures in BiH a consensus was reached that elections without a vibrant civil society will not produce democracy.⁵ The notion 'civil society' came into existence as a term often designating non-governmental organisations, notably the advocacy of NGOs. The development of civil society is difficult to measure since it is difficult to identify and operationalise its indicators. However, it is often judged by the number of existing NGOs, which can be problematical since not all NGOs are active at the time, many of them are dysfunctional considering their alleged purpose and objective. Many are donor-driven or created by governments in order to satisfy the international community.

Shorcoming of the objective of the true promotion of civil society values

- *NGOs: A donor driven sector:* NGOs frequently emerge according to the *donors' interests*, rather than the citizens'. The activity of NGOs often tends to be bound to short-term and sporadic projects, with uncoordinated and narrow objectives. This is to a large extent caused by donors who choose to fund short-term projects, thereby amending the set of objectives of local NGOs and creating a new prospect of attracting more funds and surviving as an organisation. In such context, where survival is only guaranteed from one project to another, local NGO sector is characterized by financial dependence and insecurity.⁶
- *Lack of civic tradition:* Further on, there is a lack of civic tradition stemming from the communist experience. Organizations that emerged during this period (youth organisation being the best known example), were subjects of state management and constant oversight, functioning more as an instrument for controlling the society by the state, instead of vice versa.
- *Economic constraints:* The situation in general is portrayed by underdevelopment and poverty in all segments of society. There are no wealthy individuals willing to allocate a portion of their wealth to humanitarian causes. Since the NGO sector employs a significant number of people, the very nature of the projects (insecurity caused by short-term orientation of the projects), the need to continue their work and existence is not purely idealistic, but for obvious economic reasons. For these reasons volunteer work is not appreciated which leads to the fact that very small number of people actually have an interest in engaging themselves in volunteer associations.
- *Lack of transparency:* Furthermore, it is argued that the domestic NGO stage in BiH is often characterized by a lack of transparency in the work of NGOs, and the priorities being set by the donors rather than local actors. (Sali-Terzic, 2001, p.189-190).

Arguably, the development of civil society in BiH could, according to some scholars, be described as distancing itself from the ideal of partnership and more and more transcending into what could be termed as 'new colonization' (Sali-Terzic, 2001, p.182). The crux of this criticism is not to question the intentions nor the objectives of the international organisations, but their strategies of action, which are perhaps based on inadequate knowledge of the situation and should be subjected to revision.

⁵ The right to freedom of association is guaranteed by the constitution of BiH, as well as those of entities' of RS and FBiH, respectively.

⁶ Entire 76,47% of the budget of NGOs is coming from international funds. See Sali-Terzic, 2001, p.191.

The development of a strong civil society is a crucial factor in the democratisation process. Concerning the development in the NGO sector there can be observed progressive steps of severe and sustainable NGO structures and objectives as a whole. Yet the NGO sector is also bothered with an overdrive of international driven organisations just following the law of external resources but not the true and basic needs of a developing civil society. The critics at the adress of a donor-driven civil society and of NGOs which primarily serve as control instruments for the international community and the local authorities have waked up internal movements of cleaning the NGO sector (Koalicija nevladinih organizacija 2004). At the local level there is a rising critic to «wrong» and misleading NGOs which do not really strenghten civil society needs and interests in favor of good local governance.

ANALYSIS OF THE SYSTEM OF LOCAL SELF-GOVERNANCE

Basic concern of this chapter is the system of local self-governance and the way it operates on the level of an average municipality. We shall extract from such an analyses some central strategical focal points of interventions aiming at the improvement of good local governance.

The basic units of local government

The system of local self-governance cannot be understood without previously looking at the relationship between the basic local units of government, which are the *municipalities* and their constituencies, the *local communities* (MZ: mjesne zajednice). Municipalities are mainly bound to formal structures, while local communities are just partly functioning in the framework of formal structures. They are working inside the informal structures of everyday life (life worlds). The major actors within municipalities are the elected political organs/authorities (mayor and municipal council/assembly) with the mandate to steer and formulate the policies of a municipality.

Local communities (MZs, mjesne zajednice) are the traditional and legitimate links between citizens and municipal authorites. The primary role of MZs is to provide some basic communal services, to compile the local planning initiatives and to link and integrate them into the municipal planning and budgeting system. The creation of MZs as a special form of citizens´ and civil society´s participation is regulated by respective municipal statutes. The municipal assembly determines whether the creation of a new local community is justified, meaning that MZs are not in any sense a mandatory form of citizen participation. MZs have a subordinate position towards the municipality. This is further aggravated by the fact that even the existing MZs are rarely functioning in a satisfactory manner, partly because the MZ representatives are appointed on the party-line basis and not directly by the citizens. The distribution of MZ seats proportionally follows the election results in respective local communities and it cannot be affected by direct citizen initiative or local needs. Besides this, an MZ is not professional, but has a voluntary function. The relevance of MZs is higher in rural and remote village areas and less in urban, city areas.

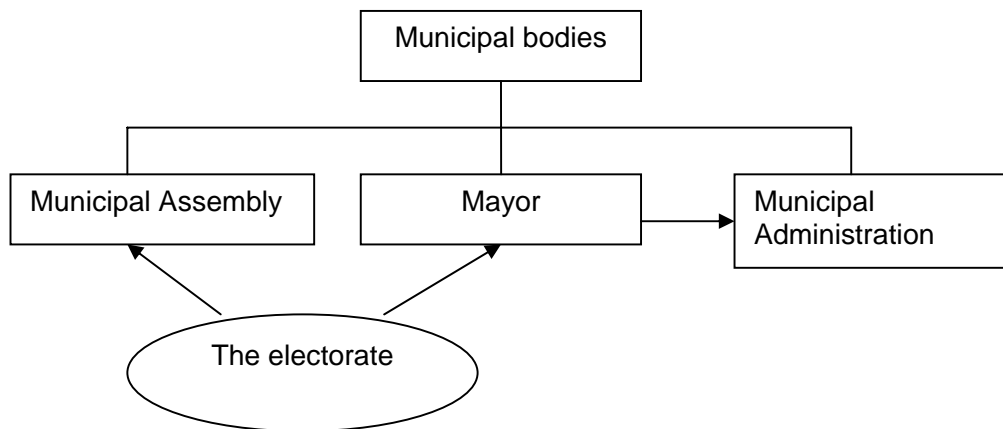
The relationship between municipalities and the local communities is dynamic, since both are representing power sources that can be used for cooperation as well as competition, yet basically subordinating the local civil society. This is partly a historical heritage of the communist rule when municipalities behaved in a closed and dominant state-like manner

towards the society and all of its segments. The municipalities still are functioning in a typical bureaucratic fashion, with precised roles, monocentric distribution of power and a clearly hierarchical structure, emphasising subordination, rather than participation. The local community, on the other hand, is democratically oriented, striving towards poliarchic structure and with a policentric distribution of power. (Analiza, 2005, p.14) The relationship between these two is more in favor of the municipality, having in mind the fact that formal bureaucratic structures are more powerful compared to the informal and ad hoc structures of the local communities.

