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Decentralisation of Serbia

The Minority Dimension

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This policy brief argues that the decentralisation of Serbia by degating more authority to municipalities could benefit minority groups that constitute a local majority. Although there are three such minority communities living in Serbia, the Bosniaks in Sandzak, the Albanians in Presevo Valley and the Hungarians in Vojvodina, the paper focuses on the first two groups, because their problems could potentially destabilise Serbia and the wider region. Thus, addressing the root causes of tensions in these two regions is an urgent task. Moreover, not only would minorities gain from sound decentralisation – all municipalities would do so regardless of ethnicity. Ultimately, decentralisation would be an essential step in Serbia's democratisation process, following the example of other Central and East European countries.

I. Minority grievances as a potential source of soft security threats

Serbia has recently returned to the international spotlight, mostly because of the Kosovo issue and the country's lack of cooperation with the Hague Tribunal. While sufficient attention has been given to resolving tensions between ethnic Albanians and the Serbian minority in Kosovo, the grievances of ethnic minorities within Serbia have gone mostly unnoticed by the international community. Although the problems of Serbia's national minorities do not compare with the gravity of the situation in Kosovo, the EU's *2006 Progress Report*[1] on Serbia recognises that the political situation remains tense in southern Serbia and Sandzak, which are home to Serbia's Albanian and Bosniak communities respectively.

Developments on the ground also indicate that problems relating to the situation of these two minorities continue to pose soft security threats to Serbia and to the wider region. While in southern Serbia inter-ethnic tensions are still pronounced, in Sandzak political divisions within the Bosniak community cause instability.

In January 2006, Albanian councillors of the municipalities of Presevo, Bujanovac and Medvedja adopted a common political platform in which they "commit to [the] unification of Presevo Valley with Kosovo in case of…possible change of [Kosovo's] borders".[2] In June 2007, Jonuz Musliu, deputy chief of the Bujanovac municipality, called on the leaders of all the Albanian political parties from Bujanovac and Presevo to form a joint National Council, which could represent Albanian aspirations to join Kosovo.

> I believe it is time to form a National Council which would adopt a joint platform, with which we would start negotiations with the Serbian government about merging the Bujanovac and Presevo municipalities with Kosovo.[3]

Although southern Serbia is peaceful at the moment, fighting is not such a distant memory for the Valley's Albanians. Their 17 months of insurgency came to an end in May 2001, but small-scale incidents continued in 2002 and 2003.

While the Albanians of Presevo Valley are contemplating the idea of pushing for secession, Sandzak Bosniaks' demands for autonomy also resurface occasionally. In 2002, upon the drafting of

[1] See European Commission, *Serbia 2006 Progress Report*, Commission Staff Working Document, COM(2006) 649 final, Brussels, 8 November 2006.

[2] Derived from the platform document, "Albanian Councillors of Presheva Valley (Preshevo, Bujanovac and Medvedja) in Meeting Held on 14 January 2006 in Preshevo", 2006 (document in the author's possession).

[3] See the article "Valley Albanians push for talks on the merger of Kosovo", B92 news website, 6 June 2007 (etrieved from http://www.b92.net/eng/news/politics-article.php?yyyy=2007&mm=06&dd=06&nav_category=93&nav_id=41632).

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the constitution of the State Union of Serbia and Montenegro, Bosniaks argued for the designation of Sandzak as an autonomous territorial and political unit within the common state. Hopes for establishing a unified Sandzak region across the borders of Serbia and Montenegro vanished after the State Union disintegrated, but the List for Sandzak (a coalition of Bosniak parties that participated in Vojislav Kostunica's previous government until 2006) continues to stand for administrative and territorial autonomy for Sandzak, with wide-ranging powers to include the regional police and judiciary.[4] Nevertheless, in Sandzak, the most dangerous sources of insecurity are infighting among local political bosses (which is often marked by violence), organised crime (which has penetrated political structures), widespread drug use among the youth and the disturbing presence of the radical Wahhabi group. Owing to weak local government autonomy, the central government has been able to play off local political rivals within the Bosniak community against one another, contributing to the escalation of tensions and to the destabilisation of municipal governments. If the grievances of the Bosniak community are not addressed, there is a danger of further nationalist and religious radicalisation. Moreover, the region could potentially turn into a hub of organised crime, with perpetual low-scale violence.

