## Table of contents

**Foreword** .............................................................................................................................................. 5

**Background** ........................................................................................................................................... 6

**Introduction** .......................................................................................................................................... 7

**Structure of this approach** ................................................................................................................... 8

**Chapter 1** Concept of inter-municipal cooperation in the framework of local governance reforms and decentralization ................................................................. 10

**Chapter 2** Inter-municipal cooperation benefits and challenges ......................................................... 14

**Chapter 3** Framework of inter-municipal cooperation ............................................................................ 16

*Introduction – Key factors influencing inter-municipal cooperation* ......................................................... 16

3.1. Local governance .................................................................................................................................. 17
  3.1.1 Decision making structure and quality ......................................................................................... 17
  3.1.2. Importance of local scale ........................................................................................................... 19

3.2. Local service provision ....................................................................................................................... 21
  3.2.1. Resource mobilization and management .................................................................................... 21
  3.2.2. Service Delivery Organization and Management ......................................................................... 21

3.3. Enabling elements ................................................................................................................................. 26
  3.3.1. Essential legislative incentives - policy and institutional environment ...................................... 26
    3.3.1.1. General legislation .............................................................................................................. 26
    3.3.1.2. Policies related with regions and metropolitan areas ......................................................... 27
    3.3.1.3. Legal provisions directly encouraging inter-municipal cooperation .................................. 29
  3.3.2. Financial incentives ....................................................................................................................... 31
  3.3.3. Capacity enhancement .................................................................................................................. 32

**Chapter 4** Inter-municipal cooperation models and examples .............................................................. 34
Summary of most common models of inter-municipal organization........................................... 34

Examples of inter-municipal cooperation................................................................................. 37

Introduction........................................................................................................................... 37

Finland - Inter-municipal organization in Oulu region.............................................................. 38

Romania – Oradea metropolitan area...................................................................................... 45

Macedonia - Solid Waste Management for South-West Macedonia........................................ 51

Portugal – Creation of Águas do Ribatejo, a public-private company to build and run multi-municipal infrastructure and systems for water supply and sewage............................... 57

Chapter 5 Comparative analysis on different examples from legal, institutional and technical point of view .................................................................................................................. 67

Local governance and local service provision ........................................................................ 67

Traditions............................................................................................................................... 68

Authority and responsibility.................................................................................................... 69

Process initiation and coordination.......................................................................................... 69

Organizational types of partnerships........................................................................................ 69

Chapter 6 Guidelines for inter-municipal cooperation .......................................................... 71

When to consider inter-municipal cooperation ...................................................................... 71

How to proceed setting up an inter-municipal cooperation...................................................... 72

Chapter 7 Policy Recommendations ....................................................................................... 78

How national governments and their partners can support inter-municipal cooperation as alternative for better service delivery......................................................................................... 79

In response to territorial fragmentation of service delivery......................................................... 80

Designing a specific legal framework for inter-municipal cooperation on service delivery. 80

Towards increasing municipal capacity.................................................................................. 81

Towards improving public service management ....................................................................... 82

Chapter 8 Final conclusions .................................................................................................... 86

Further Challenges.................................................................................................................. 86
Conclusion ................................................................................................................................. 87

Bibliography and list of useful resources ...................................................................................... 89

Bibliography ......................................................................................................................................... 89
List of useful resources .......................................................................................................................... 91

Annexes ............................................................................................................................................... 93

The Finnish Local Government Act .................................................................................................. 93
Macedonian Local Self Government (Article 14, 15 and 61) ............................................................. 97
Romanian legislation related to inter-municipal cooperation: .......................................................... 98
Council of European Municipalities and Regions (CEMR) criticizes EU Commission and Court of Justice ................................................................................................................................................. 100
Switzerland – country level analysis of inter-municipal cooperation............................................... 106
Forms of Cooperation in Selected European Countries ........................................................................... 110
RBEC’s Bratislava Regional Center (BRC) of UNDP systematically contributes to efforts that strengthen UNDP’s position as a leading actor in addressing the regional challenges facing local governance and decentralization reform. The main engine for facilitating the acquisition and dissemination of the relevant knowledge is the thematic Community of Practice. Founded in June 2004, the Local Governance and Decentralization Community of Practice contributes to the development of intellectual and professional capacities and to increasing the expertise of its regional community comprised of UNDP country offices and BRC professionals, external experts and other interested stakeholders. Through research, analytical work, publishing regional resource materials and other substantive support, the Community of Practice works to identify priority assistance needs and to improve understanding of the major policy and capacity gaps related to local governance and decentralization in the region.

Reflecting the key regional trends, the Community of Practice engages in activities that aim to build an enabling environment for effective decentralization, through addressing, inter-alia, the policy formulation process, management of financial resources, quality of local service delivery, and the establishment of standards and regulations, as some of the essential conditions for effective local governance. These key areas anticipate high quality technical and policy advice that integrates a socially inclusive and gender based approach, and is underscored by UNDP’s commitment to promoting human development through good governance and poverty reduction. In line with the “drivers of development effectiveness” reiterated in the second UNDP Multi Year Funding Framework for 2004-2007, this approach reflects the following objectives:

- Improve individual, institutional and societal capacities of, and partnerships among, government, civil society and the private sector at sub-national and national levels to enable them to participate more productively in, and ultimately benefit from, the development process;
- Enhance national ownership to improve prospects for sustainability of initiatives, thus, build and/or accelerate momentum towards decentralizing the MDGs and related national development targets;
- Create an enabling environment through legal and institutional processes both at the central and sub-national levels to effect a holistic approach to Decentralized Governance for Development within the context of human development;
- Enhance the voice and participation of women, the poor and vulnerable groups for greater equity in decisions affecting them and ultimately empower them as members of society; and
- Increase access to services, especially for the poor, women and vulnerable.

**Background**

This publication *Inter-municipal Cooperation in Planning and Service Delivery: Analysis and Recommendations* was inspired by the idea that efficient and effective delivery of public services that engages a stable and economically viable local self-government system is one of the principle indicators of good governance. Public services can be delivered at the local level in a variety of ways, ranging from public to private provision, or a mixture of these two, or through different types of cooperative agreements. The paper examines the benefits of the process of decentralized, collaborative planning and service delivery through inter-municipal cooperation, and provides concrete recommendations on enabling policy and institutional frameworks.

The progress of decentralization reform varies and is catalyzed by different factors in the countries which the Regional Bureau for Europe and the CIS (RBEC) serves. With the EU accession as their primary motivation, governments in Central and Eastern Europe have utilized decentralization as one means to counter economic inefficiencies, macroeconomic instability and to improve the delivery of public services. In other parts of the region the legacy of the old centralized state continues to hinder political and economic reform. Central governments, particularly in the Caucasus and Central Asia, continue to control decision-making over financial resources and service delivery to local communities, while the local governments generally lack the support that would permit them to assume the relevant responsibilities. The situation is further compounded by the large number of local governments with small populations, which are not economically viable or capable of delivering the services assigned to them. Some local governments are based on fragmented structures with a vague division of levels and powers and virtually non-existent accountability mechanisms. Territorial arrangements are characterized by inadequate development of associations of municipalities and other organizational forms. These problems require solutions, which involve local level partnerships including with the central authorities, the private sector and civil society.

However, there exists limited capacity to undertake the appropriate regional and local planning, and engage in meaningful partnerships in order to implement programs and deliver public services. Due to the lack of supportive legal frameworks, as well the relevant knowledge and experience, the quality of public service delivery continues to suffer at the local level. These
factors are inhibiting the political developments and the economic growth that are necessary for implementing decentralization. They also prevent the support needed to achieve social development, such as the MDGs, at the local and regional level.

In view of these key challenges, this paper sets out to reflect on the key conditions necessary to establish successful inter-municipal cooperation for better development planning and service delivery. It is therefore addressed to central and local decision-makers, local development experts, and other interested stakeholders.

The analysis contained in this paper elaborated by Local Development Group is based on UNDP County Office experiences in their work with municipalities, and complemented with research and analysis of examples in EU countries with tested models than help to improve the quality of service delivery.

Introduction

In the RBEC region, there are several other driving forces rendering cooperative agreements fundamentally important: EU integration and access to EU resources, strengthening absorptive capacities, and advancing public administration reform - factors leading to improved cooperation and more effective development outcomes. In particular European integration – as both a means and an end – is a useful vehicle for ensuring better cooperation. The European Structural Policy requires cooperation agreements under the ‘partnership principle’, which states that member states must involve regional and local authorities and private actors and rely on a strong civil society in the development and implementation of regional development policies. In this context partnerships can work to bring about a common effort in preparing for EU integration and accessing resources, bringing the quality of public services to EU levels and deploying standardized regulatory frameworks based on international agreements and EU law.

Delivering public services through partnerships has become more common, following the increased trend in devolution of centralized expenditure assignments to lower levels of government in countries where decentralization reforms are in progress. In general, cooperation between neighboring municipalities and the private sector is economically attractive, as it helps to ensure effectiveness and efficacy of services. This stems from the urge to derive maximum benefits from the available resources in order to achieve complementary or similar goals. In particular, local authorities in small municipalities have a strong interest in teaming up with each other as they face obstacles in meeting the demands and required standards for the provision of
public services. The central authority can be supportive by giving local authorities greater powers under national legislation, which fosters greater inter-municipal cooperation, allowing a municipality to carry out its functions jointly with another municipality (or other municipalities) or on its/their behalf, as well as with the private sector. The success of partnerships will depend on the joint interests of the stakeholders, the local regulations and institutional framework and a supportive political and economic environment.

However, in most countries of the RBEC region there is an overall lack of guidance and legislation on institutional arrangements for cooperation. The joint delivery of public services by local and regional administrations is often hampered by limited financial resources as well as weak organization and management capacities of public utilities. Insufficient knowledge of the existing legal procedures and capacity constraints act as a significant stumbling block to the establishment of partnerships and their ability to contribute to the development process. Despite the extensive EU experience in inter-municipal cooperation, there is currently no systematic information available relating to the conditions that can make inter-municipal cooperation successful.

Structure of this approach

For the above-mentioned reasons, the Local Governance and Decentralization cluster of the UNDP Bratislava Regional Centre has set out to address this gap with this paper, which offers guidance to those actors interested in promoting and engaging in inter-municipal cooperation.

The fundamental purpose of this approach is to support the continuing process of collective learning in the field of inter-municipal cooperation which will be progressively further developed. It is hoped thereby to make a step forward toward an enhanced common understanding among all interested parties of the current state of inter-municipal cooperation concepts, principles, models and challenges, as a basis for a better informed policy-making process.

The guide structure comprises the following chapters:
Chapter 1: Concept of inter-municipal cooperation
Chapter 2: Inter-municipal cooperation benefits and challenges
Chapter 3: Framework of inter-municipal cooperation
Chapter 4: Models and examples of inter-municipal cooperation
Chapter 5: Comparative analysis on different examples from legal, institutional and technical point of view

Chapter 6: Guidelines for inter-municipal cooperation

Chapter 7: Policy recommendations

Chapter 8: Final conclusions

Bibliography and list of useful resources

Annexes

It must be reiterated that, at this stage, the analytical framework used here is not definitive; it is instead a “work in progress” which shows the advantages of a systematic approach but which can, and should, be further modified and refined as its use progresses.
Chapter 1 Concept of inter-municipal cooperation in the framework of local governance reforms and decentralization

In the context of local governance reforms, municipalities are central to development. As the order of government closest to the community, municipal governments are the first to respond to citizens and deliver the services they need. The role of cities and municipalities is increasingly important in today’s context of globalization, rapid urbanization, decentralization and democratization. In developing countries, municipal governments are particularly affected by these challenges that clearly impede their ability to reduce poverty and improve the quality of life of their communities. As municipal responsibilities become increasingly complex and demanding, municipalities should continually seek out the best way to provide the services needed by their communities. One tool to assist in addressing this challenge is inter-governmental and inter-municipal cooperation.

Extensive political, administrative and fiscal decentralization is now under way in many countries in Central and Eastern Europe and the CIS. Politically, this decentralization represents both a reaction from below to the extensive central control of the past, and an attempt from above by the center to further privatize and to relieve its strained fiscal situation. Economically, decentralization is motivated in part by the recognition that it is imperative to utilize public resources more efficiently than in the past. Decentralization, if appropriately designed and implemented, may lead to improved public service provision.

Decentralization is thus a key dimension of the national transition from a command to a market economy. Like the broader economic transition, it requires many, often difficult, reforms. Not only the structure of tax and transfer mechanisms is reconsidered and expenditure responsibilities realigned among different levels of government, but views as to what governments can and should do is under continuous change. The total level of public sector activity is to be dramatically reduced, but at the same time the new sub-national governments are allowed to build staff and institutional capacities in a manner that makes them accountable for their fiscal decisions.

Intergovernmental reform and the strengthening of sub-national (intermediate as well as local) governments are essential to support the evolving public and private sectors. Sub-national governments account for a growing share of public sector activity in most of the transition
economies as general government activity is scaled back and sub-national governments take responsibility for many services formerly provided by the central government.