Elected organs of local government: Direct election of mayors

According to a new law brought at the end of 2004 there are two organs in the municipality, that is the *mayor* (executive power) and the *municipal assembly*, (political power). They are both elected directly.

Table 1. Structure of a BiH municipality



This political structure is meant to striving for rapid development and emphasising efficiency as its prime objective. Owing to new legal regulations, relationships between municipal organs are clear and stabilised. They are regulating the relationships between municipal organs to the extent that they cannot obstruct each other's work and that they are able to cooperate.

- In the RS the legal framework allows substantial amounts of independence in both the assembly's and the mayor's work since both organs are elected directly and they cannot dismiss each other, and neither can this be done by the entity government.
- In the FBiH there exists a kind of mutual fear between the mayor and the assembly, since the mayor has the right to dissolve the assembly and the assembly has the right to initiate the process of mayor's dismissal from the office. Some mutual obstruction is possible and mainly evident in those municipalities where mayor does not belong to the party that holds the majority in the municipal assembly/council.

Initially, the reasoning behind the shift from indirect to *direct election of mayors* was guided by the idea of changing the mayor's role and his/her perception of this role in order to be more citizen oriented. The objective was to detach the mayor's role from party politics and control in order to restrict the political power of parties and support citizen oriented strong leadership in favor of rapid development. The new role of the

mayors representing the citizens and not political parties is a demanding task for the local system of good governance for the future. Some possible risks are:

- The concentration of power in one political body, which is vested in one person, and the possibility for misuse of this power;
- The following personal agendas;
- The staying a representative of one political party concentration of power.

The question remains: Which of the two alternatives (indirect and direct election) works best in favor of citizen orientation and transparency and in its contribution to the objective of achieving functional, efficient and effective structures of local government?

Local politics: Ethnic politics vs. citizenship

Political intolerance in terms of ethnic politics that exists on the state/entity/cantonal levels is transmitted also to the local level of government aiming to disable political opponents, even at the price of neglecting the interests of the citizens completely. Dominating political parties in BiH are all defined on ethnic basis only, which is one of the greatest shortcomings for developing both a functional state as well as local level of government in BiH. Political squabbling based on ethnic identity, as well as personal conflicts and animosities among the political elites are still outweighing the importance of political and economic development interests in the country. In public debates it is often pointed out that one of the major obstacles towards a feasible political and economic development in BiH are,

- the current constitutional solution along the Dayton settlement, in particular concerning the neglecting of citizen's interests in favor of games of party politics and,
- the deficiencies of cooperation between federalist levels disregarding the level closest to the citizens, the municipality.

Vertical and horizontal intergovernmental relations

In April 2002 BiH became a member of the Council of Europe. This membership implied a series of conditions which the country is obliged to fulfill.⁷ One of the post accession commitments defined by the Council of Europe is the Charter of Local Self-Governance which insists on decentralization. The charter is ratified though there are certain inconsistencies regarding its implementation. Two examples show the problems:

- *Accountability of public companies:* It is not precised where the final authorities (accountability) and responsibilities reside. Some public companies are managed by officials nominated by the government, while the accountability for the consequences of their action resides with the local government. In these cases the municipalities feel obliged to take over some responsibilities such as the responsibility for war veterans, the disabled persons, refugees and displaced persons.
- According the *attitude of higher levels of government* municipalities should be able to provide enough resources for their own sustenance. Yet in cases when they are not, municipalities are not granted any compensation from the higher levels of government. This creates tensions between the different levels of government. Since local governments have a disproportionally large scope of responsibilities in

⁷ Such as the strengthening of common institutions and human rights, the establishment of an independent judiciary and the harmonisation of education curriculum.

comparison to the budget at their disposal. Therefore, local authorities are suffering an extra pressure to maintain a good and solid relationship with their political party bases on the entity/cantonal levels. This supports intransparent and informal ties and relationships.

For the vertical federal relationship it can be stated that, despite formalized political loyalties and similarities among elites at the lower and the next higher level of government, a high degree of mistrust and open animosity exists between the municipalities and the higher levels. In extreme cases, municipal leaders considered the next higher level of government to be an “enemy” of local democracy. This general mistrust is evident regardless of the ethnic composition of either the canton or municipality concerned. (Local Governance Assessment, 2003, p.6)

The horizontal relationships between municipalities are shaped by a general absence of communication and cooperation. Regional attempts among municipalities which share a common problem (e.g. in the providing of public infrastructure) are hardly developed. First attempts in the regional waste management or water supply management have begun, yet without so far with a remarkable progress. The respective regional structures for horizontal cooperation do not exist. The deficiencies begin with an absence of cross-boarder communication on common problems and on the exchange of experiences in order to learn from each other. National best practice competitions in local management and recent domestic initiatives in introducing a common framework for the assessment of local governance in BiH show the increasing awareness among domestic local and national practitioners about this basic problem.

Informal politics: a wrong guided power resource

The analysis of the system of local self-governance would be incomplete without mentioning *informal relations* as further power source, which exists and operates alongside formal power sources and which further generates the closing of municipalities. One informal power source are familial bonds that lead to nepotism, which appears to be a relevant factor in the management of all local matters. This phenomenon existed even during the communist rule and the only way in which today's system differs from the previous one is that the old familial clans had been replaced during the war under the flux of aggressive war profiteers and other groups who gained enormous portions of wealth and are now seeking ways to legalize it. In some municipalities this is more evident than in others. In extreme cases, the presence of certain 'strong' individuals has completely overshadowed formal structures where even the police and local courts are under their patronage and control.