It is argued here that the Serbian government could reduce existing ethnic tensions by increasing local government autonomy. This move would be a simple and effective way to address some of the everyday life problems of minorities. As the decision on Kosovo's status is approaching, it is likely that solutions implying any kind of territorial autonomy or federalisation would be unacceptable to the Serbian authorities. Yet decentralisation at the municipal level could be a feasible option, which would please not only minorities, but also all municipalities regardless of ethnicity, as it would empower local communities and increase the accountability of local governments. The most important next step would be to transfer public property to municipal governments to enable them to play a larger role in upgrading the infrastructure in their areas and to contribute to local economic development. The Serbian government should also further extend the sphere of local competencies, which would strengthen local ownership over public services.

II. Minority rights in Serbia

In principle, minorities are granted far-reaching rights in Serbia, including the right to preserve their language, culture and national identity; to receive education in their mother tongue until high school; to use their national symbols; to obtain public information in their languages; and to have appropriate representation in the public sector. The law on national minorities provides a sound legal basis for the protection of minority rights in Serbia and grants minorities cultural autonomy. It allows them to set up minority councils through which they can "exercise their rights of self-government regarding the use of language and script, education, information and culture".[5] The major provisions of the law on national minorities were also enshrined in the new Serbian constitution adopted in late 2006. Yet, problems are arising with the implementation of the law, which often falls short of the rights granted in principle.

While minorities are increasingly vocalising the need for more ethnic-territorial autonomy, their grievances centre on daily life problems, such as under-representation in the public sector, lack of economic development, higher rather average unemployment and obstacles that prevent the implementation of the cultural and language rights granted by law. Here too the strengthening of local autonomy would be a way to respond to these grievances, which could reduce tensions and marginalise potential irredentists.

Still, it should be stressed that decentralisation is not a panacea and would not solve all the problems minorities are facing, so it should be complemented by further measures. School curricula should reflect the multi-ethnic character of Serbia, hate speech and ethnocentric views spread by the media or school textbooks should not be tolerated, and minorities should be included into the police and judiciary in higher numbers, just to name a few examples that would be equally important to create a more minority-friendly atmosphere in Serbia. Better representation of minorities in the police and judiciary is crucial, as these institutions are often perceived as being insensitive to minorities' problems. The weak response by the judiciary and police was at least partly responsible for the increase in inter-ethnic incidents in 2003 and 2004 in Vojvodina, thus the integration of minorities into the police and the courts is strongly recommended, as it could raise the level of trust between minorities and the state.[6]

III. Problems encountered by minorities

Most of the problems facing minorities, especially in Sandzak and southern Serbia, are related to poverty and economic underdevelopment. Sandzak and southern Serbia are among Serbia's most economically

[4] Derived from an interview with Esad Džudžević, President of the Bosniak National Council, Novi Pazar, 12 August 2006.

[5] See Art. 19 of the Law on Protection of Rights and Freedoms of National Minorities, *Official Gazette of the Federal Republic of Yugoslavia (FRY)*, No. 11, 27.02.2002, translated by the OSCE Mission to FRY.

[6] For further information on this point, see Florian Bieber and Jenni Winterhagen, *Ethnic Violence in Vojvodina: Glitch or Harbinger of Conflicts to Come?*, ECMI Working Paper No. 27, European Centre for Minority Issues, Flensburg, Germany, April 2006 (retrieved from http://www.ecmi.de/download/working_paper_27.pdf).

depressed areas, with per capita annual income a third of the Serbian average. Unusually high unemployment rates (estimated at around 60-70% in southern Serbia,[7] and at around 30% in Sandzak[8]), neglected infrastructure and a lack of economic prospects continue to be serious destabilising factors. A history of discriminating state policies means that grievances often gain an ethnic interpretation. The recently growing popularity of Wahhabism among Sandzak Muslims, who traditionally practice a moderate version of Islam, has also been blamed on the dire economic circumstances by local analysts. Mehmed Slezovic, co-chair of the non-governmental organisation Sandzak Intellectual Circle, has argued that the single most important local factor behind the growing number of Wahhabi followers is the region's economic crisis: "Jobs are hard to come by for young people who are then exposed to various influences – they are easy prey both for drug dealers and religious fundamentalists."[9] Similarly, Belgrade mufti Muhamed Jusufspahic has maintained that "unemployment, political conflicts and increasing numbers of drug addicts" have created fertile ground for the spread of Wahhabism in Novi Pazar.[10]