In the process of transition from government to governance and according with the new features of the New Public Management, the local government should play the enabling role:
- the private market can be enabled to participate more fully in service provision;
- the individual can be enabled to receive services most suited to his or her own specific needs and preference;
- community development should be enabled.

Therefore, in principle, local governments should become service providers and regulators, not owners. The wrenching reforms most countries are undertaking to achieve macroeconomic stabilization and to compress the state budget could produce perverse effects at the local level, however. Unless an adequate framework for intergovernmental finance and inter-municipal cooperation is put in place, budgetary constraints may create additional hurdles to disassociating local governments from their enterprises. Sub-national governments will be tempted to rely on locally owned enterprises to provide public services and to protect locally owned enterprises to ensure their profitability.

The regulatory tasks facing both sub-national and central governments have changed. Administrative interventions, such as the detailed regulation of prices, the administration of waiting lists for housing, and the allocation of land and material supplies, are no longer appropriate. What is needed is a regulatory structure that provides the conditions under which the market can function, such as regulation to avoid monopoly, create opportunities, curtail financial fraud, promote transparency and consistency in zoning and land use, and so on.

Pursuant to Article 10 of the European Chart of Local Self-Government, ‘in exerting their powers, local authorities may co-operate and associate with other local authorities within the framework of the law, to implement goals of common interest.

To deal with problems that exceed the territory of a municipality, co-operation is vital at three levels: global (sharing international experience), intra-metropolitan (among the agencies responsible for services, ex. planning, transportation, and environment protection) and inter-sectoral (between public and private sectors, ex: housing provision, economic revitalization and local utilities). For the latter one, the public sector has to co-operate through providing a conducive and enabling regulatory framework? Paradoxically, but the cooperation -competition
antagonisms are convergent to boosting economic development. It is a basic principle of market economy: people compete and they cooperate in order to be able to compete. If you do not cooperate, there will not be a market. In allowing services to be delivered in the most cost-effective way, the pressure is to allow competition. That means the authorities cooperate with other agencies and the cooperation becomes a process of defining the areas of competitive advantage for the public sector. The real competitive advantage of the public sector is that it can maintain standards, it can indicate what standards are to be met, it can monitor, it can regulate. Therefore, this cooperation among who is setting the standard, who is monitoring and who is producing is something that is needed.

In turn, the regional development process calls for inter-municipal co-operation. This is especially important as municipalities need to identify and implement projects of a scale that goes beyond the municipal level, thus making them part of the national operative programs, and/or implement government policies in target action regions.

A renewed emphasis on saving money through the notion of “smarter” government is one of the few options available to local officials hoping to achieve long-term structural development. In light of this reality, inter-municipal cooperation is an option worthy of consideration. By allowing communities to maximize available resources, inter-municipal cooperation can result in significant benefits to local governments. To achieve these benefits local officials must be prepared not only to explore and identify opportunities, but also to fully develop them.

From an economic viewpoint, co-operation has two meanings. The narrow meaning of co-operation is the establishment of long-term and durable production relationship between enterprises each of which produces parts of the same item. This relationship involves some type of division of labor - on a social, trade or territorial principle. Co-operated production activities are organized under this perspective. There is also a broader meaning that focuses on etymology from the Latin *co-operatio*, meaning a joint action or activity. The legal regulation of cooperatives, which has a different scope in each country, is based on this second meaning. The cooperative movement developed mainly in Europe as early as in the 19th century following the industrial revolution, on the basis of the drive towards unification, especially in trade and agriculture. Later, cooperatives developed in the fields of industry and banking. Today, cooperation is possible between legal persons both under public and private law, in compliance with several principles such as free will, mutual assistance, joint action, and defending the interests of co-operators. Cooperation is aimed at the implementation of joint activities in the
members’ best interest. It applies to cases when the members are unable to exercise separately the full scope of activities, for different reasons such as deficit of funding or/and organizational, manufacturing, and human resources and the like.

Cooperation occurs when two or more local governments work together to provide a service for the benefit of all the municipalities involved. Cooperation agreements generally fall into two categories: service agreements and joint agreements. A town and village working together to operate a sewage treatment plant is an example of a joint agreement, wherein participating local governments share in the provision of a service. A service agreement exists when one local government contracts to provide a service to another local government for an agreed upon charge. By maximizing available resources through the use of cooperation agreements, local governments can realize many benefits. A good cooperation plan can help communities capture economies of scale, gain use of the latest technology and equipment that they (if acting on their own) would otherwise be unable to afford, eliminate duplicative efforts and achieve significant cost savings.
Chapter 2 Inter-municipal cooperation benefits and challenges

In this new context of decentralized governance the benefits of the inter-municipal cooperation become more important. A larger scope for obtaining economies of scale is created if private market is enabled to participate more in service provision. Thus inter-municipal cooperation can create supplementary incentives for new, bigger and more efficient companies to entry on the market of public services provision. In this case competition is raised and the opportunities for better services at lower prices are more numerous.

New opportunities to reduce the externalities are created as well – in this case the financial effort of every community is tailored on their number, needs and preferences. The local government policies will become more sensitive to the consumers/voters needs and preferences to pay. Another important element is the potential reduction of negative externalities due to the effects created by the existing of two neighbor communities with different qualitative level of public services provision. The inter-municipal cooperation is a good chance to reduce the important disparities in the quality of the same public service among communities from the same geographical area.

The mixture between enabled community development and inter-municipal cooperation creates a possible levier effect: every component stimulates more the other component development and finally they enter in a virtuous circle of the development. The inter-municipal cooperation is a good framework for the transfer of new technologies, and also for the transfer of the public management know-how among local governments. The inter-municipal cooperation creates a more stable framework for more effective and long run local policies regarding the development of public services. This new framework reduces the instability on policies side due to the political changes at the level of local governments.

A good cooperation plan can help communities capture economies of scale, gain use of the latest technology and equipment that they (if acting on their own) would otherwise be unable to afford, eliminate duplicative efforts and achieve significant cost savings.
To achieve these benefits local officials must be prepared not only to explore and identify opportunities, but also to fully develop them. An intrinsic part of this involves recognizing and addressing the obstacles that can complicate the process, as effectively doing so will largely determine success.

There are potential barriers that can challenge a community’s ability to embrace inter-municipal cooperation as an achievable and worthwhile means to provide services, like insufficient legal framework, weak incentive system, lack of capacities to develop and manage contracts, post conflict environment, etc.

Different research studies done to establish the capacity of local authorities from accession countries to absorb EU funds have confirmed the lack of experience in effective inter-municipal co-operation and the need to regulate inter-municipal co-operation arisen basically from two positive trends: the process of financial decentralization currently underway and the regional development process. The legal regulation of inter-municipal co-operation should not be considered as an attempt to set limitations to the powers and independence of municipalities. This is rather an effort to give municipalities an opportunity to seek common rational solutions to some specific situations in order to achieve a more effective use of public resources.

In some other cases, besides the lack of weak enabling effort from the central government, a simple lack of trust between the potential partnering communities can stand in the way of cooperation efforts. This may be brought on by a perception that one community will be taken advantage of, or that the plan itself fails to bring about a win/win outcome. Personalities and disputes between local officials in neighboring communities can hamper cooperation efforts as well. A dispute, regardless of its significance, can make it difficult to bring the relevant parties to the negotiating table. Inexperience and a lack of legal knowledge also threaten cooperation by discouraging even an initial exploration of opportunities.

These barriers are not insurmountable and should not deter interest, but acknowledging them can be a first step in working toward a successful partnership agreement.
Chapter 3 Framework of inter-municipal cooperation

Introduction – Key factors influencing inter-municipal cooperation

Essential aspects that influence the extent to which local governments are able (or encouraged) to enter into inter-municipal cooperation in terms of institutional, financial and administrative capacity are:

1. **Local Governance** - the way decisions are made and implemented by or on behalf of people in a local area. It includes the allocation of authority to decision makers: the authorization to use collective financial and natural resources, provision of public goods and services, and holding accountable those to whom authority is entrusted. Particularly important here are characteristics and degree of decentralization concerning government tiers and size. In addition to local governments and other local public sector agencies, local governance encompasses a variety of civil society institutions, including resource users groups and citizen oversight bodies linked to public service delivery units or local service delivery networks. Local governance institutions also include community development committees, indigenous institutions and traditional authorities, voluntary associations, and nongovernmental self-help organizations.

2. **Local Service Provision** – the way systems deploy and manage resources -financial, human, technological, and information- to produce public facilities or services under the direction of institutions of local governance. Local public service providers include deconcentrated structures of central ministries, quasi-autonomous public agencies or enterprises, local governments, private enterprises under contract to public agencies or local communities, nongovernmental organizations (NGOs) financed by public sector grants, self-provision by service beneficiaries, and co-production by beneficiaries and publicly financed providers. Service provision systems include how resources are mobilized and managed as well as how service delivery is organized and managed by organizations (service producers) that transform resources into the public infrastructure and services available to people, communities, and private sector actors.

3. **Enabling elements** – legal framework incentives towards appropriate policy and institutional environment, resource incentives for local and regional structural development, capacity enhancement as well as culture towards associations building. The **policy and institutional environment includes** formal institutions, such as laws,
policies, and organizational systems, as well as informal institutions, such as values, norms, and social practices that support empowerment, good governance and efficient service delivery. **Financial incentives** for local development are comprised not only of grants provided by aid-funded projects and social funds to local governments, NGOs, CBOs and voluntary associations; they also include intergovernmental transfers and other forms of on-budget financing for local investment and service provision. **Capacity enhancement** includes establishing and strengthening the local institutions through which people and communities participate in governance, service provision, and associations. It also includes improving human capital through training and of social capital through support for organizational development.

### 3.1. Local governance

#### 3.1.1 Decision making structure and quality

The division of competences between central level and different levels of regional/local self-government and the way authority is organized, legitimated, and employed within the local space, has an important influence on how the inter-municipal cooperation is encouraged and/or shaped.

Cooperation alternative of service provision has more chances to arise and to be successfully implemented within a responsive and accountable way of how plans and policies are formulated, how decisions are made, and how those who make and implement decisions are held accountable for their actions and results through both governmental and non-governmental forms of public or collective decision and action.

As local decision-making organizes the way groups of people determine their priorities and how they will satisfy them, the rules which define how individuals (politicians, administrators, community leaders) and collective bodies (citizens’ committees, municipal councils) are selected and authorized to set priorities and to mobilize, allocate, and oversee the use of resources in their trust highly influence the possibility of considering inter-municipal cooperation in service provision.

In terms of decision-making structures, local government may be constituted on a single or multiple levels. There are a number of different patterns:
Single tier systems have a single level of local authorities with corporate status (i.e. owning property, discharging legal competences, operating a formal budget, employing staff). The most prominent CEE example is in Bulgaria; while within EU would be Ireland and Portugal. Sometimes some resources, duties and consultative rights may be delegated to sub-organizations at village or neighborhood level, as the ones called Mesna Zajednica (MZ) in Serbia and Montenegro, Bosnia and Herzegovina and Macedonia.

Multi-tier systems have both a lower, “municipal” or “primary” authority at the level of the town, suburb or village, and a higher tier embracing a conurbation (e.g. Budapest) or a region combining a number of towns and surrounding rural areas (e.g. a Slovak or Czech region). EU examples would include the Danish and Swedish municipalities and counties. Some countries have three tiers, such as Poland with regions (wojewodztwa), districts (powiats), and municipalities (gmina), France with regions, departements and communes.

In mixed systems, larger municipalities may be independent of the surrounding upper tier authority and combine the competences and resources of both tiers. This applies, for example, to “county right” towns in Hungary or “cities of oblast subordination” in Ukraine, or Czech municipalities or regions endowed with the general state administration powers (presented in more details below regarding devolution of competencies). EU examples would be British unitary authorities or German kreisfreistadte.

Besides the structure of local decision-making, the process of looking for best alternatives for delivering public services – including inter-municipal cooperation – is more effective if the local governance quality is higher. The quality of local governance is affected by the transparency of decision-making, the involvement of local people and communities in decision-making, and conformance by officials and citizens to rules on the scope and exercise of authority. Participatory decision-making contributes to more equitable and dynamic local service provision including alternatives for delivering those services in partnerships among municipalities and/or different governance tiers and actors. Citizens’ committees, service users groups, and natural resource management groups can promote greater responsiveness and fairness in decision-making by local councils through increased transparency and consultation.
Local decision-making institutions are also linked to the implementation arrangements by which policies are carried out. In most cases executive decision-makers orient and oversee action by administrative organizations; however at the local level, especially in the case of inter-municipal cooperation, they may delegate specific implementation roles to participatory bodies comprised of service-users or beneficiaries in co-production arrangements. Whether through more transparent information flows, consultation, or the sharing of responsibility with neighbor municipalities and community groups, participatory decision-making arrangements are conducive to more equitable and dynamic local development.