The existence of informal sources of power and their connections to the local governments lead to grave corruption. High-ranking local government officials may illegally act in favor of certain companies when it comes to deciding on matters such as to which company the municipal services should be entrusted through municipal tenders. Moreover, they may allocate municipal land for construction for ridiculously low sums of money, at the same time creating deficit in the municipal budget, worth of millions.

According to Transparency International's Corruption Perceptions Index from 2004, BiH is at the position 82 of the total of 146 countries included in the survey.⁸ Corruption, undoubtedly leads certain municipalities to self-sufficiency and isolation and substantially diminishes their chances for development of citizen-oriented, participatory governance. Causes of corruption are systemic rather than individual. One possible explanation is that the introduction of new institutions without corresponding cultural and organizational mechanisms of control, contribute to the increase of criminal activity and corruption in local governments.

As it is known from many analyses of local politics informality can be the central resource for a positive local regime. This implies a core of different local actors from local government, civil society and private sector in order to form a powerful coalition of forces which promote development and the efficient management of public services. Yet such a coalition presupposes a strong local institutional actor, the local government, which takes political leadership and guarantees the implementation of a set of rules (in accordance with the rule of law) in order to invest trust on the side of all relevant actors in developmental objectives and strategies. Poor local financial resources, the respective dependency of local governments on client-patron relationships with partly illegal sectors of the economy, a weak local political leadership and the overall mistrust in state structures therefore shape illegal informal politics with a negative impact. Informal politics so far tend to stay bound in old clientel structures between the local government and the private sector, following mainly particular (private) interests (close to corruption and nepotism) and neglecting the overall objectives of citizens to develop the municipality as a whole.

Administrative professionalism and human resource management

After some years of the implementation of the Local Government Programme, the role of local administrations in today's system of local governance is defined as high quality service provider to its citizens and tax-payers. Yet just a small number of local authorities have reached high standards in fulfilling their roles and responsibilities, to a great extent as a consequence of the Local Governance Programme. Especially, one can see certain municipalities that have introduced a new system of values through the acceptance of the Code of good governance, and that have accepted mechanisms of good governance through a system of quality management. In those municipalities, the process of development and continuous improvements toward truly citizens' and tax payers' services have become the everyday job and real commitment. These changes are partly driven by the option for BiH to join the process of European integration. This requires that the management of human capital in the public sector is set as the highest priority.

Present state of local self-government is such that approximately 2/3 of the staff are above the age of 40, which implies that a substantial number of the staff are remnants from the previous system. Judging from the qualifications of the staff, the fact that less than 1/3 has a university degree and more than 50% has only high school diploma is

⁸ The corruption score relates to perceptions of the degree of corruption as seen by business people and national analysts and it ranges between 10 (highly clean) and 0 (highly corrupt). For BiH the score is 3,1, and the number of conducted surveys is 7. BiH's neighbours Croatia and Serbia & Montenegro have a score of 3,5 CPI (position nr.67) and 2,7 CPI (nr.97), respectively. (www.transparency.org/cpi/2004/cpi2004.en.html)

clearly a problem, implying lower quality and lack of specialized knowledge and skills necessary for proper functioning of public management. Further on, there are great shortcomings when it comes to managerial skills and competences, and no adequate system of quantitative measurement of the staff's input, neither a rewarding system exist. (Analiza, 2005, p.62)

Unfortunately, most municipalities are not able to start and to conduct the changes of improvement their management either individually or by participation in international projects. This majority of municipalities in BiH is still fighting in order to introduce basic principles of good governance. So far it can be observed that there are huge and serious qualitative differences between local authorities in BiH.

Some of the central reasons for this situation are:

- Local government reforms are still at the end of the reform agenda in BiH although local governments are the most diversified and the least coordinated part of the administrations.
- In particular there is a lack of a unique, clearly defined and consistent policy on the level of BiH in the field of human resource management. Instead there are very different normative arrangements on the entity basis. This can be seen today as one of the greatest shortcomings for establishing a modern, efficient, high-quality public management. Existing projects of training in the field are driven by international donors.
- The laws just regulate the responsibility and authority of the government, yet they do not insist on service-mindedness, effectiveness and efficiency, neither quality of management, nor services provided. Laws even support the bureaucratic concept of administrations, by insisting that the processes are being resolved within the limited time framework prescribed by the law. (Analiza, 2005, p.65)
- Instead of a system that establishes and supports professional standards of good governance, there is a political confusion in which being a local government official is a matter of obedience to political bosses and political parties, but not an issue of professional standards and of satisfying needs of citizens. The administration is highly politicized which is putting in question the professionalism of the public management.
- Local authorities in BiH act in different legal, administrative and traditional frameworks among themselves. Different administrative frameworks, in which they act, as well as system of values, that carry national (often nation-chauvinistic) and local (often local-chauvinistic) marks, are preventing horizontal and vertical communication and cooperation between local authorities. Thus, the lack of good cooperation, the absence of mutual learning and the non-existence of productive competition between the municipalities prevent an increase in the overall level of local authorities in BiH.
- Furthermore, there is no good interaction or development driven cooperation among local levels and higher levels in the hierarchy (cantonal, entity or state level). Instead of supporting and helping local efforts to introduce changes and development projects, higher levels often create additional obstacles and barriers.

A relevant initiative done by local practitioners since 2004 in order to overcome some of the basic mentioned problems with professionalisation is marked by the introduction of the Common Assessment Framework (CAF). This methodology in evaluation of local

administrations is aimed to introduce a common “language” of good governance that will give courage, make possible, and significantly improve the horizontal communication between municipalities (to mutually support, develop and exchange good practice among themselves), as well as enhance the vertical communication with higher levels in BiH. This model of quality management is supposed to allow qualitative comparisons on best practices and to find answers on questions like: “What makes some municipalities better than others? And, what are the results and in which areas?” By using this methodology, the “lagging municipalities” shall have the possibility to see areas in which they need improvement and to see how they can do that by accepting already created solutions and practices from the better developed municipalities.