Similarly, Albanian secessionist aspirations are also fuelled mostly by growing impatience with the lack of economic progress and Albanians' lack of integration into the public sector. As explained by a local Albanian politician in relation to why the Albanians of Presevo Valley want to join Kosovo, "six years after the end of the conflict in this region, nothing has changed in the political and economic sense, except for the forming of multi-ethnic police".[11] Despite recent efforts by the state, ethnic minorities remain strongly under-represented in most institutions under central control (among them the post office, tax authorities, land registry, social institutions, healthcare centres, customs services, state inspection bodies, the police and the judiciary). This situation implies that public sector jobs are less available to them, and as a result, minority languages are rarely used in official communications within these state bodies and agencies, even if theoretically a minority language is in official use locally.[12]

It should also be noted that since Bosniak, Albanian and Hungarian parties have begun to participate in municipal governments the problem of ethnic disproportion has decreased in local administration and in those areas that are under local authority.

IV. Obstacles hampering local government autonomy

Given that Sandzak and Presevo Valley are among the poorest areas in Serbia, removing the existing barriers to local economic development is essential. The single biggest problem for local governments in Serbia is the fact that they do not own any property. Municipalities only have usage rights on public property owned by the state, which severely limits the viability of local governments. The European Council in its 2006 European Partnership document called on Serbia "to adopt and implement decentralisation reform ensuring [the] viability of local governments".[13] That being said, the new constitution does mention the category of municipal property, which may be a promising sign of future devolution.

In Serbia, the lack of ownership rights for municipal governments hampers local economic development in two ways. First, it discourages the much-needed upgrading of local infrastructure and public services, which would be a prerequisite for attracting investment and creating favourable conditions for private businesses. Second, local administrative procedures tend to be slow and complicated, putting unnecessary barriers in the way of potential investors. Municipal authorities have to obtain the consent of central authorities on all major decisions related to public property.[14] Sometimes the procedure can take years, which can jeopardise potential investments.

[7] The rate was 60% in Bujanovac and 70% in Presevo; see International Crisis Group (ICG), *Southern Serbia in Kosovo's Shadow*, Europe Briefing No. 43, ICG, Brussels, 27 June 2006, p. 7.

[8] The figure was 35% in Novi Pazar; see ICG, *Serbia's Sandzak: Still Forgotten*, Europe Report No. 162, ICG, Belgrade/Brussels, 8 April 2005, p. 35.

[9] See Amela Bajrovic, "Wahhabism Fuels Novi Pazar Religious Tensions", *Balkan Insight*, No. 62, 6 December 2006 (retrieved from http://www.birn.eu.com/en/62/10/1844/?ILStart=20).

[10] Ibid.

[11] See the B92 website article "Valley Albanians push for talks on the merger of Kosovo" (2007), op. cit.

[12] According to the law on official language use, the language of a minority becomes official in a municipality if that minority makes up at least 15% of the population or if the proportion of all national minorities reaches 10% of the population. Nevertheless, the law also allows municipalities to recognise a language as official if the proportion of a minority group in question is below 15%. Hungarian, for example, is official in 30 municipalities out of the 45 municipalities in Vojvodina.

[13] See European Council, Council Decision 2006/56/EC of 30 January 2006 on the principles, priorities and conditions contained in the European Partnership with Serbia and Montenegro including Kosovo as defined by the United Nations Security Council Resolution 1244 of 10 June 1999 and repealing Decision 2004/520/EC, OJ L 35/32, 07.02.2006 (retrieved from http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_035/l_03520060207en00320056.pdf).

[14] See the USAID's *Serbian Local Government Reform Program Newsletter*, No. 12, September–December 2005 (retrieved from http://www.slgrp.usaid.org.yu/).