3.1.2. Importance of local scale

How large a space is the appropriate organizing frame for public service and goods provision? Is regional, local, or community, scale best suited for integrating development processes on the ground? From a political-administrative perspective community scale is typically associated with villages or neighborhoods; local scale with districts, municipalities, and towns; and regional scale with one or several provinces or states. From a geographic perspective community scale is again associated with the settlement (village or neighborhood); local scale with the primary nodes in market, transport, communication, and service delivery networks that link small towns and their service catchments; and regional scale with broader urban-rural structures centered on major transport links and medium to large cities. From a social perspective community scale is typically associated with face-to-face relationships, local scale with a broader network of interactions often mediated by associational or identity-based institutions (such as traditional governance systems), and regional scale with relations that transcend the intimacy of the social networks in which people know each other and are structured principally by impersonal institutions such as governments and markets. In practice the concepts of community, local, and regional scale need to be interpreted contextually, depending on particular political-administrative, geographic, and social characteristics in each country.

The local space should be:

- Sufficiently small to facilitate communication so that management and governance processes are well nourished by relevant and timely information.

- Sufficiently large to permit supporting some specialization of functions for technical and administrative professionals and associated technology whose contribution is spread across several service delivery units.

- Sufficiently near in scale to informal social networks, associations, and institutions of traditional governance to facilitate engaging their social capital.
• Sufficiently large to encompass several communities and so to benefit from economies of scale and more efficient allocation of resources, especially for facilities requiring greater population or economic bases of demand.

• Coincident with the lowest levels of the public sector’s administrative and governance hierarchies—the first level or two above the service delivery unit.

Subsidiarity—the principle that public sector functions should be undertaken at the lowest level possible—is frequently cited as a guiding principle for decentralization policies and processes.

The local level is the lowest that permits integration of the different logics by which government, society, and economy are organized. These include the spatial logics of public service and infrastructure hierarchies (for discrete units such as schools and clinics and networks structures such as roads and utilities), of governance (linking centers of political authority and administrative capacity with their jurisdiction), of social capital (networks of relationships based in identity-based affiliation and voluntary association), and of economic geography (linking rural resource-based production to urban market centers).

Sizes of local authorities vary enormously. Average population sizes of municipalities range from 1,300 in France to 123,000 in England and Wales. Single tier authorities tend to be large of necessity. Bulgarian municipalities have an average population of 28,000 (excluding Sofia). Some multi tier systems such as Czech Republic, France, Hungary, Slovakia or Ukraine have both huge variations in the population of the basic municipal authorities and a proliferation of very small authorities. About 60% of the Czech municipalities are smaller than 500 inhabitants and about 80% of municipalities do not reach the 1000 inhabitants; 41% of Slovak municipalities are below 500. In Finland there are 432 municipalities of an average of 12,083 (2003).

While initiatives providing support at the community and service delivery unit level are important contributors to empowerment, the subsidiarity principle suggests the importance of integrating institutions at the next higher level where there is a comparative advantage for resource allocation, cross-sectoral coordination, and technical supervision. Strengthening and engaging institutions of governance and public management require links from households and communities to municipal and district level. At this local level encompassing several communities it is easier to achieve synergies and efficiencies among public sector and community-level
processes linked in a common local space. Organizing at this level facilitates the complementary contributions of public sector and community-level processes to improve governance, public service delivery, and the dynamism of economic activity.

3.2. Local service provision

Local service provision includes the arrangements by which resources are mobilized and managed and by which service delivery is organized and managed. As reaching the economic and social efficiency of public services is the very purpose of any alternatives of service delivery, including cooperative provision, the existing arrangements are actually directly drawing the possibility of inter-municipal cooperation as well as cooperation type.

3.2.1. Resource mobilization and management

Local service provision requires an adequate resource base—the money, people, information, and technology needed to turn decisions about what people and communities need into public facilities and public services. Some resources are mobilized locally through voluntary contributions (including beneficiary time and labor) and through obligatory taxes and fees. Other resources are provided through transfers from outside community organizations.

The greater sense of ownership among people who contribute through taxes and fees to the costs of local infrastructure and services strengthens both citizen demand and the accountability of public officials. And the greater degree of local discretion associated with own-source revenues enhances the capacity for responsiveness by decision-makers and service providers.

Whatever the combination of own-source and transferred resources, local governments and deconcentrated administrative units deploy (as per the earlier discussion of the role of governance institutions in planning and deciding resource allocation) and manage their use. Based on the plans approved by local institutions of governance, resources are allocated to authorized tasks and the organizations delegated to use these resources to perform them. Service providers - whether public sector, private sector, or community-based - are then held accountable for how resources are used and managed and for the public facilities and services they produce.

3.2.2. Service Delivery Organization and Management

Service delivery organizations are responsible for producing the public infrastructure and facilities and the public services that contribute to human, social, and economic development. In
most cases public sector organizations operating at the local level, whether pertaining to local
governments or to deconcentrated state agencies, organize and manage public service delivery. In
other cases services are produced (or co-produced) by community-based or other beneficiary
organizations that serve their own members.

Service delivery is sometimes delegated to private organizations (firms, NGOs, self-help and
users groups) through grants or contracts to increase flexibility, reduce costs, and make use of the
technical and organizational capacities available in communities and the marketplace.

<table>
<thead>
<tr>
<th>Some competences are devolved to lower tiers of local government almost throughout Europe, such as:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Physical Planning and Development Control: <em>In all cases the municipal level of government is responsible for making local land use plans and deciding applications for permits for new constructions, conversions, changes in use etc. In most countries local plans are supposed to comply with broader regional plans setting out strategies for location of major industrial development, transport routes, trunk infrastructure development and reservation of land for nature reserves, recreation etc. These are usually the responsibility of a higher tier of self-government.</em></td>
</tr>
<tr>
<td>- Public Health Control: <em>Basic preventative services such as food inspection and pest control are municipal responsibilities in most EU countries, though not in CEE states where epidemiological control is usually exercised by the State.</em></td>
</tr>
<tr>
<td>- Waste Disposal: <em>Local government duties also include waste collection and disposal. Waste disposal may well be managed, or at least regulated by higher tiers of local government, both to economize on investment in landfill sites, incinerators etc and to ensure provision of sites.</em></td>
</tr>
<tr>
<td>- Parks, Open Spaces and Cemeteries: <em>These are basically municipal responsibilities in all countries. Higher tiers of local government may manage large forests, nature reserves, country parks etc of regional significance and share responsibility for crematoria.</em></td>
</tr>
<tr>
<td>- Recreational Facilities: <em>Local government generally provides sports facilities, libraries, museums and other cultural activities, but these are not exclusive functions of any level of government, national, regional or municipal.</em></td>
</tr>
<tr>
<td>- Public Transport: <em>This is invariably a local government responsibility, but its nature and distribution between levels varies. Typically local government subsidizes</em></td>
</tr>
</tbody>
</table>
public transport services (either generally or in the case of special groups like schoolchildren and pensioners, or of congested or remote rural routes), controls traffic and organizes school transport. Companies operating bus, tram and metro services may be municipally owned in large towns, but are increasingly privatized.

- **Social Services** (excluding financial benefits): Local government is invariably responsible for such services as residential or domiciliary services to elderly people, child protection, and aid to the physically handicapped. These services may be managed directly or, increasingly, by cooperation with the private and voluntary sectors.

In the case of **other major competencies**, the division between central, local government and the private sector **varies between European countries** as described below:

- **Education**: In Britain, Denmark, Hungary, Norway, Poland, Sweden and Ukraine local government exercises full responsibility for both primary and secondary education, subject to national policies over the curriculum and standards. This local responsibility includes the employment and payment of teachers. The division of this responsibility between municipal and higher tiers varies; in some cases higher tiers take responsibility for secondary or specialized schools.

  In several countries such as Austria, Czech Republic, France and Germany, local government is responsible for the construction, equipment and upkeep of primary and secondary school buildings, but not for the employment or oversight of teachers. In Romania the responsibilities are the same, but local governments are recently imposed by the law to pay the salaries of primary and secondary education teachers from the local budgets, even they don’t have any decision power regarding the employment of these personnel.

  In some countries individual school boards may exercise substantial responsibility for budgets, buildings, the discretionary elements of the curricula and even the appointment of staff. Both local government and parents are normally represented. This may dilute local government control in countries like Britain where it otherwise has devolved authority, or increase it where the State retains the major share of responsibility.
- Hospitals: Comparisons of responsibility for medical services are very complex, because they involve both the ownership and management of medical units and their funding.

In Britain and Scandinavian countries, as also in Ukraine, public medical services are basically financed by taxes through national or local budgets. In Scandinavia medical services are usually a local government responsibility, hospitals belonging to the upper tier. In Britain they are a national government function, though exercised through a complex hierarchy of nominated district health authorities and quasi-autonomous trusts.

In most other countries the operating costs of medical care are met from compulsory insurance schemes; this permits some variety in the ownership and management of hospitals and other medical units. In several countries including Austria, Germany, Hungary, Netherlands, Romania and Poland, local governments provide either primary health care units or hospitals, or both, with varying degrees of financial responsibility for buildings and equipment. Large municipalities or upper tier governments would normally run hospitals. In France hospitals are autonomous units, but the mayor presides over the management board. In Italy medical services are run by special health districts, which are inter-municipal bodies.

- Social benefits: State regulated insurance schemes provide for certain entitlements in all countries including a basic retirement pension, some disability payments and unemployment pay (limited typically to one year). These fixed benefits are administered by local government in Scandinavian countries, but elsewhere by a national network of benefit offices. British, Czech and Hungarian local authorities administer housing benefits.

Local governments are more widely involved in the provision of "safety net" benefits i.e. payments, either regular or in emergencies, to people in poverty like the long term unemployed, old persons with no occupational pension, single parents or the disabled for whom legal entitlements are insufficient. Whilst all countries have this safety net, the degree of local government responsibility for it varies. In Austria, Belgium, France, Germany, Hungary, Italy, Netherlands and Portugal, the whole of the safety net is a local responsibility (higher tier in France and Germany). In some other cases local responsibility is restricted to emergency relief, while state assistance is negotiated.
- Roads: Local governments in all countries except Portugal maintain local and regional roads. British local authorities also maintain national trunk roads, (though only as agents in the case of motorways).

- Public utilities: In Britain water, sewerage, gas and electricity have been privatized though regulated by national legislation. In most other countries these remain local government responsibilities, though usually franchised to companies which operate on a national or regional basis. The ownership of these companies varies widely between countries.

- Fire protection: Within the EU this is a local government responsibility in Austria, Belgium, Britain, Denmark, Germany, Netherlands, Portugal, Spain and Sweden. It is a state function in Greece and Italy, and complex state/local arrangements operate in France. Practice varies considerably in CEE states.

- Police: Municipal police forces responsible for traffic and byelaw enforcement operate parallel to national police forces in Austria, Belgium, Czech Republic, France, Germany, Hungary, Italy, Slovakia and Spain. In Britain there is no national police force; special boards representing local governments and the magistrates supervise county police forces.

- Social Housing: Within the EU local governments have some degree of responsibility for provision of social housing in Austria, Britain, Denmark, France, Germany, Italy, Netherlands, Portugal, Spain, and Sweden. This is also the case in CEE countries. In France, Germany and the Scandinavian countries this is normally undertaken by participation in, and subsidization of non-profit housing companies or associations, which is also becoming common in Britain.

- Regulatory Functions

In addition to the above services most local government systems have delegated responsibility for civil and electoral registration. In Britain, Denmark, Spain and Sweden local government is responsible for consumer protection. In most countries local government has some responsibility for environmental protection, though shared in varying degree with a specialized state agency.¹

¹ Davey K, Division Of Responsibility Between Levels Of Power, UNPAN017645.pdf
3.3. Enabling elements

Other essential factors that should be considered in an inter-municipal cooperation endeavor, besides good local governance and effective and efficient service delivery, consist in legal provisions that enable appropriate policy and institutional development, financial incentives provided by the upper government level or external founders, and capacity enhancements toward strengthening local institutions, associations and human capital.

3.3.1. Essential legislative incentives - policy and institutional environment

3.3.1.1. General legislation

Municipalities are defined as legal persons in connection with their activities aimed at the exercise of local self-government and executive power within the territorial and social community.

Essential policy and legislative aspects that influence the extent to which local governments are able to enter into inter-municipal cooperation in terms of institutional, financial and administrative capacity are:

- characteristics and degree of decentralization concerning governance tiers, size and functions;
- local governance reforms related with regional development and metropolitan areas;
- legal provisions directly encouraging inter-municipal cooperation.

Local government approaches to empowerment and local governance start with an important structural asset: statutory local governments have a legally defined bundle of powers and responsibilities and a legally mandated mechanism of downward accountability through local elections. Not only are local government officials periodically held accountable to their constituencies, but also there is an objective basis in law for attributing responsibility to them for specific services.

The division of competences between central level and different levels of regional/local self-government has an important influence on how the inter-municipal cooperation is encouraged and/or shaped and was already discussed previously.

Alternative service delivery requires an institutional environment favorable to local initiative. Both the formal institutions of governance and the informal institutions of the wider society and economy contribute to the enabling environment for local development through the rules, norms,
and resource endowments that support (or constrain) action and accountability by local people and organizations.

Law and social practice also condition local governance. National legislation provides the formal rules that legitimize such forms of local collective decision-making and collective action as voluntary associations, community organizations, and local governments. Legislation also grants local organizations the legal standing, rights, and relations to the state that are fundamental to effective local governance processes.