The policy capacity of local elites

BiH municipalities are by law in charge of a series of tasks which are close to citizens’ needs and therefore delegated to the local level. Only by an effective realisation of these tasks local self-governance can contribute to the overall process of peace keeping, integration of the society and its democratization in BiH.⁹ It can be considered that the municipal organs (mayor and assembly) and administration have to find problem solving solutions for the following municipal tasks in the three main policy areas of development, public services and reconciliation:

Development

- Renewal of economy and employment: The promotion of the economy presupposes developmental strategies, better planning instruments (incl. land use planning) and tax politics which are in favor for the local autonomy;
- Renewal of the municipal infrastructure and of the habitation, e.g. by creating good conditions for construction (urban planning);

Public services

- Social protection and social welfare for certain citizens’ groups, in particular with regard to weak and vulnerable social groups;
- Improvement of the quality of basic primary schools, incl. equipment of schools with computers etc.;

Reconciliation

- Reconciliation and return of refugees and renewal of habitation and of infrastructure for returnees;

In all these policy areas the local elites are challenged by creating locally tailored policies to cope with the respective tasks. Viewed from the fundamental level of local elites behaviour all these policies have a common ground: the capacity for cooperation. One of the most actual local policy domain to illustrate this can be seen in the ongoing activities of building developmental strategies for the local economic development (LED).

Local economic development strategies (LED)

Since about two years the concept of the LED, which is promoted and implemented by International Organisations like the World Bank in countries of transition and areas of

⁹ Mirko Pejanovic: Local self-governance and democratization of the society in Bosnia and Herzegovina after the Dayton Agreement. Contribution to the International Conference “Globalisation – Sustainable Development – Local Government: Challenges of the 21 century”.

economic crisis since two decades, has gained importance in BiH. It was taken over by the most advanced and competent domestic national institutes and agencies for development¹⁰ and has in the meantime realized first results.

Through strategic planning of local economic development following the concept of partnership of public, private and non-governmental sector, the municipal administration starts achieving one of its key new roles: it is becoming a true service of local business community (its tax-payers) and their reliable development partner. By definition, *local economic development is a process in which partners from public, private and non-governmental sector work together in order to create better conditions for the economic growth and employment. The ultimate goal is to improve the life quality for everyone.*¹¹

Strategic planning of local economic development is in this understanding much more than only an instrumental approach to strict economic improvement. Instead it follows the logic of a reconstruction of the society at the local level and deeply implies so far the element of social integration among local groups of society, including the objective of reconciliation in a post-war situation. The following basic features of the approach of strategic planning of local economic development can be observed:

- Local leadership of the public authorities, namely the Mayor, for the interests of the whole local community: It still is an interesting question asking for the obvious differences between the municipalities in planning and implementing good and best practices at the local level. In absence on any basic research on the question it nevertheless can be observed that innovative municipalities have its ground in innovative key persons who are able to formulate a vision and convince a group of other key local personalities to follow it. In all the cases of best practices of municipalities in BiH the mayors have been these persons which took the function of innovative leadership. A basic issue for such a leadership is the clear choice for an alternative to traditional party politics in favor of a political logic of a local developmental competitive interest of the municipality integrating the whole local community and so far cross-boardering party cleavages. This alternative of local political logic has been supported by the introduction of the direct election of the mayors by the citizens.
- The capacity of local elites of different ethnic groups and of different political and private actors of civil society and economy for mutual trust and cooperation: Local elites are still shaped by political cleavages following nationalist and ethnic ideologies. The traditional parties of the three groups at the national level still have a deep impact on politics at the local level. In addition the local civil society still did not develop full trust in public institutions and state structures. Finally the private sector does not show a big interest in local politics, partly because their associations did not yet advance so far in organizing the interest of the local economy, partly because parts of the private sector actors still search for their interest representation in forms of clientelistic and even corruptive relations to the public authorities. The capacity for cooperation between different groups of the local elites in economy and civil society is far from satisfying. Trust in cooperation is the main scarce resource for the formulation and implementation of developmental strategies.

¹⁰ For instance the Enterprise Development Agency (EDA). Its executive director, Mr. Zdravko Miovcic, is one of the leading personalities for the promotion and implementation of LED in BiH.

¹¹ Enterprise Development Agency (EDA), 2004: Strategic Plan of Economic Development of Derventa Municipality 2005 – 2009.

- A participatory approach in planning and implementing strategies concerning the public in general and specific stakeholders in the economic development sector in particular: All the activities in favor of local economic development strategies follow a participatory approach. This refers basically to the integration of the relevant and competent local stakeholders in the developmental policies and strategies. Experts of all interested local institutions and organizations are invited in the planning and implementing process. The basic goal is the education and integration of the relevant members of the local elites of society and economy in order to stabilize cooperation. In this sense the participatory approach is an instrument of forming a functional elite at the local level for development. This is seen as the first step for the reconstruction of the post-war and post-socialist society at local level.
- Participation as partnership between citizens and local authorities: The participatory approach does involve citizens with forms of public consultation. Direct models and forms of citizens' participation serve the definition and implementation of municipal plans and projects. This can be seen as a matter of rights rather than benefits. Citizens are supposed to be treated as key stakeholders of development.
- A functional and professional local administration which is capable to support the planning processes with specific know-how and which serves the processes as a guardian of democratic rules and of the social balance of developmental advantages: Local administrations are not yet working professionally according to western European standards of efficiency and effectivity. So far their main tasks in supporting local developmental strategies have to be improved during the respective processes themselves. Strategy building and implementation is therefore connected with capacity building. In this field international organizations could improve their activities of support local developmental strategies.

It has been visible that only at first sight *local economic development strategies (LED)* follow in a strict instrumental way purely economic goals. In a broader sense *local economic development strategies (LED)* serve the encompassing strategy of the local reconstruction of the post-war and post-socialist society in BiH in building up local elites which are able to cooperate with each other for the interests of the local community as a whole. Having success in doing so local economic development strategies can even be seen as central instruments for reconciliation and reintegration in the post-conflict Bosnia and Herzegovina.¹² In this sense Inter-ethnic Local Development Committees have to be created in order to ensure that the needs of all populations groups are taken into account in the local development plans.

The creation of a domestic local development regime for BiH

Since 2004 domestic players and practitioners are summing up the plurality of different local approaches of improving good local governance and local development strategies and integrating them to a systematic common approach of BiH players.¹³ The basic idea of the project is the creation of a unique development strategy for local authorities in BiH, with clear domestic "ownership", and with the intention to be created by leading domestic

¹² See Carlien van Empel: *Local Economic Development Agencies : Instrument for Reconciliation and Reintegration in Post-Conflict Croatia*. Paper prepared by ILO for the Special Event on Development Cooperation. Geneva, 27 June 2000.

¹³ The project is called: „Development Strategy of Local Governance in BiH“. It is executed by the Enterprise Development Agency (EDA).

practitioners and experts. The leading role shall be attached to leading municipalities and local practitioners.