The example of Tutin, the poorest municipality in Sandzak with a Bosniak majority population, demonstrates how the lack of property rights is restraining economic growth. In 2004, the municipality of Tutin applied to the Republic's Property Directorate for approval to transfer usage rights of a piece of land to Orije MZ, a local community. The community wants to use the area for a €2 million investment, including the construction of a ski centre. This investment would boost tourism in the region as well as create 200 new jobs. It took two years for the municipality – where the annual income is 17% of the Serbian average – to obtain the consent of the Republic, thus delaying the project and economic activity.[15]

It should be stressed that property devolution in itself would not eliminate poverty and underdevelopment, but it would set up the necessary preconditions for infrastructure development in the area and local development in general. Local efforts should be accompanied by a balanced regional development policy – an aspiration that has already been adopted as one of the new government's main priorities – and should also be backed by the EU's technical and financial assistance.

In addition, it can also be argued that some functions still under central control could be carried out more effectively locally. The literature on local government finance maintains that placing certain public services at the local level would lead to a quality and quantity of services that most closely matches the community's preferences. In Serbia, municipal governments have no influence on the operations of the electricity, gas or telecommunications providers, which are run by state-owned companies. Nor do they have any influence on area branches of Republic ministries or agencies.[16] The quality of some services might improve by delegating them to the local level, because local governments would then be directly responsible and would have a greater stake in service provision.

One such sphere of competency is the ordering of land registers. The fact that real estate registries are in disarray and that many buildings have no property status is currently a serious problem hindering economic development in Serbia. Under such circumstances, investors take a considerable risk upon buying any property, since there is no guarantee that the registries match real conditions. Moreover, the disorderly real estate registry makes urban and infrastructure investment planning difficult and complicated. Local governments have an obvious interest in clearing up the real estate registry and deed books, if they want to attract investors or carry out any kind of local development plan. Furthermore, since the collection of property tax was fully assigned to the local level, municipal governments have become especially interested in creating up-to-date cadastres and land registers. It would make sense, therefore, for local governments to have some kind of authority over land and deed registers, which are today entirely controlled by the state.[17]

The central government should also deal with property restitution, without which property ownership relations cannot be clarified. This issue was also stressed by the European Council's latest European Partnership document in 2006.

It should be also added here that local governments could manage more competencies only if they have sufficient administrative capacity. Therefore, the central government should assist local authorities in the process, providing them with the necessary technical expertise and know-how. Particular functions should be delegated to the local level only when a municipal government demonstrates its ability to handle such tasks.

In Macedonia, during the recently launched decentralisation reform, several functions that used to be under central control were delegated to the local level gradually, including among others land registries, transport and communications, and public revenue offices. Often these functions remained delegated to local governments, meaning that the central government could check not only the lawfulness, but also review the appropriateness of actions taken in the performance of these duties. Nevertheless, as a result local governments gained direct insight into and influence over their functioning; moreover, from the beginning of 2007 the employees of these institutions have been paid from the local budget, which also means that hiring staff has become a local prerogative.[18]

It can be also presupposed that if local governments had authority over services and bodies currently under central state control, the quality of services would improve and the integration of minorities into those institutions would accelerate. A further, positive side effect would entail the opportunity to implement the official use of minority languages more widely. In those municipalities where minorities participate in local government, local authorities are more likely to make the necessary effort to foster conditions for the official use of minority languages and to integrate minorities into public institutions.

Obviously, changing employment patterns involves a long process and cannot be done overnight. Recruiting

[15] Ibid.

[16] Derived from correspondence with Dusan Vasiljevic, of the Serbian Local Government Reform Program, 25 January 2007.

[17] See the *Handbook for Local Councillors*, available on the website of the Standing Conference of Towns and Municipalities (retrieved from http://www.skgo.org/code/navigate.php?Id=266), p. 51.

[18] Derived from an interview with Islam Yusufi of Analytica in Skopje, 18 September 2006.

more persons belonging to minorities into public institutions requires a range of affirmative action policies, including educational and training programmes.

If local governments' spheres of authority were to be extended, however, responsibility would lie more with them for fulfilling the need to integrate minorities into the public sector and implementing the official use of minority languages, and it would be less easy to blame the Serbian state for lack of progress.