Local service provision depends on a variety of non-local factors. National policies set standards for public services and define the institutional arrangements through which they are provided, including the roles of communities, local governments, sectoral agencies, NGOs, and private firms. National governments and externally funded organizations also provide access to many resources supporting local service provision. Further, both formal and informal institutions that affect the functioning of the private sector may influence the availability and quality of public services.

In the short run a viable local service provision through cooperation will depend on measures to promote greater empowerment and improved local governance and local service provision despite rather than based on the broader institutional context. In the longer run effectively and sustainably promoting local development requires a favorable enabling environment for local actors.

3.3.1.2. Policies related with regions and metropolitan areas

In terms of general benefits, policies have also an impact on equity according to the location of services. In general, most services are located in the city and benefit not only the inhabitants of the city but also inhabitants of the areas surrounding the city. In this sense, city-surroundings cooperation policies constitutes a way to make suburbs contribute to financing services located in the city that are used by all. Consequently, cooperation within metropolitan areas might be generally seen as a redistributive policy between households and jurisdictions.

Further adaptation to “balanced competitiveness” of the European context highlights the distinctiveness of the polycentric development of European countries, the close relationship between urban and rural areas and the stronger cross-border cooperation. Hence, the guidelines for metropolitan governance in Central and
Eastern Europe countries emphasize the principle of ‘regionalization’ with focus on performances of an infra-national level of territorial planning and government. This will guarantee also support from European Union to CEE countries in facing the current geopolitical, economic and social reforms of transition, consequences of decentralization and aiming to achieve the integration in continental union.

Particularly important for neighbor municipalities cooperation is what has been called ‘new economic geography’ - bringing together, in a common analytical framework, both convergence and divergence forces from that specific area. Recent location theories can thus help understanding of the evolution of regional inequalities during a process of economic integration, and think about the role of regional policy in such an environment.

In general, efforts are directed at strengthening the regional level in European countries. The northern European countries Denmark and Sweden have benefited from the successful local authority reorganization in the 1970s. In Sweden, where the outcome of the reorganization was partly reversed, new forms of cooperation between public and private organizations came into being in the process of "bottom-up" rationalization. In France there has been persistent discussion about strengthening the "communauté urbaine", whose legal and financial framework was improved by the Inter-municipal Cooperation Act of July 1999. In southeastern European countries, just as in France, weak forms of inter-municipal cooperation predominate, especially as the local level is highly fragmented.

European regional policy is also a powerful factor in regionalization because it legitimizes this level of territorial organization. Regionalization is often aimed at rationalizing and modernizing administrative structures; however, only reforms which are geared to encouraging regional expression, not just the action of the central authorities, can be seen as instances of regionalization, in this case administrative regionalization.

In Portugal, while the mainland regions provided for in the Constitution have been created, this were done largely for the purposes of adapting administrative structures to the management of the large amounts of structural funds which have been paid to this country.

---

2 UN Subregional colloquium on Municipal and Metropolitan Governance in Central and Eastern Europe, 23-25 May 1996, Warsaw
In **Hungary**, alleviation of regional inequalities is the key strategic task of regional development. Differences between Budapest and the rest of Hungary, between the eastern and western halves of the country, between towns and villages, and advanced and backward regions and municipalities, need to be reduced with regard to economic development, employment, living conditions, education, access to cultural activities, health, and social and infrastructure facilities and resources. The Regional Development Act has recently been amended, creating a regional level and associated institutions of regional development.

In **Sweden**, the main reason for the debate on new county boundaries was the realization that the existing ones have become meaningless; national administrative agencies (particularly those in charge of road networks and education) often base their action on regional divisions other than those of the counties.

After the beginning of transition, regional disparities have increased and new economic tensions emerged in most Central and Eastern European Countries. On the other hand, for these countries, EU accession presents new possibilities that require important institutional and operational changes. As result, the issue of regional development becomes crucial in every economic and political discussion in CEECs. While economic development is stressed in proposed reforms, the general aim is rather to secure a territorial structure enabling certain responsibilities to be devolved to units capable of coping with them in administrative terms.

### 3.1.1.3. Legal provisions directly encouraging inter-municipal cooperation

In terms of legal incentives directly related to inter-municipal cooperation, municipalities should be firstly allowed to cooperate, to share responsibilities and resources, and should receive the authority to take decisions related to cooperation arrangements in service provision.

**In Estonia**, by the Local Government Organization Act local governments have the right to form different joint institutions together with other local communities. Municipalities may, on the contractual basis, express, represent and stand for common interest, and perform joint tasks.

Thus, municipalities may co-operate, buy and sell public services and form associations of local authorities.

Co-operation of municipalities within a county has a great importance for rural municipalities both in their relations with central authorities and in coordinating
their own activities like organizing big cultural events, elaborating tourism development plans, agree on the candidate to the county governor etc. In every county there is an association uniting the municipalities.

On the other hand, the service subject of cooperation should be under the partnering authorities control and responsibility at least in terms of property, administration and delivery, if not entirely on standards and finance.

In Finland municipalities have a high degree of autonomy. Services are produced mainly by municipality’s own resources and incomes base mostly on tax revenues. Municipalities’ power extends to economy, regional planning, regulations and organizing services production. Municipalities have also a right to cooperate with other municipalities and establish joint institutions.

Municipal cooperation is mainly being developed in order to support the vitality and attractiveness of the region and to ensure employment and basic social services. Forms of municipal cooperation reflect its depth: typical forms are companies, federations of municipalities or agreements on cooperation. Municipal mergers have been discussed a lot, but annually there are only a few amalgamations.

Small municipalities in particular have established municipal offices shared jointly by more than one local authority. To perform the common tasks, a joint municipal committee and an organization functioning under the committee can also be established.

Intergovernmental and inter-municipal approaches emphasize local governments as part of broader policy implementation, public finance, and administrative systems, including each sector’s service delivery arrangements. To meet the technical and institutional demands of each service sector, intergovernmental approaches seek to adjust vertical and horizontal relationships so that local governments play appropriate roles in the governance and management of policy implementation and service delivery alongside deconcentrated central agencies.

The existing Romanian legislation allows the voluntary associations of local authorities for projects of common interest. However, the permission does not support and encourage the partnerships between municipalities because of several “lacks” in complementary legal provisions, for instance the joint access of municipalities to funding for common projects. New legal provisions (in present under development)
provide also the financial incentives and organizational guidelines for “communities associations”.

In Bulgaria, the regional development process calls for inter-municipal co-operation. However, a recent survey reveals that the opportunities for jointly finding solutions to common problems or pooling resources are not sufficiently exploited by the municipalities. Almost two thirds of the Bulgarian municipalities have never had a joint project with another municipality. This low partnership capacity constitutes a serious risk as to the country’s capacity to absorb the structural and cohesion funds. Small municipalities are those that are particularly in need of joining forces and resources to solve in an economically efficient way common problems.

Empowerment depends also strongly on the standing of individuals, voluntary associations, and communities in national constitutions and laws. Opportunities for local action are influenced by political and civil rights and by the property rights regime under which local actors operate. Norms grounded in culture and ideologies also promote or constrain the opportunities for association or/and cooperation to participate effectively and influence local development processes.

3.3.2. Financial incentives

The capability to participate effectively in partnerships and cooperation structure is determined in part by municipalities’ resource endowments—financial, material, informational and organizational. By increasing their access to these resources, local governments and communities become more capable of exploiting opportunities to influence service provision to better meet their needs and to improve their livelihoods through production and commerce.

Along with improving the enabling environment and enhancing capacity, additional financing is often necessary to supplement budget and community resources for promoting local development. Additional funding is frequently required to finance local investments, service delivery, and capacity building in response to citizen and community demand.

3 Assessment of municipal and district capacities for the absorption of the EU structural and cohesion funds, United Nations Development Programme, Sofia, July 2004
In nearly all countries externally transferred resources are contribute significantly to local service provision. Resource transfers from the central to local level are common everywhere because in most countries taxing and borrowing powers are generally concentrated at the central level. Additionally, there are significant differences in regional prosperity and resource endowments, national taxation and differentiated redistribution of public resources in favor of specific regions.

Sometimes public service delivery is complemented by conditional cash transfer programs in which (often) local organizations implement national policies by channeling resources directly to households, enabling local actors to obtain goods and services in the marketplace and providing demand-side incentives for use of basic services. These conditional transfers can be also used to encourage inter-municipal cooperation in order to make the transfers use more efficient or to support a specific sector determined as priority by the central government.

In many countries social funds, community development programs, and other community support approaches are increasingly promoting greater inter-municipal cooperation and integration emphasizing both upstream linkages to policies and fiscal arrangements and downstream linkages to governance and service delivery arrangements.

3.3.3. Capacity enhancement

All possible approaches to increase the efficiency in local service provisions, including inter-municipal cooperation, address the same challenge from the point of view of local capacity and community empowerment. They try to correct low responsiveness and reluctance toward searching the most efficient alternative for local services delivery, the lack of experience in effective inter-municipal co-operation and accessing the EU funds, as well as lack of trust between the potential partnering communities in the way of cooperation efforts.

Sectoral approaches, because of their entry through functional specialization, tend to be better at mobilizing technical capacity but less responsive to local demand and conditions and cross-sectoral considerations.

Traditionally, local government approaches of capacity building have emphasized the separateness of local governments from the central state and promoted their distinctive role as institutions of local governance rather than implementers of national policies. In contrast, intergovernmental approaches have emphasized local governments’ part in a complex, multi-institutional national system of governance and public management rather than the distinctive
characteristics attributable to their political and legal status. Intergovernmental approaches emphasize local governments as part of broader policy implementation, public finance, and administrative systems, including each sector’s service delivery arrangements. To meet the technical and institutional demands of each service sector, intergovernmental approaches seek to adjust vertical and horizontal relationships so that local governments play appropriate roles in the governance and management of policy implementation and service delivery alongside deconcentrated central agencies.

Local government approaches, because of their entry capacity enhancements toward strengthening local institutions, associations and human capital, advocates a broader notion of democracy promoting capacity building of local civil society linked to a variety of processes that increase consultation of citizens by local government officials.

As local actors increase their capabilities by strengthening human and social capital, they are better able to choose how best to satisfy their priorities for public facilities, services, and livelihood opportunities. They are also better able to act individually and collectively on the basis of these choices and to influence government and community action by expressing their preferences and holding accountable those who are authorized to act on their behalf. Empowerment is both a means and an end to development: empowered people are both better endowed with the resources that enable them to satisfy their needs and better able to participate in the arenas of governance and markets through which they can continue to improve their lives.
Chapter 4 Inter-municipal cooperation models and examples

Summary of most common models of inter-municipal organization

Practices in other European countries have generated a variety of co-operation forms, such as joint activities, service supply by one municipality to several neighboring municipalities, joint fund raising, using the same pool of experts, and establishment of inter-municipal councils or associations.

Inter-municipal cooperation leave basic tier municipalities with a full range of local government tasks, but insert various cooperative and contracting mechanisms to compensate for their inadequacies.

The 1990 local legislation in central European countries generally made provision for municipalities to form associations for the common discharge of functions. These powers were largely voluntary and there has been general disappointment at the lack of implementation.

The Hungarian legislation was an exception in that it virtually required very small neighboring municipalities to establish a common office to employ a qualified Administrative Notary. This official is personally charged with performing the municipality's regulatory functions such as licensing, development control and tax assessment. These stipulations are gradually becoming stricter; development control, for example, must be assigned to a common office able to employ a qualified engineer or architect to advise the Notary.

Far greater experience of inter-municipal cooperation lies in those western European states with large numbers of small municipalities. Chief of these is France that has over 2,000 multi-purpose syndicats de communes maintaining roads, water supplies and social and educational services on behalf of their member communes and over 11,500 other syndicats providing a single service such as water supply, schools, electricity, gas or flood control. They are run by joint committees representing the member commune councils and levying a compulsory contribution from them. Roughly 50% of Spanish municipalities are involved in joint authorities, half of them single-purpose and half multi-purpose.

Even in countries where basic tier authorities are generally larger, joint working is common for specialized functions with significant economies of scale. In Britain, there are normally joint authorities at county level for services such as fire protection,
public transport and waste disposal. In Finland municipal authorities form joint
boards mainly for health care, social services and vocational training.

This, indeed, may be the principal lesson of western European experience. Large
municipalities may combine spontaneously to run a highly specialized function which
is peripheral to their main operations and a relatively small charge on their budgets.
But small municipalities do not cooperate readily with neighbors to run a basic
service like a school or a water supply or to share administrative machinery,
whatever the technical merits of such arrangement.

Five types of inter-municipal cooperation arrangements are considered the most commonly used
in international practice. These are:

1. **Joint Service Production (Joint Agreements)** – formation of joint enterprises or agencies
   for certain services (as water supply or road maintenance).

2. **Joint (Shared) Administration** – formed for performance of certain competencies, mainly of
   an administrative nature, such as tax collection and administration, physical planning,
   licensing of various types.