This initiative to create a leading core of domestic players (leading municipalities, domestic practitioners and experts) as driving forces for the creation and implementation of local development strategies and to create new approaches in the policy and practice for the solution making at the local level in B&H (bottom up instead of top down). shows the beginning of a turn from an international driven approach to a *domestic local development regime for BiH* with ownership of local players in their capacity for developmental cooperation as one of its central features.

The building of *local development regimes* ("urban regimes"), defined as processes and structures of cooperation between public and private actors at the local level and their capacity, to find access to the relevant institutional resources in order to make problem solving policy decisions, to formulate development objectives and to mobilize the necessary resources¹⁴, can be seen as a milestone in the development of good local governance in BiH. The message of it, coming from the bottom, aims to the top of politics in BiH: One of its main goals is to put questions of local governance and decentralisation reforms as a priority to the national political agenda in B&H.

Citizen participation: Opportunities and barriers

Today's reforms in BiH are following a local governance approach, understood in a broad sense (e.g. UNDP)¹⁵, which encompasses the political role of government including the building of political accountability and the participation of all relevant stakeholders (especially the civil society) in the decision-making process. This takes specifically into account a right-based approach, where interventions and support are based on the principle, that people are primarily considered as citizens with fundamental, non-negotiable rights they can claim. The principles of accountability, transparency, equality, non-discrimination and citizens' participation are part of these rights.

Such a broad concept of good local governance corresponds with the European Charter on Local Self-Governance which BiH has acceded to. Yet because of the lack of an adequate, harmonised legislation in both entities to regulate the work and the responsibilities of the local self-governance, the Charter's implementation and the EU standards adoption still miss proper institutional and legal mechanisms.

Indirect forms of participation

Current politics favors indirect citizen participation (elections) in all segments of public life by the act of election. Citizens transfer powers to rule to their representatives. The

¹⁴ Armin Kühne & Erwin Rüegg (2003): Die „Neue Stadt“ – Anmerkungen zur urbanen Codierung der modernen Gesellschaft. In: Uwe Serdült & Thomas Widmer (Hrsg.). Politik im Fokus. Festschrift für Ulrich Klöti. Verlage Neue Zürcher Zeitung, P. 177.

¹⁵ "Good governance is the exercise of economic, political and administrative authority to manage a country's affairs at all levels in a manner that is participatory, transparent and accountable. It is also effective and equitable and promotes the rule of law. Good governance ensures that political, social and economic priorities are based on broad consensus in society and the voices of the poorest and the most vulnerable are heard in decision making over the allocation of development resources. It includes essential elements such as political accountability, reliable and equitable legal frameworks, bureaucratic transparency, effective and efficient public sector management, participatory development and the promotion and protection of human rights."

legislations of BiH mainly refer to indirect ways of citizen participation while the direct forms are not, or rarely, anticipated.¹⁶

In 2004 BiH was for the first time electing the mayors directly. This change of the local election system has given the mayor a citizen based constituency and promoted the pluralism of the party system giving alternative and opposite parties the way to local power. The result was significant: Though the 2004 local elections in general showed a relative balance of forces between the ruling nationalist parties and the opposition. But some municipalities showed an outstanding electoral success of the opposition.¹⁷ The expectation from this election was to test the current ruling structures and the strength of both the position and the opposition and it showed that the political alternative indeed exists in BiH. Some analysts went on to proclaim the results as a trend towards a left political option. However, there is no hard evidence supporting this since the changes are still too small to draw a conclusion about long-term trends. Nevertheless, the success of SNSD in RS, the party which addresses social issues and the only party which developed a convincing economic program could be seen as an indicator of this trend. In the FBiH all major parties suffered loss of voters in the 2004 local elections compared to the 2002 general elections. However, the one that suffered the greatest loss is the SDA (Party of Democratic Action), the nationalist party of the Bosniak people, and the one who suffered the least is the SDP (the Social Democratic Party), which is another evidence supportive of the previously mentioned claims.

These results of the 2004 local elections document a deeper shift in citizens' voting behavior. According to surveys, systematically conducted by Prism Research, during 2004 between 60-68% of citizens in BiH thought that nationalist parties are not the only parties which can ensure protection of the vital national interests. Nevertheless national interests remain an important issue in political and especially electoral bargaining. The question which party can best ensure the protection of those interests reveals that there are still great problems with the levels of distrust among people based on ethnic considerations.

Direct forms of participation

At the moment Republika Srpska has a very progressive and modern law on local self-governance, which is characterized by the idea of decentralization, strengthening of civic institutes and citizen participation in the process of decision-making and strategic cooperation with the non-governmental sector. Yet the current disharmony between different legal regulations is discouraging direct citizen participation since it creates space for limited interpretation of the right to direct citizen participation by certain local government officials who do not want citizens' direct engagement in decision-making. Current politics is even evading permanent and direct citizen participation in decision-making.

In legal documents (besides Law on Local Self-Governance in RS and some municipal statutes) there is a complete absence of formulations which could be supportive of direct citizen participation. Some principal engagement of the authorities to involve the citizens mainly does not exist. A limited number of existing mechanisms for citizen participation, mainly functioning inadequately, creates an illusion that authorities want citizens to

¹⁶ The exceptions are the new Law on Local Self-Governance in RS and some municipal statutes.

¹⁷ As is the case with SNSD in RS: the Party of Independent Social Democrats.

participate. In general, the authorities still do not see the benefits of having the citizen as partner with his/her potential strength.¹⁸ (Analiza, 2005, p.84)

The three legally envisaged but not fully developed *models of direct citizens' participation* that are common in both BiH entities are the following: referendum, citizen meeting and citizen initiative.¹⁹ The law itself prescribes the basic framework, whereas the Municipal Statutes are to prescribe the more specific terms of the application of these models of direct participation. Consequently, the concrete implementation of mechanisms of direct participation is at the local level giving the Municipal Assembly/Council the exclusive right to decide whether and how to accept certain initiatives and referenda proposals.

