

## **The Role of Associations of Municipalities in the Process of Decentralisation** **- Some preliminary ideas -** **Gunnar Schwarting** **Mainz/Speyer\***

It is widely accepted that a policy of decentralisation can lead to more transparency and efficiency and thus can be an important economic stimulus and a good path to achieve more participation and democracy all over the nation. Of course there is no clear cut way to these effects, the numerous threats like regional inequality or difficulties in coordinating the development of the entire nation should not be underestimated. But the positive effects seem to outweigh these threats. Therefore many documents by international organizations like UN Habitat highlight a policy which gives powers (and financial means of course) to sub-national entities.<sup>1</sup> There might be several levels of sub-national authorities like provinces/states/cantons on the one and municipalities on the other side, typical for federal countries as Germany, Switzerland or the US. Other countries only will have one sub-national level, normally municipalities, which is mainly the case in Scandinavian countries.

It is this level on which I will focus the following considerations. So I shall describe a situation where there exist a number of municipalities below the national level.<sup>2</sup> These municipalities are numerous, of different size and with varying economic and social conditions. There is a definite policy on the national level to encourage the local level by decentralisation which will not be changed in the short-run. The last assumption is very important and crucial, because what we often see is a rapid change in decentralisation policy with every new national government in many countries.

### **What Associations can afford**

The empowering of municipalities is a very complex theme. To ensure that the provision of public services delegated to the local level will be done in a satisfying manner, municipalities should at least possess some necessary preconditions such as

- the administrative capacity to fulfil their duties
- the financial means to be able to cover the necessary expenditures<sup>3</sup>

It is on these two fields where Associations of municipalities can play a very important role in the process of decentralisation. This should not lead to the assumption that other elements of decentralisation – e.g. the right of local self-government or own local taxing powers – are of no importance. In my opinion these aspects are neces-

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<sup>1</sup> See H. Hoffschulte, *The UN Guidelines on decentralization and strengthening of local authorities*, St. Augustin, Berlin 2008

<sup>2</sup> In many countries there exist several levels “in-between” like city-suburban organizations, metropolitan regions a.o. These are not mentioned further.

<sup>3</sup> See UN Guidelines (Fn 1), Section D.2

sary too to ensure that all advantages of decentralisation can be reached. But I will not go further into these details.

The tasks of established Associations of municipalities in developed countries can be described by four different scopes<sup>4</sup>

- the information of the members about new legislation and other important policy changes
- the link between and the exchange of knowledge among the members
- the representation of the entire local level as a counterpart of the national government or parliament
- the information of the public through the media about claims of the local level

What is not mentioned here is the building of administrative capacity because municipalities in developed countries mostly have a well-trained staff by basic and further education. This is not the case in many developing or transforming countries. So there the organisation of training courses can be a very important task of Associations of municipalities if not done by anyone else, e.g. the national government.<sup>5</sup> A big problem in practice is the recruitment of trainers if there is no skilled staff in at least some (bigger) municipalities which can be used as a pool of trainers. The alternative to revert to external, mostly foreign experts can only be characterised as second best because they often lack the administrative knowledge and/or the insights into the needs of the municipalities in the country mentioned. Therefore the forming of trainers out of the domestic local staff might become one of the first steps in the work of an Association. But of course and not self-evident: Associations should also create a climate of willingness to learn from each other in every municipality.

To support the building of capacities Associations have to inform their members by reports, bulletins, newsletters and other media about new primary, secondary or even tertiary legislation. In many countries it will also be necessary to publish sentences pronounced at least by the supreme court but often by courts of lower instance too if there is no other way of information. The presentation of good examples of local policy (I avoid the item 'best practice' because it contains a kind of ranking), interesting new ideas for specific themes or concepts for the organisation of the administration might be very fruitful for all members. So the Association can be described as the "spider in the net of knowledge". In addition meetings of professionals from local administrations to discuss certain problems have proved successful.<sup>6</sup> If the country is of great spatial size the meetings can also be organized regionally.