3. **Selling and buying of services (Service Agreements)** – this may include provision of
   services to weaker municipalities for which a fee is paid.

4. **Joint planning and development** – in cases where small municipality has lack of capacity to
   perform the competency alone, such as local economic development.

5. **Joint funding** – in cases municipalities (or municipalities together with an upper level of
government) are jointly funding a mutually useful investment

Taking these into account, it is obvious that what is influencing the rationale of choosing one
model or another is the concrete objective of cooperation derived from the type of service to be
improved.

Inter-municipal cooperation types could be also analyzed by different criteria that may
differentiate them, such as:
- the degree of autonomy related to the specific service/sector;
- the degree of voluntarism in the cooperation endeavor (if cooperation solution was imposed
  by an upper level decision or derived exclusively from the willingness of partners);
- the number and type of partners (how many local governments, what tier of government they are representing);
- the moment on which cooperation took place within the specific program (i.e. from the moment of commonly identifying problems or just at the moment of looking from funds, or even later at the implementation phase);
- the formalism of cooperation (informal or formal);
- the cooperation institutional arrangements - of course derived from the type of service which is object of cooperation and the design of decision-making process best suited to achieve the objectives- (such as: creation of an association of municipalities to discuss and to identify solutions to be carried out by each municipality itself or metropolitan planning councils with the implementation responsibility in each unit; inter-governmental contracts and agreements for the execution of a given function or service – related also with the type of government involved; creation of special agencies with specific functional/sectoral tasks; agreement of services provided by a municipality for another, etc.)

Besides the concrete objective of cooperation, the decision for organizational formula for each case might vary depending on certain existing organizational features of each partner related to the organizing capacity for making and implementing policy decisions.

Taking into consideration that inter-municipal cooperation is confronted not only with an economic challenge, but also a political challenge, coordinating a variety of political and economic actors in non-hierarchical relations is very important in deciding the optimal option for designing the cooperation organizational structure. The assessment of possibilities and hindrances of cooperation should pay attention to the negotiation systems and networking as organizational forms between state and market coordination. Networks, as form of organization marked by the coexistence of cooperation and competition, has some particular advantages over hierarchical structures, especially in administration:

1. The integration of different actors improves the quantity and quality of information as a background for decision-making.
2. Processes of decision-making in networks support the recognition, consideration and acceptance of different and opposing interests.
3. Higher probability that decisions will be accepted; better legitimized decisions.
   - Consequently, balanced solutions are dependent on strategies coupling different political spheres, thus requiring multilateral and simultaneous negotiations. Under these considerations, the appropriate form of institutionalization has to be chosen in accordance with the thematic fields in which actors of the cooperation areas act.
**Examples of inter-municipal cooperation**

**Introduction**

We present the following examples analyzing the type of service provided through cooperation (administrative/human resources services; local public utilities; and planning and coordination functions), focusing on the enabling legal framework, the triggered event/issue that asked for cooperation, the process and especially the cooperation organizational structure.

We have selected four inter-municipal cooperation examples, each of them different in terms of these characteristics:

1) Finland – Oulu – improvement of public services in general
2) Romania – Oradea – development of metropolitan area
3) Macedonia – South west region solid waste management
4) Portugal – Comunidad urbana de Tejo – water supply

In addition, in annex it is provided an analysis of inter-municipal cooperation Switzerland and a table with different types of cooperation in several European countries.
Finland - Inter-municipal organization in Oulu region

Government system in Finland

Finland is a republic, with a democratic and parliamentary form of government. The country is governed under a constitution that was adopted on July 17, 1919.

A president, who is elected to a six-year term by direct popular vote, heads Finland. The Council of State (cabinet) is appointed by the president, subject to the approval of parliament, and is headed by the prime minister. The minimum voting age is 18.

The Finnish parliament is a unicameral body known as the Eduskunta. Its 200 members are popularly elected on a proportional basis for a term of up to four years.

A prefect or governor, who is appointed by the country’s president, exercises executive power in the Finnish provinces. In Ahvenanmaa, which has been granted considerable autonomy, the residents elect a provincial council; the provincial council in turn chooses an executive council that shares governing power with the governor.

In terms of local government administration, every four years residents elect a local council in free and democratic elections. The council is the decision-making authority in municipal finances and operations. The size of the council is in proportion to the local population size; the smallest council has 13 councilors whereas the largest has 85 councilors. The municipal executive board, which is appointed by the council, does the preparatory work on matters coming before the council. The board is responsible for the municipality’s day-to-day administration and financial management. In Finland, the municipal manager is an official appointed by the local council, who serves under the municipal executive board.

Legislation on inter-municipal cooperation

In Finland municipalities have a high degree of autonomy. Services are produced mainly by municipality’s own resources and incomes base mostly on tax revenues. Municipalities’ power extends to economy, regional planning, regulations and organizing services production. Municipalities have also a right to cooperate with other municipalities and establish joint institutions.

Municipal cooperation is mainly being developed in order to support the vitality and attractiveness of the region and to ensure employment and basic social services. Forms of municipal cooperation reflect its depth: typical forms are companies, federations of municipalities.
or agreements on cooperation. Municipal mergers have been discussed a lot, but annually there are only a few amalgamations.\(^4\)

Local authorities can organize their service provision in many different ways. Often it makes organizationally and financially most sense to provide services in co-operation with other local authorities, communities, and enterprises.

There are 250 joint authorities in Finland. Joint authorities are set up by two or more local authorities to tend to specific tasks on a permanent basis. The most prominent joint authorities include regional councils, hospital districts, districts for care of the disabled, and joint authorities set up to perform functions related to public health, and education. Three-quarters of all joint authority expenditure is incurred from organizing health care services.

To establish joint authorities, individual municipalities enter into a mutual basic contract, which also allows them to decide how they wish to organize decision-making within the joint authority. Joint authorities are independent legal public entities governed by municipal legislation.

Small municipalities in particular have established municipal offices shared jointly by more than one local authority. To perform the common tasks, a joint municipal committee and an organization functioning under the committee can also be established.

Limited companies, co-operative societies, and foundations are suited for commercial activities. Private partners, creating a stronger investment base for a wider range of projects can join them. For instance, local authorities have established joint waste management companies, enterprise service companies, and travel bureaus.

If a local authority is a major shareholder in a company, or exercises dominant influence in a community, the said company or community, together with the local authority, make up a municipal corporation. The regulations on municipal corporations determine the policies of the participating companies and communities and their obligation to report to the local authority.

Participating local authorities increasingly agree on how functions are performed without a need to form an organization. Contractual co-operation is common in the areas of waste management, water supply, rescue services, building inspection, consumer and debt counseling, and education. Some contracts are statutory, such as co-operation agreements on rescue services and contracts for building and maintaining regional emergency dispatch centers and purchasing health-center services.

A local authority is also allowed to purchase services from another local authority or the private sector. Competitive tendering for purchased services, and quality management require specialized knowledge. The Association of Finnish Local and Regional Authorities has initiated a project on service competition to help accumulate this knowledge. Regular feedback from service users and open communication play a significant role in service purchasing. The section on information in the Local Government Act prescribes that when some local function has been delegated to a corporation or a foundation, local authorities must inform their residents about these operations in appropriate manner.

Sub-regional co-operation among local authorities has traditionally involved economic development policy and lobbying. In the future, local authorities will be able to organize basic services for their residents on a sub-regional basis and agree jointly on land use planning, land policy, the development of municipal engineering, communication networks, and environmental care. Access to local health care services, and social, education and cultural services can be organized through sub-regional co-operation. To promote this co-operation, the Ministry of the Interior and the Association of Finnish Local and Regional Authorities are currently running support projects initiated by sub-regions.

Local government co-operation in Finland today includes a variety of functions and activities from local economic development programs and regional strategies to public transport, education, health, regional e-government and culture. The models of co-operation vary depending on co-operative municipalities, specific problems and functions. They differ in degree of institutionalization, the scope of activities and organizational forms. There are a number of different organizational models in use, some of them traditional, in the meaning that they have been used for decades, and some of them new and pilot-type models. Many of the new organizations resemble network –model of organization, some of them are more or less traditional hierarchical organizations.
**Trigger event/problem**

In 2002, the government launched a specific pilot program SEUTU (county) to press forward cooperation between municipalities in Finnish labor-market regions. It is a multi-sector program, coordinated by the Ministry of Interior, and includes new legislation as well as some financial incentives to allow the eight pilot counties (Oulu region included) to test different new methods and models of co-operation. Two of the new forms of co-operation permitted by the new legislation are county councils and county governments, which the municipalities can cede their own power to.

Oulu region is a rapidly developing European center of growth consisted of 10 municipalities (187 000 habitants), in which there is a high standard of living and a strong economy. The region has intense growth in high technology. Inter-municipal co-operation in Oulu region has been developed especially in the field of business environment policy.

**No of cooperating municipalities:** 10

**Type of Public Service provided through cooperation:**

- Administrative/personnel services
- Local public utilities
- Planning and co-ordination functions

**Service:** business environment policy

**Objectives of cooperation**

The goal of all inter-municipal co-operation carried through, is that all the parties to the co-operation should benefit from it. More specifically, the objectives of cooperation were:

- to boost the common development, competitiveness and success
- to engage successful business politics
- to enhance the profitability of public services
- to implement efficient planning of the use of land
**Process of cooperation**

In Oulu region the inter-municipal co-operation is organized with the principle of networks. They have a county council and a county government a development team as a coordinating organ and a flexible structure of project teams and work groups set when needed. The municipalities are well represented by their officials. In the below figure the coordinating organization is described with the compositions of the different participants.

The applied network based way of organizing the co-operation has been seen as the best way, so the organization has stayed mainly the same.

The biggest difference compared to earlier times is that the new organization is a subject to public law, so that it can, for example, act as an employer and the municipalities can transfer their
power to it. The most important argument for choosing a network-based organization for Oulu region is that “the organization should be based on activities, not administration.”

In principle, the County council uses the highest decision-making power in the region, and takes care of matters that are written in their county-contract and are common to all the municipalities of the region. The role of the County council can be defined as the strategic manager of co-operation. It has 26 members, chosen by the municipal councils. In choosing the members, the election results are taken into account. County council is a subject to public law and municipalities can hand over their own power and tasks to it. The most crucial duties of the county council are: defining the goals of the co-operation, approving inter-municipal strategy, budget and financial statement, steering and monitoring the activities of other inter-municipal organs. In issues that concern services or that require more resources, the actual decisions are made in municipalities, in their own councils and executive boards. County government and the municipal managers are in charge of the everyday management of inter-municipal co-operation. County government prepares and executes the decisions of the county council. The County government is also responsible for the administration and management of finances of the cooperation.

In addition to that, county government chooses the members of the development team and sets up project teams and workgroups when necessary and defines their composition and aims.

Development team prepares the matters dealt in county government and coordinates the work of the project teams. Sectoral and project teams are either temporary or more permanent. Temporary project teams are based on short and focused projects and more permanent project teams and work groups are built on major service sectors (for example health care services and school services).

The organization is a subject to public law and therefore it is also able to function as an employer. The organization employs a development manager, a project coordinator and one secretary. Needed administrative functions are bought from the city of Oulu.

Achievements

In Oulu region organizational option for cooperation the strength can be found in the flexibility of the structure and the idea of organizing inter-municipal co-operation by activities, not some fixed administration. Another strength is the vast participation of municipal officials, who can be assumed to have the best possible knowledge of developing municipal services.

The biggest challenge of this model is that the process of decision-making involves quite much coordinating and preparing, which means that it is possible that the transaction costs grow bigger.
than the actual results gained in the process. That is because there are quite a few municipal officials involved in the inter-municipal co-operation and municipal officials are in charge of providing and producing services in municipalities, still – the decisions concerning the services are decided on the municipal level, not by the inter-municipal organ, county council.

**Contact:**

Oulu Regional Business Agency Address: Elektroniikkatie 3/PL 22, 90015 City of Oulu, FINLAND

**Mr Heikki Aalto**
The director of Oulu Regional Business Agency
tel. +358 8 558 41300

[http://www.ouka.fi/ouluseutu/yrityspalvelut/English/contact.htm](http://www.ouka.fi/ouluseutu/yrityspalvelut/English/contact.htm)
**Romania – Oradea metropolitan area**

**Government system in Romania**

After the popular rebellion in 1989, in December 1991 and then revised in 2001, a new constitution was approved by popular referendum. The constitution declares Romania to be a parliamentary republic and provides for multiple political parties, a separation of powers between branches of government, a market economy, and respect for human rights.

The president of Romania is elected by direct, popular vote for a maximum of two four-year terms. He or she represents the country in matters of foreign affairs and is the commander of the armed forces. The president appoints a prime minister to head the government; the prime minister is generally the leader of the party with the majority of seats in parliament. The prime minister is responsible for selecting a cabinet to help carry out the operations of government.

Romania has a bicameral (two-chamber) parliament: the Chamber of Deputies, has 346 seats, of which 19 are reserved for ethnic minorities; and the Senate, has 143 seats. Members of both houses of parliament are elected for four-year terms, according to a modified system of proportional representation.