- *Referendum* as a way of direct citizen participation in the decision-making process on the local level is rarely used because of its costs. Carrying out a referendum is a costly endeavour and for that reason it is mainly used in matters of broader, national significance.
- *Public debate/hearing* is among the most frequently used forms of citizens' meetings where they have an opportunity to give directly their opinion on the specific issue. One of the shortcomings of public debates in practice is the lack of clearly defined criteria on the question which public debate is to be initiated. The whole process of preparation and carrying out of the public debate needs to be more transparent, and the conclusions more effective on the final decision making.
- *Citizens' initiative*: In contrast to the people's *referendum* with which the citizens may submit a decision taken by a municipal body to a popular vote the *citizens' initiative* may request that the citizens' own proposal is submitted to such a vote, even if the elected representatives are opposed to it.

With the referendum and the citizens' initiative the power to rule is not completely transferred to the elected representatives, but is shared with the citizens. Direct forms of citizen participation are therefore a necessity for simple reasons as is the failure of the elected representatives to render decisions that meet the interests of the citizens. In this case, the instruments of the referendum and citizens' initiative serve the electorate as safeguards.

Actors and their perceptions

In a widespread common understanding it is said that citizens are not interested in local self-governance. The main reasons for such a conservative conclusion, can be seen in the intransparency and the dominance of party politics of local governments, in the reactive, instead of proactive political style and in a civil society that is facing significant poverty problems. Yet the fact according to statistical data that the voters' turnout on the local elections exceeds the voters' turnout in the general elections (Conference report 3, 2004), shows the noticeable growth of a "critical mass" of citizens ready to take over a certain accountability for the ongoing transitional processes of the BiH society.

¹⁸ According to a survey conducted in March 2005 by CCI, 32% of respondents from 10 municipalities in BiH clearly view direct citizen participation as an obstacle in the work of local authorities.

¹⁹ The new RS Law on local self-governance put into effect two more models in the form of citizens' panel and citizens' hour at Municipal Assemblies/Councils.

Active and independent actors of civil society are emerging but are still not solid enough to really take over important tasks and responsibilities within local development processes and plans, in particular in the frame of local government. Most of these actors are particularly highly dependent on external financing, thus their authority in defending own projects (or projects of their customers) is normally limited. Different actions for the strengthening of civil society organisms are functioning in BiH Yet it takes time until they are playing their designated role as conveners, facilitators and “brokers” within the diversified network of stakeholders in the space between citizens and public as well as the private sector. The main actors are the local communities (MZs) and active citizens’ groups (NGOs).

Local communities (MZs)

Local communities (MZs) are the traditional and legitimate intermediary forms of self-organisation of citizens representing their interests to municipal authorities. The formal representative body of a local community is the Local Community Council consisting of volunteers elected by citizens (citizens’ meeting). The primary role of MZs is to provide basic communal services, to compile the local planning initiatives and to link and integrate them into the municipal planning and budgeting system.

Although the local community is envisaged as a form of direct citizens’ participation it is quite often dysfunctional or even passive in the reality. As the relevance of local communities is much higher in rural areas (villages), their involvement ensures access to the more traditional and older segments of the population; the ones that are often on the losing side of the transition process (like facing new poverty). Nevertheless, the leadership is often elected on a party basis, following the results of municipal elections, instead of taking into account the interests of the people living in the community. Politisation of the leadership often brings down the local community to a closed group of people with questionable legitimacy.

Local NGOs and citizens groups

NGOs represent in general rather the younger and urban population and are lobbying for specific issues (e.g. ecological problems, reintegration of disabled people, human rights, gender, etc.) or population segments (e.g. youth, handicapped people, returnees and DPs, women, etc.). Specific NGOs and civil society groups have gained relevant functions for public awareness creation, for the monitoring of municipal affairs and the grasping of local innovative initiatives.

NGOs are generators of the citizens’ interests. Their legal status is defined in the rather favouring legislation on the functioning of NGOs on both the state and entity level. Although a relatively new approach, citizen participation through NGOs has many positive impacts and it has a potential to develop even further in the future taking into consideration high level of training and professionalism that NGO members have acquired within various international NGO capacity development programmes. For public authorities NGOs have their main relevance as deliverers of social services to citizens, when the municipality is unable or unwilling to deliver those services itself. Yet, when it comes to politics NGOs are rarely identified as partners for dialogue.

Key barriers of direct citizens’ participation in BiH

Over the last several years international and local organisations have launched numerous initiatives in order to give citizens opportunities of participation in the planning of their future. A weak coordination between the many projects (sometimes overlapping)

has resulted in a situation today where the overview on the scope of institutional and practical citizens' participation possibilities as well as on the current legal and practical barriers to direct citizens' participation has gone lost.

The latest research on barriers of citizen participation in BiH conducted in 2005²⁰ has generated the following conclusions:

- **Actual policies (laws, constitutional solutions, written operating procedures of legislative bodies) in Bosnia and Herzegovina give an advantage to indirect citizens' participation in decision-making in regard to direct ones:**
Having legal regulations²¹ analysed it can be concluded that legislators in BiH mostly anticipate indirect ways of citizens' participation in decision-making (through elected representatives). An exception is the new Law on local self-governance of RS and Statutes of several progressive municipalities in BiH.
- **The transparency of the work of the officials and authorities' bodies is not satisfactory (formal, and not essential) - especially legislative authorities (Entity and/or Cantonal Parliaments, Municipal Assemblies/Councils with its working bodies/ commissions, etc.):**
Although an opportunity to demonstrate the orientation of the authorities towards participatory decision-making processes the authorities on different levels (entity, canton, municipality) do very little for the full application of the new Law on free access to information. So far the law does not broaden and strengthen individuals' or groups' range of opportunities for direct participation.
- **'Right to discretion' of officials and authorities' bodies is too big in the fields of citizens' involvement in decision-making:**
It is only a small number of legally prescribed issues around which public discussions/hearings are necessary in the decision-making processes. So the officials make decisions on initiating a public debate only when compulsory. Mostly the results satisfy personal and political parties' interests, but very rarely the public interest.
- **Disharmony between different legal regulations in BiH on issues of citizens' participation:**
While some acts (BiH Constitution) do not anticipate direct citizens' participation at all, other acts such as the Law on Local Self-governance in RS are very progressive and modern regarding this issue. The current disharmony does not represent encouragement to citizens' participation but it rather creates a space for rigid interpretation by certain representatives of government, who do not prefer citizens' presence in their work.
- **Current legally anticipated forms of direct citizens' participation in decision-making processes are inadequate in regard to the needs:**
Referendum, citizens' meeting, citizens' initiative and local communities are the key mechanisms of direct participation of citizens, which are recognised by legal framework of BiH. Formally observed, these mechanisms present significant 'tools' in citizens' hands, but in reality they face the problems of non-functionality and small

²⁰ Analisa 2005

²¹ During the research conducted the processes of creation of a new Law on principles of local self-governance of Federation of BiH, and also adoption of the Municipal Statutes in Republic of Srpska according to the new Law on local self-governance were in progress

efficiency due to either running costs, question of quorum or politicized leadership. Thus they need a revision urgently.