V. An opening policy window – The right moment to push for reforms

After almost four months of political stalemate and just prior to the constitutional deadline, Serbia's democratically oriented parties finally managed to reach a consensus about the new government. Given that Serbia has just gotten back on the democratic political track and has indicated its readiness to continue negotiations with the EU, this might be the right moment to push for further reforms, such as for the continuation of the decentralisation process, launched in 2002 by the adoption of a new Law on Local Self-Government.[19] As the UN Security Council is about to adopt a new resolution on Kosovo's status, the EU has a clear interest in drawing Serbia closer with a view to preserving stability on its south-eastern borders. The EU has a stake in keeping Serbia on the pro-EU, democratic path, and seems willing to speed up Serbia's accession process. As negotiations with the EU are underway, the window of opportunity is reopening to stimulate the continuation of the pro-EU political reforms in Serbia that were put on hold at the start of the government crisis in October 2006.

Other reasons the EU should grab the opportunity now to push for reforms have been highlighted by the recent political crisis and the popularity of the Serbian Radical Party: the prevalence of democratic forces cannot be taken for granted, nor can the chance of a nationalist backlash be fully excluded.

VI. Conclusions and recommendations

Decentralisation would be a general public good for every local community, not just for minorities. Establishing meaningful local autonomy would require the Serbian government to proceed with the decentralisation reform through adopting further measures. The above-mentioned Law on Local Self-Government was intended as a first step in a longer process, and was welcomed by the Council of Europe, according to which the law was good enough to provide an acceptable legal basis for local authority. Municipalities continue to face many difficulties, however. A new Law on Local Government Finance,[20] which came into force on 1 January 2007, entails greater fiscal decentralisation, but the necessary regulations on municipal property and management have not been adopted. The Standing Conference of Cities and Municipalities (SKGO), which is the largest organisation of local governments, prepared the draft law on municipal property, but passage of this law has been continually postponed by the government.

Although the new Serbian constitution introduced the category of municipal property, it failed expectations for further decentralisation. Instead of strengthening local autonomy, the constitution increased the central government's sway over local governments.

The influence and pressure of the EU would thus be necessary for reforms to continue and further decentralisation to come. The requirement for greater decentralisation – meaning increasing the autonomy of local governments – should be put forward as a demand by the EU during its negotiations with Serbia.

In summary, the following recommendations are made to Serbia and the EU:

- Serbia should continue with the decentralisation reform launched in 2002. The most important next step would be the devolution of property to municipal governments.
- Serbia should explore which further functions could be managed better locally. Several functions of vital importance for local communities are still under central state control, with their management personnel being appointed by the state, as in the case of hospitals, electricity providers, the audit office and post office, the gas provider, telecommunications providers, the inspection organisation, the land and deed registry, and the cadastre. Local authorities have no affect on the employment practices or the work of these bodies, and thus on the quality of services.
- As devolving more competencies to the local level requires sufficient local administrative capacity to manage these tasks, the government should work closely with the SKGO, the European Agency for Reconstruction, USAID and other stakeholders during the decentralisation process. SKGO has recently launched a project investigating how legislative impediments to local economic development in Serbia can be overcome, including analysing the legal changes needed.
- The recently adopted reforms related to the intergovernmental finance system – especially the introduction of property tax at the local level and the granting of local discretion over various tax rates – points in the direction of greater local fiscal

[19] See the Law on Local Self-Government, adopted by the Serbian Assembly on 14 February 2002 (*Official Gazette of the Republic of Serbia*, No. 9, 26.02.2002).

[20] See the Law on Local Government Finance, document published in the *Official Gazette of the Republic of Serbia*, implemented as of 1 January 2007.

autonomy. The implementation of these reforms should be closely monitored, as their credibility will be measured by how well they are carried out.

- Safeguard measures are needed, which guarantee that no local majority can overrule local minorities. Introducing the requirement of supermajorities could be a solution.
- Institutional mechanisms and safeguards need to be put in place to ensure that the appointments of individuals to various functions are based on merit and qualifications and not on party connections.
- Shared authority over the police between the central and the local government is also recommended. It would be desirable if cooperation between the local police and the municipal authorities were institutionalised.
- Revitalising the local economy and developing local infrastructure in Presevo Valley and Sandzak is crucial for creating lasting stability. The international community should provide financial and technical assistance to Serbia to carry out a balanced regional development policy, recognising that stabilising these areas is in the regional interest.

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