Romania is divided into 40 counties and the municipality of Bucharest. Each unit has its own local government, as do cities (82), towns (181), and communes (2,685 rural areas), within each county.

Legislative, executive and budgetary powers form the backbone of any governmental structure. In Romania, the Local Council holds the legislative powers at the local level. The Mayor influences the Agenda of Council Meetings, thus accentuating the Mayor’s power. The Mayor is also responsible for submitting the budget for approval to the Local Council.

**Legislation on inter-municipal cooperation**

The existing Romanian legislation allows the voluntary associations of local authorities for projects of common interest. However, the permission does not support and encourage the partnerships between municipalities because of several “lacks” in complementary legal provisions, for instance the joint access of municipalities to funding for common projects.

Thus, the existing legal acts regarding inter-municipal cooperation and metropolitan areas in Romania includes:
- The local governments are allowed to conclude partnerships in order to achieve socio-economic, cultural, regional planning and environment protection development, within the conditions of maintaining their administrative autonomy (L 215/2001; OG 26/2000; OG 16/2002; HG 621/2002)

- In order to achieve a balanced development in territory of Bucharest city and 1st rank cities in Romania, the territorial-administrative units from these areas are allowed to associate within a voluntary partnership aiming to establish the functioning of the metropolitan / peri-urban areas. (L 350/2001, L 351/2001)

- Definition of the metropolitan area (L 350/2001; OG 53/2002);

- The zonal plan of the metropolitan area is statutory and is required to be drawn up for solving specific problems of territories (L 350/2001)

Concerning a framework for organizing public-private partnerships, the existing legal framework supports the concession of local public services to private companies (Law 215/2001 on public administration, Law 326/2001 and Government’s Ordinance 32/2002 on public utility services). The PPP is roughly framed by the Government’s Ordinance 16/2002 on public private partnership contracts. The present PPP fields in Romania are the building, repairing and maintenance works financed by local governments, integrally or partially if co-financed by external funds (ISPA, World Bank, etc). The private partners are selected through public bid.

**Trigger event/problem**

Oradea City, the capital of Bihor County, is located in the Northwestern part of Romania 10 km from the Hungarian Border. The Romanian case study of metropolitan area occurs as being different, with some similarities with the cases from Western Europe but up to the specific difference unit, which justify a distinct approach of the proper framework of metropolitan governance. Oradea, like most of the Romanian large cities, shows the characteristics of a spatial urban system of dominating center type. The

---

5 According to L 351/2001, there are 11 largest municipalities in Romania with more population than 200,000 inhabitants (the 1st rank cities): Bacau (in conformity with the 2002 census, Bacau lost an important mass of population, hence it is not anymore a 1st rank city), Brasov, Braila - Galati, Cluj-Napoca, Constanta, Craiova, Iasi, Oradea, Ploiesti and Timisoara.
core city is well developed, while the ring is made of rural localities, characterized by a lower level of quality of life and service delivery. In conformity with the theory and the experience of the Western Europe countries with the same spatial type of metropolitan area (France, Italy, Spain), the Romanian metropolitan areas might be predisposed to be suitable with a hierarchical type of governance. But the particularity of Oradea Metropolitan Area is the functional specialization of the member localities. Hence, the functional complementarity within the metropolitan area comes up as an important factor in considering the network system branding the North European metropolitan areas, for which the metropolitan cooperation built on partnership relation is most appropriate.

Scarce city’s land available for investments and the much lower price of land in the surrounding communes, together with the poor capacity to manage large-scale projects in order to attract investments in the city outskirts, were the starting point for the metropolitan cooperation in Oradea area.

Oradea city serves as the major center for employment, education and training, administrative services, health care, public transportation with connections in the surrounding municipalities (communes) area.

The opportunities of regional cooperation within the metropolitan area outlined that there is a large area of land and facilities available for economic activities but the main drawback is the lack of necessary infrastructure. These features were firstly taken into consideration in the framing of functions to be developed at metropolitan level.

**No of cooperating municipalities:** 8

**Type of Public Service provided through cooperation:**

- __ administrative/personnel services
- X__ local public utilities
- X__ planning and co-ordination functions

**Service:** public utilities provisions, infrastructure investments, planning and coordination

**Objectives**

The main objectives were: to develop a larger-scale and balanced urban planning, as well as to bring qualitative public services and high performance public management. In more comprehensive way, the goal is to elaborate strategies, policies and action plans on priority realm of development interest:
- reinforce inter-communal cooperation by identifying linkages and areas of cooperation for common services: transport, utilities, landfills, environmental, protection, economic development projects, and land management.
- Identify regional infrastructure priorities with linkages to local investment strategies.
- With surrounding communes identify priority regional investments to support regional growth strategies, identify funding partners and advocate for stronger programming and funding, including municipal projects that have a significant regional impact.

**Process**

The first steps made by the Oradea Metropolitan Area (OMA) in sketching an organizational framework for planning and controlling the metropolitan development started from an agreement of inter-communal cooperation which were quickly agreed by all the institutions involved and convincing for strengthening the common participation in metropolitan programs, for fostering applications for funding on metropolitan projects, even for marketing the Oradea case and having impact up to the national legislation which adopted and legally framed the term of “metropolitan area”.

The approaches started in 2001 led to concluding a memorandum of inter-communal cooperation among Oradea City and seven surrounding municipalities: Biharia, Borș, Cetariu, Nojorid, Oșorhei, Sînmartin and Sîntandrei. That protocol states the objectives and actions planned to be developed in co-operation, prioritizing the need for larger-scale and balanced urban planning, need for qualitative public services and for high performance public management. At that time, a survey of the current linkages and cooperation among the communes and Oradea city was undertaken in field. The conclusions outlined the opportunities for regional cooperation within the metropolitan area. Therefore, the survey showed that Oradea city serves as the major center for employment, education and training, administrative services, health care, public transportation with connections in the area. Overall predominant relationships are between Oradea and the neighboring communes rather than between the communes.

The initial agreement for inter-communal cooperation of Oradea city and the neighboring communes was reinforced by a protocol for formally establishing the Oradea Metropolitan Area (2002). Consequently, a methodology of metropolitan areas planning, including the case study of Oradea, was drawn up in 2002.

---

6 Recently, Cetariu commune split into two smaller communes, Cetariu and Paleu, both of them signed the agreement of inter-communal cooperation within OMA.
**Organization: authority, responsibility and functions**

**Political decision:** The Council of Mayors (approved by Local Council decision in each involved municipality) is an authority body in charge with the management of the OMA. It gathers the mayors of all municipalities component of OMA (with right of vote for OMA) and consultative members (the President of the Bihor County, the County Chief Architect and the City Chief Architect). The role of the Council of Mayors is to coordinate the partnerships towards sustainable development at the metropolitan level.

Accordingly, the target activity sectors to be jointly developed within OMA are as follows: Economic development; Controlled urban development; Administration and public services; Attractiveness and accessibility; Improving the living conditions; Regaining and retaining the cultural and spiritual identity of the local community; Education.

In order to be applicable, the Local Council of each municipality must approve the decisions issued by the Council of Mayors.

Regarding the **operational framework**, there are proposals that Executive Groups, depending on nature of projects will undertake the implementation and monitoring of specific projects. Up to now, the operation and maintenance duties for the metropolitan projects have been managed by the private partners of OMA’ local authorities or by the departments of the Oradea City Hall.

**Functions:** Recently, a secretariat of OMA’s coordination and information centralization was established within the Public Real Estate Company of Oradea city. The OMA Administration Office is directly subordinated to the City Chief Architect of Oradea City. The tasks of the new Office are:
- interface nucleus, with role of communication between the member authorities but also with external partners of them;
- centralization of data of metropolitan field of activity;
- assistance and consulting provided to the local government of communes in operating at metropolitan level.

**Achievements**

The stages covered until present prove the establishment of the Oradea Metropolitan Area as being the first Romanian metropolitan organization. The metropolitan area comprises 8 localities, with a total population of 260,964 inhabitants and a total area of 62,104 ha, from which 837 ha

---

7 The study was financed by the Ministry of Public Works, Transportation and Housing.
land available for investments. Oradea’s budgetary strategy, rather neoliberalism oriented\textsuperscript{8}, supports the initiatives in innovating a supra-local governance system. The total budget of Oradea Metropolitan Area raised from $ 34 million in 2002 to $ 50 million in 2003.

The projects of metropolitan interest have started in 2002 through the establishment of a public-public partnership framework between Oradea city and the neighboring communes for the location of an ecological landfill. Additionally, a public-public-private partnership was established between Oradea and four of the neighbor communes (Sinmartin, Cetariu, Nojorid and Osorhei), and the local company of Natural Gas Distribution for the objective of natural gas supply within the area of the subscriber localities. A similar partnership is under discussion with the water and heating company (“RA Apaterm”) for extension of the water supply services within the metropolitan territory. Also, a public-private partnership was concluded between the OMA’s local authorities and the Association of Public Transportation companies that operate within OMA’s territory. A distinct form of associative participation in OMA is the Consortium established for GIS operation on the whole metropolitan area. The GIS Consortium gathers: the local governments of the communes and Oradea, the Public Real Estate Company of Oradea, the University of Oradea, RomTelecom SA (telecommunication company), RA Apaterm (heating company), SC Termoelectrica SA (electricity company), County Office of Geodesie and Cartography, OTL (Transport), TVS (television).

Regarding the metropolitan area planning, it has started the reviewing of Master Plans of all the communes member of OMA, and then the preparation for drawing up of the Zonal Urban Plan for the development corridors which passes by Oradea and the neighboring communes. The new Plans for OMA include the existing instruments of zoning management, and of fiscal zoning, and also the policies and strategies of spatial development and regulatory urban planning comprised by the national and county plans. In the same time, the ICT policy at metropolitan level has started with the assessment and preparation of the informational systems within OMA.

**Contact:**
Andrei Luncan – director OMA, aluncan@oradea.ro, http://zonametropolitana.oradea.ro/

---

\textsuperscript{8} Ionita and Fartusnic 2001, following a study conducted in May-July 1999 on a sample of 600 Romanian local governments by application of questionnaires to the Mayors, summarizes four possible strategies of the local government officials: neoliberalism (reduce expenditure and rely on your sources), welfarism (“tax-and-spend” attitude), passive-realism (reduce expenditure and ask for help, from the central level) and passive-wishful thinking (expand the budget and ask for help)
Macedonia - Solid Waste Management for South-West Macedonia

Government system in Macedonia

The constitution of the FYROM was adopted in November 1991 and amended in 2001. The president of the republic is the head of state. The president is elected by direct popular vote to a term of five years. No person may serve more than two terms as president. The president appoints the prime minister, subject to approval by the parliament. The prime minister and a cabinet of ministers chosen by the prime minister make up the government, which handles day-to-day government operations.

The parliament, or Sobranje, is a single-chamber legislature with 120 members. The members are elected by direct popular vote for terms of four years.

For purposes of local government, the country is divided into 84 municipalities (previously there were 123). Each unit has a directly elected assembly. The Law on Local Self-Government stipulates two main types of competences: a) general competence (autonomous competence: Articles 20–23); and b) delegated competence (Article 23 of the Law on Local Self-Government). Thus, the separate competence – or competence performed in accordance with the bodies of the authority since the previous division of competences (especially in respect of the issue of the public services) – no longer exists and is placed under the competence of the local self-governmental units. However, in the performance of this competence, the municipalities (i.e. the local self-governmental units) are conditioned, that is, restricted to the performance of those functions in accordance with the law, which means that in every case of the implementation of this autonomous competence of the local self-governmental units will depend upon the will of the central authority (which should propose and adopt the respective law).

The municipalities, in accordance with the law and the subsidiary principle, are entitled, in their region, to perform those activities of public interest and of local importance which are not beyond their competence or which are not within the competence of the bodies of the state authority.

The general competence refers to the activities of public interest and local importance that are not within the competence of the central authority, i.e. the scope of the general competence of the bodies of the local self-governmental units will depend on legal regulation by the Central authority. As the law stipulates, the municipalities, within the framework of the law,
autonomously regulate and perform activities of public interest and local importance as stipulated by the Law on Local Self-Government or another law and are responsible for their enforcement. These competences are complete and exclusive and may not be withdrawn or restricted, except in cases determined by law.

**Legislation in inter-municipal cooperation**

The use of inter-municipal cooperation is not something that has a long or intense history in Macedonia. The basis for the use of inter-municipal cooperation is something that is clearly allowed by the local law but not well defined nor are guidelines provided.

The law on Local Self Government, as it is written, clearly provides authority for municipalities to make arrangements and engage in inter-municipal cooperation. It is also clearly permissive in nature and not prescriptive. This is a real benefit to local governments as it provides a level of flexibility and choice not perceived in the prior laws (although in reality available even then). However, these Articles are not without problems for implementation and operation.

The necessity for a better legal definition is not that the central government can provide a greater control. The concept of allowing the municipalities to make such decisions is very sound and allows them the best opportunity to craft systems that meet their real needs. Rather a state sanctioned legal framework serves to prevent unnecessary legal entanglements and difficulties among parties when differences arise. By knowing the parameters of the type of agreement up front, they will be better able to perform. Likewise the ramifications of selecting one type of arrangement over another will be better known if there are clearer definitions. (For example, Article 14, Section 2 provides that municipalities can form “shared public agencies” and Article 3 provides that they can form, “shared administrative bodies in certain areas”. However, nowhere does it distinguish between the two, define them or state what the “certain areas” are.