Associations do not act by themselves but they need the support of their members. Therefore the formulation of positions which are to be presented elsewhere is done by committees and if of any importance by the board/steering committee. This leads to the next scope of activity, the representation of the municipalities on the national level. There is no doubt on this in developed countries – Associations have more or less the formal right to speak for their members and to present the 'municipal stand-

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<sup>4</sup> See also United Cities and Local Governments/World Bank (eds.), Decentralization and local democracy in the world, First Global Report 2008, p. 300

<sup>5</sup> See UN Guidelines (Fn 1) lit. D.6

<sup>6</sup> As an example might be mentioned the forming of regular meetings of Professionals for the Local Property Tax in Serbia.

point' facing the national government or parliament. To strengthen this right it should be put into the constitution or – as it is the case in German Länder – into the Law of Local Self Government. In addition the rules of procedure of the government and the parliament in Germany contain a paragraph where the obligation is stated to 'hear' the Associations of municipalities in the process of legislation and other relevant decisions concerning the local level.<sup>7</sup> This is of great importance esp. for small municipalities. They do not have the chance to intervene on the national level as it might be the case for the capital city; their Association might be described as their 'attorney'.

This underlines that the Associations of Municipalities are something else than a non-governmental organization. As the municipalities are rendering public services they are part of the public sector not any group dealing with private interests. It is a widespread misunderstanding in the European Commission to treat Associations of Municipalities like the confederation of the automotive companies (though they are unfortunately more successful). Associations are – regardless of their juridical form – representatives of public interest.

The right of any Association to speak for the local level can only be executed if there is enough time to form an opinion at best in cooperation with the members. Therefore ministries and other government agencies should be obliged to deliver their drafts of regulations to the Associations several weeks before the decision will be made.<sup>8</sup> Ministries tend to suspect that this form of participation is a hindrance or at least a hesitation of legislature. But on the contrary: As municipalities often have to execute what is stated in the law the proposals made by their Associations can be a contribution to better legislation.

Unfortunately this rule is not respected in many countries. Even in Germany the time-span for a discussion of drafts is very short at least at the national level. So it is necessary that the staff of the Associations hold contact to the relevant ministries just to know what will happen next. Of course this is not very transparent but it is a necessity to try to bring the positions of municipalities into legislation.

In the process of decentralisation there are at least two main themes for which the concentrated representation of the local level by Associations is needed. The first one is the claim for sufficient responsibilities for the municipalities.<sup>9</sup> To make the grade municipalities need the necessary legal and administrative instruments. If for example the collection of the property tax is given to the local level municipalities must know which property owned by whom is located in their area – this means there must be any kind of land register. In addition municipalities need the right to enforce outstanding debts.

Closely related is the second theme, the demand for financial resources to cover municipal expenditures. This counts for the basic budget in general but especially for the case when new duties are transferred to the local level.<sup>10</sup> This is the principle of connectivity where "finance follows function". It seems very clear that both themes can-

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<sup>7</sup> See UN Guidelines (Fn 1) lit. B. 12 and C.7

<sup>8</sup> The European Commission is using the instrument of Green Books which are open to public discussion by everyone even the citizens themselves.

<sup>9</sup> The division of responsibilities between the levels of the nation should follow the principle of Subsidiarity, perhaps at best by incremental action; see UN Guidelines (Fn 1), Section B

<sup>10</sup> See UN Guidelines (Fn 1) lit. D 8

not be bargained with the national government by every municipality particularly small ones. Again Associations act as 'attorneys' on this field.

It is debatable whether Associations should make statements through the media in which they express the municipal point of view or not. There is not one and only answer for every country in the world. It depends on the role of the media, their interest in local politics (which can be aroused!) or the political climate in the specific country. Anyway Associations must be aware that their messages are not political in the sense of party politics. What they express is the opinion of the local sector whatever the majority in the municipalities will be. Of course critics will mostly be targeted on the government and the party/parties forming it. But as the experience in developed countries show: Governments are always in the focus of critics by the local level independent of the 'colour' of the government.

Moreover, if an Association has decided to go through the media it must be fully clear for everyone inside and outside who is speaking for the institution. In my opinion this should be the president and/or the director of the Association.