- **Corruption, insufficient informing, and previous experience with not taking citizens' proposals into consideration cause citizens' distrust to local authorities:**

Citizens mostly do not believe in their realistic possibilities to influence the authorities' work. The perception of the existence of corruption in decision-making²², the lack of information and a weak influence of previous citizens' efforts significantly reduce the readiness for participation. The common ignorant attitude of the BiH authorities on different levels towards the issue of citizens' participation creates a sense of exclusion and inefficiency of citizens' efforts in this matter.

- **Low level of BiH citizens' comprehension of their own role and responsibility in governing their local communities:**

Essentially, BiH citizens do not understand well enough that they have important rights and responsibilities regarding the development of the local communities they live in. Objective business with everyday attempts to provide existence and subjectively inherited convictions from the previous system that somebody else (government) will take care on the communities' needs are some of the main causes for the insufficient approach of BiH citizens toward planning and decision-making processes.

- **Relationship between civil society and local authorities is undeveloped and it is characterised by an insufficient communication and lack of partnership:**

Although the non-governmental sector in BiH and representatives of local/higher authorities verbally plead a need for cooperation in order to respond efficiently to the citizens' needs, apparently this cooperation is not realistic and concrete enough. The relationship between these two sectors is characterised by the absence of strategic communication on issues important for the development of local communities – especially in the planning phase. The existence of differences in priorities within the public sector and civil society highly reduces the effects of the activities undertaken and does not contribute significantly to strengthening of citizens' trust to the government (local, cantonal, etc.) and NGO plans.

- **Big influence of representatives of the International Community discourages citizens' participation:**

The practice of imposing the laws or requests for passing the laws in urgent procedure²³, many dismissals of elected politicians in BiH, and the disposal of ultimate power in the sphere of decision-making in BiH (which sometimes pools legislative and executive authorities together) by the Office of High Representative (OHR), create a sense of needlessness of citizens' participation because the final judgement about everything is certainly given by OHR.

- **Decentralisation does (not) finish at the level of local self-governance:**

Although local self-governance in BiH requires a further decentralisation, especially a fiscal one, the existence of local governments' plans to promote the decentralisation process in their work is not certain. Local governments seem to keep the exclusive right to develop such plans, thus depriving their citizens of the possibility to propose

²² 'Study of perception of corruption in BiH' – Transparency International BiH June 2004

²³ Passing the law on urgent procedure means inserting it in the agenda and statements giving regarding the proposition without the time and opportunities for comments of public regarding the same proposition - factually, the public is fully excluded

concrete decisions in this matter, which, on one hand, would be a significant motivating factor in favor of an increased cooperation with local authorities and on the other hand would set the accountability to the citizens to reach jointly planned goals.

- **Misbalance in participation between sexes and age groups:**

On the ground of the research on citizens' experiences with processes of direct decision-making (referendum, local community, citizens' meeting and public debate/hearing) it can be concluded that there is a significant difference between men's and women's participation in BiH on men's behalf. In percentages, 30% of women less in comparison with men have stated that they have experienced participation in a referendum, and around 80% less than men have participated in citizens' meetings. Also, persons who are '56+' years old participate significantly more than younger persons in processes of direct participation.

General Conclusion: The authorities on different levels in BiH are not essentially determined to involve the citizens in decision-making processes yet.

The limited number of existing mechanisms of direct citizens' involvement, insufficiently functional in most of the cases, creates an image of the possibility for citizens to participate in decision-making processes. Although the legal framework is not restrictive to direct participation, yet it is not affirmative, what in the process of the application of law provisions results in 'tepid' orientation of the authorities toward citizens.

Authorities, in general, still do not understand that the notion "citizen equal to a partner" presents strength and not an obstacle to successful local governance. An information from CCI's research, where 32% of questioned employees in 10 municipalities of BiH have clearly responded that they see direct citizens' participation as an obstacle in the work of local authorities, is a strong indicator of the current state in this area.

Nevertheless, individual examples of good practices in the domain of citizens' participation have been recorded, where municipalities have developed additional legal mechanisms and practices, although they were not obligated by law to undergo such processes. Such an interaction of a progress need with personal motives of the key people in local governments (mayors, members of municipal development teams, councillors, etc.) illustrates as a rather good example that innovations are rather based on individual attitudes and motivations than on a systematic approach on the policy level. The demanding challenge then: How to balance individual innovation with structural sustainability?

RECOMMENDATIONS FOR GOOD LOCAL GOVERNANCE STRATEGIES

Besides the overall military and civilian strategies of the international community there are also different thematic projects, often field-specific and with a particular geographic focus. One such field is the *governance* domain. Arguably, the most extensive and diverse form of assistance in this domain has been provided by the OSCE mission to BiH, more specific, through its Public Administration Reform Unit (PARU), and through the Rights Based Municipal and Planning Project (RMAP) of the United Nations Development Program (UNDP). Several other projects are also focusing on the concept of "good local governance", such as the Local Governance Program of the Open Society Fund (OSF); Municipal Development Project (MDP), financed by the Swiss Agency for Development and Cooperation (SDC) and implemented by Intercooperation, a Swiss

NGO from Bern; LGSA program, financed by USAID, implemented by PADCO Inc.; and the Governance Accountability Project (GAP), financed by USAID and SIDA, implemented by DAI Inc.

Most of these projects are covering different geographic areas, without much cohesion and coordination. They all center around principles of good governance, such as *political accountability, transparency, efficiency and effectiveness* of government and its services, with the *participation* of all relevant stakeholders in the decision-making process (MDP ProDoc, 2004, p.11). Nevertheless, there can be different interpretations of the principles derived for specific preferences of the donors and implementators.

Further on, there is substantial emphasis on *human rights*, where people are considered as citizens with fundamental, non-negotiable rights and the aforementioned principles of good governance are understood as part of these rights. Participation in development is a matter of rights rather than benefits, where citizens are treated as bearers rather than subjects of the development. This also implies that laws and regulations are elaborated and implemented in a non-discriminatory manner, with an efficient, impartial judicial system, as well as that human rights are protected by the relevant authorities.