**Trigger event/problem**

Collection and disposal of communal waste and of non-hazardous industrial waste fall, according to the relevant Macedonian Legislation as well as according to European best practice, under the sole responsibility of the
individual municipalities. Waste collection is, from an economical point of view, a task that can be organized in each municipality individually. State of the art waste disposal, however, is a costly business, which requires the application of the advantages of the economy of scale, to become affordable. To this end solid waste disposal facilities serving less than 500,000 inhabitants are very rare in Europe.

The Macedonian Law on Waste stipulates in its Article 18 Paragraph 3 “Disposal facilities for solid waste collected on the territory of more than one municipality have to be set up by public enterprises, founded by the Government of the Republic”. This stipulation makes solid waste management to a joint task of local government and central government.

In few words, what has determined the cooperation in South West Macedonia was:
- lack of regional operating solid waste management and disposal system; wild dumping as common waste disposal practice;
- insufficient resources of municipalities to provide the individually the services;
- no systems for collection of infectious/medical wastes as well as hazardous industrial waste in place (these wastes being disposed together with household waste).

No of cooperating municipalities: 35

Type of Public Service provided through cooperation:

- __ administrative/personnel services
- X__ local public utilities
- __ planning and co-ordination functions

Service: solid waste management

Objectives

The primary objective of the proposed project is of course to overcome the deficiencies in terms of solid waste collection and disposal in the project area, which have been summarized above. In other words benefits of the projects to Municipalities are:
- minimize any hazards to the public health of the area population, caused by solid waste handling,
- improve the environmental conditions in the entire area, to develop tourism
- protect its natural resources and, last but not least
- reduce the adverse effects of scattered waste, decorating the road- and riversides or the otherwise unspoiled nature of a potentially attractive tourist region.

In few words the goal was to establish an area-wide system for the appropriate collection and disposal of communal and non-hazardous industrial waste only.

**Process**

The project area covers the southwestern part of Macedonia, consisting of the territory of 35 municipalities including the Towns of Bitola, Kicevo, Ohrid, Prilep, Resen and Struga with a total number of approx. 430,000 inhabitants. The project area is being characterized by its wide spatial extension of nearly 7,299 km², implying long distances between the major settlements (up to 100 km) and its division into four distinct topological basins, separated by significant mountain ranges.

The project area displays an in-homogenous picture by its socio-economic structure (70% urban or semi-urban population and 30% entirely rural population, by its clusters of population of various ethnical decent living 552 individual settlements and by its 35 independent municipal administrations in place, segregated along the lines of the political parties they are belonging to.

**The Operation Concept**

Considering the fact, that appropriate disposal of waste would only become affordable by jointly using one regional landfill for all municipalities, an appropriate interface between the individually organized waste collection services and the jointly organized waste disposal services was defined, which allow equal access to the disposal services combined with fair cost sharing.

It was therefore proposed to establish a new joint disposal organization, responsible to operate the central landfill plus the system of waste reception point, strategically placed in the operation area in a way, which allows each communal enterprise to hand over its collected waste to the disposal organization at approximately equal distance from the collection area. This model offers each municipality a gate to the disposal facility close to its doorstep, regardless of the distance between the municipality and the landfill. For using the disposal gate, the individual communal enterprises would be charged with a uniform gate fee for each ton of waste passing the gate.

Based on this consideration and after long discussions in planning workshops, assessing various organization models for their suitability, the nominated representatives of 33 municipalities (out of 35), present at the workshop voted:
- unanimously (100%) for waste collection to remain the responsibility of the existing communal enterprises belonging to the individual municipalities, while the long distance transport and the disposal of waste should be performed by a new entity, to be formed for this purpose;
- with a majority of 87.9% for local government (municipalities) to take the “ownership” of the disposal organization (meant in the broader sense of responsibility);
- with a majority of 81.9% to establish the new disposal organization as a private company or a mixed (private & public owned) company (Voting by municipalities: 2 for private company / 25 for mixed company / 6 for public enterprise).

The strong preference to run the new joint disposal services under mixed management might be explained by the intention to find an appropriate balance between the security of public ownership and private sector operation (and cost) efficiency.

Operation Costs, Financing and Affordability of Services

According to the Macedonian Law and in line with the internationally accepted standards, the costs of collection and disposal of waste have to be born by the waste producing party.

Having in mind the difficult economical situation in the project area, wide spread unemployment and the general reluctance of the population to pay for municipal services, considerations regarding operation costs and fees formed a core part of the concept and feasibility study.

The split of responsibility for solid waste management between collection by the individual communal enterprises and transport & disposal by the joint disposal organization requires two steps of charging. The disposal organization charges the communal enterprise for each ton of waste it delivers at its gates for disposal. The communal enterprise finances its own services plus the disposal services by charging each household, however not per ton or Kg of waste collected, but, according to the relevant Macedonian Legislation per m² of accommodation space occupied by the household.

Affordability of service was estimated and disposal costs were calculated for rural and urban households.

Achievements

What is interesting from the Inter-Municipal Cooperation standpoint is that this municipal cooperation project is being set up as an Association of partners with the municipalities and a private entrepreneur being the partners. The private entrepreneur will also be the “operator” of the system which includes the transfer stations and the landfill. (Note: the actual waste collection function will remain with the individual municipalities).
The municipalities will pay the association the fees for operation and the Association will in turn pay the operator.

The current status of the project\(^9\) is that the feasibility study has been undertaken and some 90% of the municipalities have signed on to the program. They are looking for funding (it is approximately a €20 million project, including from central government) and will need to get it if the organizers are going to continue to pursue the project. In addition the Association itself is not formed yet and won’t be until there is a known investor for the project.

It is envisaged that the facilities and the entire Solid Waste Management System for the South East of Macedonia will start operation by the end of 2006. The system will be accompanied be a technical assistance program.

When asked what the biggest obstacle was, it was not the ability of the parties to agree or disagree but rather the adjustments that had to be put into the program to account for the varying standards of the many municipalities (this project includes large and small municipalities alike from Struga to Bitola and as far north as Kicevo and Prilep). The differing sizes of the municipalities create a wide variety of standards of operation.

As of September 2005, the implementation of this project has not been started yet because a part of the finances supposed to be provided by the Macedonian Government was not allocated yet. The investor, KfW from Germany has provided certain amount of finances for this project. The Macedonian Ministry of Environment and Physical Planning is the administrator of the project. For the development of the project ERN Lahmeyer International (Germany ) and ABC Consulting ( Macedonia ) have been hired.

As of now, it is far too early to judge the success or failure of the enterprise as it won’t even be operational (assuming full funding) for another three years. Additionally there are too many uncertainties to date, to draw any conclusions. From an Inter-Municipal Cooperation standpoint it is nonetheless significant as it is by far the largest project of its kind and involves such a large percentage of the Macedonian population and such a large number of municipalities, that it will have a major impact no matter what happens. In the long run it has the potential to be a significant model of the use of Inter-Municipal Cooperation.

**Contact**

---

\(^9\) Situation described as June 2004
Portugal – Creation of Águas do Ribatejo, a public-private company to build and run multi-municipal infrastructure and systems for water supply and sewage

Government system in Portugal

Portugal is a parliamentarian republic lead by a president elected by popular vote for a five-year term. Following legislative elections, the leader of the majority party or leader of a majority coalition is usually appointed prime minister by the president. The country is governed by the Council of Ministers appointed by the president on the recommendation of the prime minister.

Portugal has unicameral Assembly of the Republic or Assembleia da Republica (230 seats; members are elected by popular vote to serve four-year terms).

At local level there are 309 directly elected municipalities with an average of 33,000 inhabitants each. The municipalities are composed by freguesias, sub-municipalities. There are some 4,240 freguesias. Both are mentioned in the Portuguese constitution and they are called autarquias to stress their autonomy. The municipalities are led by an executive body (the mayor and his (her) colleagues, the number of which depends on the size of the municipality) and a municipal assembly, elected on separate lists. For development and physical planning purposes most of them are freely associated in associations of municipalities, usually with a sub-regional territorial scope. The tasks of municipalities were defined two years before EU Accession (1986) and took into consideration the future role of local governments in EU Regional Fund (ERDF) absorption. They comprise the following areas: rural and urban equipment, water supply sewage and waste disposal, energy, transport and communications, education, culture, leisure, sports and healthcare. For each area the law indicates the precise type of investments the municipalities are in charge of.

In the continental part of the country, only two layers of the Public Administration – central and local – are entitled to carry out and manage own investments. In the Autonomous regions (Azores and Madeira islands) an additional layer – the two regional governments – is the main responsible for providing infrastructure and public services to the population and economic activities.
In 2003 the former Portuguese government has decided to make a new step towards decentralization by promoting new local entities on a voluntary basis which could result from the existing associations of municipalities. Law no. 10/2003 of 13 May 2000 sets the legal framework for those new entities and indeed allocates new possible missions to them, namely the management of the regional share of the EU Structural Funds (but not of the Cohesion Fund due to its “national” nature).

Two new types of sub-regional entities have therefore been created: the “large metropolitan areas” and the “urban communities”, the difference being the number of municipalities and the population involved in each case. Under this legal framework 19 bodies have so far been created covering almost entirely the Portuguese continent.

According to the law a wide range of tasks may be delegated to those bodies either by the Central Administration or by the local governments. The delegation process is on the way but it is still not clear whether the new government elected in February 2005 is willing to confirm this approach and strengthen the new entities or instead decide to call a new referendum on regionalization.

**Legislation on inter-municipal cooperation**

Same in the cases mentioned above, the Portuguese constitution mentions that: The municipal authorities are empowered to form associations and federations for the purpose of the administration of common interests.

Among the other measures taken by the Portuguese central government in order to improve the management at the local level, the Decree-Law nr. 166-A/1999 of 13 May creating a quality system in public services, and Decree-Law nr. 135/99 of 22 April must be mentioned. This legislation defined general action principles that must be obeyed by public services in their contact with the citizens. It established means in various areas: local government associations, administrative modernization, mainly on citizens’ reception in general and on economic agents’ treatment in particular, administrative communication, process simplification, a public consumer counter (specific service for public service clients who have questions or complaints) and management information systems.

---

In addition, in Portugal there are three main mechanisms to bring municipalities together in order to reach agreements on projects to be co-financed by the EU Structural Funds, a specific reason for inter-municipal cooperation: the regional development plan debates, the contracts with the Commissions of Regional Coordination and Development to manage components of the regional operational program and government provisions obliging municipalities to generate common projects.

According to the provisions of article 31 of Decree Law no. 99/94 of 19 April 1994 setting up the structures for the 1994-99 Community Support Framework implementation, it is possible for an association of municipalities to be delegated the responsibility of managing a component of the regional operational programs. This provision has been extended to the 2000-06 programming period by article 36 of Decree Law no. 54-A/2000 of 7 April 2000. In that case the association shall fulfill a number of conditions namely the presentation of a multi-annual investment plan and on the basis of that (after discussion with the Regional Commission) a contract is signed between the heads of the Regional Commission and of the association of municipalities delegating project assessment and approval, payment and control functions to the association. In each CSF usually two contracts are signed: one corresponding to the first 3 to 4 years of the programming period and the second related to the remaining period – the main reasons for that are technical (7 years is a too long period to identify and program projects) and political (municipal elections are held every 4 years).

**Trigger event/problem**

Portuguese government acknowledged the lack of capacities in its local administration, and especially in the most rural ones, in a very early stage. Thus in the 1970s, the GATs, technical support offices staffed with engineers, architects, topographers, designers, economists and other planners, were created (Gabinete d’Apoio Tecnico, cabinet of technical support, created by Decreto-Lei nr. 58/76, 23 November). About 50 of them, each serving a group of municipalities, played an important role since the mid 1970s, mainly in the more deprived
areas. These GATs must be seen as a form of cooperation among local authorities on behalf of the central level; the staff holds the civil servant status and the financial costs are shared by the central and the local level.

Looking back since 1989 one can say that the system has improved along the years mainly because municipalities are more and more aware of the importance of such common projects – in comparison with small local projects – to increase the competitiveness and attractiveness of their territory. The fact that the basic infrastructure related to population needs and well-being is broadly completed is not absent from these considerations and this new positive approach of the local politicians.

At the beginning of this century, the Portuguese municipalities have tried new areas of partnership with the private sector regarding environment investments, notably water supply, sewage and solid waste. In fact the government in 1999 had come to the conclusion that the former model of building infrastructures on an individual basis in those thematic areas did not achieve acceptable results in terms of economies of scale, efficient networks, technical solutions and system operation. Municipalities were then obliged to associate to secure access to Cohesion Fund assistance regarding bulk water supply sewage and solid waste investments. Simultaneously the new EU directives require those investments and their management to properly take into account the polluter pays principle.