### **How Associations can be formed**

Looking back to the history of Associations of municipalities in Germany it was the rise in local duties and the need to discuss problems of rapidly growing cities (the Association of Cities was the first one to be founded) which led to the first informal contacts among several cities. Indeed it was a long way until every municipality in Germany became member of at least one of the three forms of Associations which exist in Germany (Cities, Villages and small towns, Districts). This very long-lasting process should not be the blueprint for other countries. But lessons learned in Germany might be useful for developing and transforming countries too.

First of all the membership in one of the Associations is voluntary for every municipality, there exists no formal or informal compulsion to become a member. The only motivation is to take advantage of the information and influence of the Association. The second principle is the independence from any influence of the national government. The Associations are organized under private law and therefore there is no supervision by any kind of governmental institution. Furthermore no resources neither personnel nor money is stemming from the national government. This independence is the necessary precondition to act autonomous in face of the national government or the national parliament. On the other hand this means that the Associations are financed only by member fees.

This is a problem in developing or transforming countries which shall not be underestimated. Because of the lack of financial resources within the municipalities one solution seems to be the funding by international donors at least as a kind of start-up capital. If this money (at best by only one donor) is given to build up the entire organisation of an Association this might be a good way. But in any case the self-financing of the Association by member fees should be the end.

The third principle is related with politics. Of course the work of Associations is political but not in the sense that they support or oppose a specific political party or attitude. They should act above party-lines best shown through leading persons repre-

senting different political 'colours'. Another instrument is the quorum for decisions in the committees/boards or the general assembly; to ensure that there will be no structural minority of any importance a qualified majority (e.g. 2/3 or  $\frac{3}{4}$ ) seems to be a good way. So Associations avoid the threat to be involved in national political conflicts. The only exemption is the question of decentralization and the role of municipalities; but in this area Associations fight for 'municipal' politics.

Another principle is concerning with the question who will be represented by the Association. Is it the entire municipality, the municipal administration or at least only the mayor? Even if the persons dealing with the work of Associations will be the mayors or professionals from the local administration the Association is built by the municipalities regardless who is doing the job at the top or in the office. Of course it is the municipal assembly which approves the membership and the member fees. Associations are forced to deal with this by integrating professionals as well as local politicians into their activities.

### **How many Associations should there be?**

Looking at Germany there are 3 Associations at the national and some 30 at the state/regional level. Besides the regional component there are different Associations for districts and municipalities (often further divided between cities and villages/small towns). This structure leads to a greater homogeneity inside every Association but to conflicts among the various Associations. The division of responsibilities among districts and municipalities, the allocation of financial resources between cities and villages, the frontiers or possibilities of land use are typical questions of conflict.

So if there are several Associations cooperation between them is an urgent need. Otherwise the national government has the comfortable position of "divide et impera". To avoid this I would prefer one Association for the entire local level including all municipalities and (if not only deconcentrated institutions of the national governments) districts. By this the Association can act as strong and influential counterpart of the national government.

Another problem is the conduct of the often dominant capital city. These cities and, if there are, other big ones too tend to bargain directly with the national government. Because of their magnitude and the great proportion of the population they represent they have the chance to get in direct contact with ministers or even the prime minister themselves. On the other hand big cities often have the feeling that they do not need an Association for their specific concerns. But it is very important for the relevance of an Association as institution to integrate big and capital cities into its work.

Another question is the forming of regional Associations or regional branches of the national Association. Even in Sweden with its very strong National Association (Kommunförbund) there are about 20 regional Associations just because of the great area of the country. Just to minimize the costs of travelling and to improve the participation of the representatives from the municipalities some kind of regionalization might be useful. Otherwise meetings are to be held mostly in the capital city, in developing or transforming countries at least because the main transportation links are directed to the capital city. But if regional Associations or branches are formed, a good harmonization with the work of the Association on the national level is essential.

Very crucial are the press relations in this case. If regional institutions make their own statements they must be in coincidence with what the national Association says if the item is not only of regional relevance.

Mainz/Speyer, December 2008