In the chapters of the *Context* and the *Analysis of the System of Local Self-Governance* some critical dimensions have been brought up, which are identified as the main challenges for developing good local governance in BiH. Derived from these challenges, some basic guidelines for strategies of the improvement of the current practices in the field of local governance can be extracted.

Critical aspects of the context of good local governance in BiH: a summary

1. *Democratisation*: Starting with the more general problems implied by the complex context of BiH it has been pointed out that one of the most serious issues that needs to be re-examined is the top-down process of *democratisation*, driven by the international community. The process has had little or none impact at the local level as far as democratic institutions seem to be imposed instead of grown up from below. The identification of citizens with such institutions is not given. A civic culture as it is the basis of western liberal democracies did not grow from the bottom. From this view the democratisation approach of the international community has left a deficit to the functioning of local self governance. *Ownership* of the democratisation process did involve parts of the national political elite but did not or scarcely integrate the local actors of self-governance. This hinders the social reconstruction of the political concept of citizenship in a practical sense at the local level.

As basic principles to any strategies on good local governance can be seen:

- A clear orientation to local ownership. Domestic players have to take the basic responsibilities.
- The presence of strategies at the local (instrumental) and the national level (policy dialogue).

2. *The Dayton Peace Agreement*. The *DPA* has been up to now primarily a peace keeping strategy between the three ethnic groups. The concept of citizenship has been bound inside the boundaries of ethnic membership although the national and

international political actors try to expand a concept of citizenship which is based on individual rights. Yet, at the local level, citizenship still stays an unclear and not practiced notion of local self-governance. This affects the perception of citizens' rights at the local level concerning the participation at local decision making as well as a civic culture of equality among citizens addressing the equal access to public services in a negative way. Various attempts of the international community to balance inequalities among citizens as members of different ethnic groups with the strategy of the Human Rights Based Approach remain therefore unrealised.

As basic principles to any strategies on good local governance can be seen:

- A change from the fragmented approaches in supporting good local governance under the Dayton Agreement to a more systematic approach of local governance taking the different experiences into account and serving as a national platform for mutual learning and policy development in the reform agenda.

3. *The civil society*: The development of a strong *civil society* is a crucial factor in the democratisation process. Concerning the development in the NGO sector there can be observed progressive steps of severe and sustainable NGO structures and objectives as a whole. Yet, the NGO sector is also bothered with an overdrive of internationally driven organisations just following the law of external resources but not the true and basic needs of a developing civil society. The critics at the address of a donor-driven civil society and of NGOs which primarily serve as control instruments for the international community and the local authorities have waked up internal movements of cleaning the NGO sector (see ERC brochure). At the local level there is a rising critic to «wrong» and misleading NGOs which do not really strengthen civil society needs and interests in favor of good local governance.

As basic principles to any strategies on good local governance can be seen:

- The development of a solid and strong civil society requires a long term approach of any strategy in order to provide the space for the conflictive and contradictory learning process of all the relevant actors. Only a strong civil society shall cause the necessary pressure on local authorities in order to change their politics and policies in favor of a new citizen orientation. The international community in Europe should open the borders to BiH in order to allow the symbolic exchange between the western european and bosnian civil societies.

Critical focal points for strategic interventions in the system of good local governance in BiH: a summary

In sum, strategies for the improvement of good local governance should focus to the following fields of observation:

1. *The basic units of local government*: Strategies should strengthen the local communities (*MZ*) as the main part of civil society in BiH in order to balance the relationship between the formal power of the municipalities and the *informal civic power* of communicative structures of everyday life of citizens in order to create awareness and structures of partnerships between citizens and their local governments.

2. *Elected organs of local government:* Strategies should support cooperative attitudes and structures between local governments and municipal assemblies/councils. This implies a better understanding of the elected organs to govern according to the citizens' needs and interests instead of blocking each other for the reasons of political party agendas. In particular municipal assemblies show a need of change in their attitudes and their functioning in terms of a better transparency of their public affairs towards the citizens and a better communication with the citizens.
3. *Local politics: Ethnic politics vs. Citizenship:* Strategies should strengthen the *citizen orientation* of local governments and administrations with a main concern on *ownership* of local governance on the side of domestic actors. Strategies should loosen the tights of local politics from national agendas of the main political parties. This includes furthermore the clarification of the relationship between the federalist levels in terms of a decentralisation of political power and public finances to the local level.
4. *Vertical and horizontal intergovernmental relations:* Strategies should further support consequently reforms of *decentralisation* in favor of a better vertical cooperation between the municipalities and higher levels and in the improvement and institutionalisation of horizontal communicative and cooperative structures among the municipalities.
5. *Informal politics: A wrong guided power resource:* Strategies should support the reorientation and restructuring of *informal politics* in favor of developmental local regimes and objectives. For this reason a strong local government with clear institutional leadership, a civic culture among local political, civic and economic elites, the capacity for cooperation including the necessary trust in it have to be supported. A crucial support should come from a clear improvement of the municipal financial situation by *decentralising the public finances* and from the improvement of having trust in federal state structures. This could avoid the further abuse of informal politics and informal power in favor of stable developmental coalitions at the local level.
6. *Administrative professionalism and human resource management:* Strategies for the improvement of good local governance should basically support a new culture of public administration as it initiated with the decentral introduction of Codes of Good Governance. These local processes should be accompanied at the national level by a clear reform agenda on local governance issues (incl. a harmonization of the different legal frameworks) and a consistent policy in the field of human resource management. Reform strategies should institutionalise professional standards in order to dissociate local administrative staff from political loyalties to specific parties.
7. *The policy capacity of local elites:* Strategies for the improvement of good local governance should support the strategy making of municipalities applying a participatory approach and strongly focusing on the involvement of all relevant local stakeholders (incl. the private sector). The central resource which has to be supported by any strategies is the local elites capacity for cooperation in order to build strategic partnerships among them (incl. the implementation of projects).
8. *Citizen participation: Opportunities and barriers:* Strategies for the improvement of good local governance have to overcome today's barriers for citizens' participation. Strategies should focus on the change of citizens' perceptions of their own civic rights. The capacities of citizens to apply their civic participatory rights have to be improved. This implies an increasing public awareness on the use and potential of

participation at the local level. Further the forms of a participative partnership between the local government and the citizens in the framework of participative instruments have to be developed.

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