Due to financial constraints, to the need of transparency in price formation and to the technical complexity of integrated solutions most associations of municipalities have decided to associate themselves with a public or private company expert in the area, and some have thus adopted a Public Private Partnership solution. Concessions have therefore been established for a number of years by the association of municipalities to a company owned around 50% by the municipalities involved and the remaining part by the private group who had been chosen. The new company has access to the Cohesion Fund assistance and is responsible to build the infrastructures to operate the system to link it to the local networks and to sell the water or collect the waste at real economic prices. It is in fact a public private company providing services to the various local governments of the territory concerned.

The experience is relatively recent and therefore it is too early to draw conclusions. However at this stage it seems a rather good solution in Portugal to prevent malfunctioning or improve
performance of many local and regional systems of water supply sewage and solid waste collection treatment and disposal.

**No of cooperating municipalities:** 9  
**Type of Public Service provided through cooperation:**  
- _ administrative/personnel services  
- X local public utilities  
- _ planning and co-ordination functions  
**Service:** water supply and sewage

**Objectives**  
Águas do Ribatejo is an inter-municipal company created according to Law no. 58/98 of 18 August 1998 (law on municipal, inter-municipal and regional companies). It aims at exploiting and running the water supply and sewage systems of the municipalities of Almeirim, Alpiarça, Benavente, Cartaxo, Chamusca, Coruche, Golegã, Salavaterra de Magos e Santarém. It covers a territory of 3,734 square km and a population of 198,884 inhabitants.

Tasks to be performed by the company are the following:
- to carry out directly or via outsourcing conception, building and operation of units which are part of the systems for intake, transport, treatment and supply of water for public consumption and for collection and treatment of wastewater;
- to provide management, control and technical and administrative assistance services to public or private entities operating in the same field of activity.

This list includes construction, extension, repairing, maintenance and upgrading of infrastructure and equipments necessary to fully perform its tasks.

**Process**  
At the end of the 90s the Portuguese government came to the conclusion that many investments on water supply and sewage carried out by the local governments (according to their legal mission) were not rationally designed, did not incorporate the best available technical solutions and where uneconomic since they did not use possible economies of scale due to the fact that they plan and work separately.

The initiative to set up such a company belonged to the Urban Community of Leziria do Tejo, created according to Law no. 10/2003.
The Urban Community of Leziria do Tejo, a sub-region (NUTS III level) of the Alentejo NUTS II level Region (formerly part of the Lisbon and Tagus Valley Region), covers all the municipalities gathered in the Association of Municipalities of Leziria do Tejo – 11 municipalities and 240,000 inhabitants. Those 11 municipalities are: Almeirim, Alpiarça, Azambuja, Benavente, Cartaxo, Chamusca, Coruche, Golegã, Rio Maior, Salvaterra de Magos and Santarém. The headquarters are located in Santarém. Actually the Urban Community has inherited the staff and organization of the Association.

The Ministry of Environment has then decided to set up a private company – Águas de Portugal, S.A. - fully owned by the State and asked it to prepare investment and business plans covering all parts of the mainland. The territorial units considered for this purpose were usually delimited on the basis of river basins. An interesting feature of this model is that within each basin all municipalities – both large and small – would be charged the same prices and therefore the smaller and poorer municipalities where the investment rates of return are usually lower would not bear higher costs.

On the basis of the proposed division of the country in territorial units the Government has had meetings with the municipalities concerned to try to persuade each group of them to set up a common company with Águas de Portugal where the state owned company would get 51% of the capital. This company would be in charge of investing and running the bulk systems of water supply and sewage, meaning that the local distribution and collecting systems would not be affected by the new solution.

Local systems would therefore remain in the ownership of each local government and would still be run by them. The new common companies would charge the local governments on the basis of the real costs of the water supplied and the sewage treated, the user pays and polluter pays principles being applied. However prices to be paid by the populations are set by the local governments and social considerations may be taken into account.

Most municipalities have accepted the solution and now Águas de Portugal, S.A. is the head of a huge group of companies covering almost the entire territory of the Portuguese mainland. According to the decision taken by the Government the investments to be carried out by the new companies to complete or update the common water supply or sewage systems were eligible and became a priority for Cohesion Fund co-financing.
The Urban Community of Leziria do Tejo however, made its calculations and reached the conclusion that the solution proposed by Águas de Portugal was too expensive, regarding both the contributions in cash to the capital of the new company and the fees to be paid by the municipalities.

For this reason they have chosen to follow their own way and set up a company with a private group selected through an international tender process aiming at running the entire water supply and sewage systems, i.e. bulk and local systems (including equipment for water intake, water treatment plants, pipes, and so on) in an integrated way.

Since two of the municipalities of the Urban Community were persuaded to join another solution – Águas do Oeste, led by Águas de Portugal, S.A. and covering the neighboring municipalities of Oeste NUTS level III unit – the public shareholders of the new company are just 9 local governments and the Urban Community itself.

A business plan with several financial alternatives and a cost-benefit analysis was prepared as a basis for the international tender to be launched in order to choose the private partner.

The estimated total investment involved in the project amounts to 107 million euro, of which 65 million corresponds to infrastructure and equipment related to bulk water supply and sewage and the remaining 42 million to investments in local water distribution and sewage (links to households, other entities).

According to the agreed business plan, the new company will carry out all the investment related to bulk water supply and sewage plus 90% of the local networks to connect to households; the remaining 10% are in charge of the 9 local governments.

In accordance with the Government decisions and after long discussions with the Ministry of Environment the investment on bulk water supply and sewage (worthy of 65 million euro) was submitted to the Cohesion Fund in Brussels. A grant of 68% of the total cost was awarded by the Fund. On their side municipalities may submit if they wish to their investment projects on local connections to the Regional Operational Program of Lisbon and Tagus Valley to get financing from ERDF (up to 75%).

_Draft as January 13, 2006_
On the basis of this EU financing and a “concession” of 40 years to run the systems, calculations were made to find the figures related to the fees to be paid by the costumers. A transitional period of 4 years has been established for the user-payer and polluter-payer principles to be applied meaning that during the first years of operation the amounts charged to the population are still below the economic costs, similarly to what happened before.

As a conclusion with the new system the concerned populations will pay the real costs of water and sewage instead of being charged lower social prices compensated with local budget subsidies. However it will be possible for the municipalities with the new system to set up social fees below the economic cost for certain disadvantaged groups.

In this latter case since Águas do Ribatejo is responsible to invoice all costumers the local governments shall compensate the company for any social fees decided for political reasons.

The structure of the company is a usual one: board of directors, general meeting of shareholders, control board, general council. The board of directors is composed of three members, one of which being appointed by the private partner. The general council is a consultative body where shareholders, company workers and costumers are represented.

Since water supply and sewage are by law a responsibility of the local governments each one of them (after approval of the municipal assembly) has formally delegated to the new company those duties for a period of 40 years.

The capital of the company is 6,306,000 euros and share of the municipalities (51% in total) is divided among them according to their population and relative wealth. Local governments bring to the capital only payments in kind, meaning that a part of their current water infrastructure and equipment is transferred to the ownership of Águas do Ribatejo as their share in the capital.

The creation of Águas do Ribatejo is subject to Law no. 58/98 of 18 August 1998 on Municipal, Inter-municipal and Regional Companies. It is therefore a company where the municipalities have the majority of the capital and is regulated by the public companies law. It has the same status as a company fully owned the local governments and obeys to public procurement legislation. According to Law no. 58/98 such companies must pursue objectives of public interest and its scope should be limited to activities assigned by law to local governments.
The deed of the company fully complies with that legislation and sets the division of the capital among the 11 shareholders: the 9 municipalities involved, the Urban Community of Leziria do Tejo and the private shareholder. The sharing of capital was decided on the basis of the relative development level and population of each municipality: the smallest and weakest municipality has got 1.5% of the capital and the richest and largest one has got a 16.3% share.

In order that most of the investment could be assisted by the Cohesion Fund the private partner is selected by international open tender. This rule is not written but in fact the spirit of the competition provisions of the EU Treaty, according to the European Commission, makes it necessary to adopt such selection procedure.

A delegation act has been signed by each municipality to transfer to the new company not only its assets (as participation in kind in the company’s capital) but as well to delegate to it a number of functions the Portuguese legislation assigns to the local governments in areas such as water supply management and treatment and wastewater collection and treatment.

A written agreement between the 9 municipalities involved and the Urban Community delegates to the latter institution their representation in the general meeting of the company. The purpose of such provision is to ensure that common decisions will be taken inside the organization before they are discussed with the private partner.

**Accomplishments**

The main accomplishments of the project as a result of a partnership agreement between local public and private entities are as follows:

- creation of an integrated system and management to deal with water supply and sewage treatment using the best practices and technologies – it is the only case in Portugal where both vertical (bulk/local) and horizontal (water supply/sewage) integration is applied;
- setting of prices to the end user lower than the proposed ones by the solution defended by the Government (based on Águas de Portugal, S.A., the state owned company), since the project is economically more advantageous;
- application of the user-payer and polluter-payer principles to the end users since it is politically easier for the mayors to explain that the private company can only be interested in the project if market prices are applied; should the local distribution and invoicing be made by the local government (as it is the case in the Águas de Portugal, S.A. solution) it would be harder to convince the population not to apply social prices politically set;
- full advantage of economies of scale and of using a private company with large experience on construction and management of water systems;
- significant reduction of water losses;
- creation of a long lasting partnership system (for at least 40 years) with possible demonstration effects on other territories;
- professional management of the entire system which should ensure less political interference and faster compliance with the EU directives on water quality for public consumption and on wastewater treatment;
- full integration of the new investments with the existing systems and upgrading of the entire network and treatment plants (just regarding sewage Águas do Ribatejo will deal simultaneously with 49 subsystems).

According to the investment plan the percentage of population served will progress as follows:

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2006</th>
<th>2008</th>
<th>2013</th>
<th>2023</th>
<th>2033</th>
<th>2043</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water supply</td>
<td>98.5%</td>
<td>98.6%</td>
<td>98.6%</td>
<td>98.7%</td>
<td>98.7%</td>
<td>98.8%</td>
<td>98.8%</td>
</tr>
<tr>
<td>Sewage treatment</td>
<td>63.2%</td>
<td>85.5%</td>
<td>88.0%</td>
<td>88.3%</td>
<td>88.6%</td>
<td>88.8%</td>
<td>88.9%</td>
</tr>
</tbody>
</table>

It is therefore clear that this new type of partnership led to innovative and more interesting solutions with various advantages from the technical, economical and political viewpoints.

**Contacts**

Comunidade Urbana da Lezíria do Tejo

http://www.cult.pt/cult

Quinta das Cegonhas – Apartado 577

2001-907 Santarém

Tel: (+351) 243303240

Mr. António Torres

Director General

antonio.torres@amlt.pt
Chapter 5 Comparative analysis on different examples from legal, institutional and technical point of view

Local governance and local service provision

In several countries communist regimes undertook forced administrative amalgamations of small settlements which were coupled with regional planning policies designed to freeze development in smaller communities and encourage movement to larger centers. This was greatly resented and after 1989 there was a strong political movement to revive smaller settlements in terms both of municipal autonomy and provision of public services such as primary education, water supply, energy and telecommunications. The right of individual settlements to municipal status is enshrined in a number of constitutions (e.g. Slovakia) and organic laws (e.g. Hungary, Romania).

There is so much variety in the distribution of competences between state and local government that it is very difficult to identify any guiding principles. Within the EU much is due to history. In particular there are differences in tradition between southern European / Mediterranean countries - where the State has maintained both a prefectorial administration and field technical services which have provided many services directly and supervised and assisted the provision of local government services - and northern European countries - where the State has not maintained much executive capacity outside the capital, and has relied on local government to undertake most service delivery.

One practical result of these different traditions is that northern countries have taken more drastic steps to reorganize the structure of local government so that individual local authorities are big enough to manage major services. In these countries, also, most of the technical expertise at regional and local level is employed by local rather than state government. In southern countries the presence of state machinery has enabled the survival of small municipalities, and much dependence on the professional capacity of state agencies.

Within CEE countries, an autonomous level of municipal government was established rapidly in the early 1990s and responsibility devolved to it for physical infrastructure, including communal services, housing and utilities such as water, sewerage and district heating. There have
been considerable delays in most states, however, in reforming the upper tiers of administration, which have affected the speed at which competences such as education, social services, health care and regional roads have been reorganized, due to their larger catchments areas as well as degrees of national concern.

The paradox is that post-communist reforms in countries like Hungary, Romania, etc. have basically created a Southern European structure of multiple local authorities with huge disparities in size and resources, but a Northern European role in terms of function and self-sufficiency. In Romania (as Czech Republic, Bulgaria, and majority of countries) the differences between the smallest municipalities and big cities with regards to the execution of self-government powers are only with the financial resources for their activities and properties managed. The self-government powers are the same for village with 50 people and for the city with 300 000 people.

The devolution in Europe and the CIS embraced a number of standard reasons that are to be preserved while designing inter-municipal cooperation:

− the advantage of local discretion in adapting services to local conditions and preferences
− the opportunity for innovation with only localized risks, but potentially national benefits
− increased accountability, i.e. local pressure on officials to behave promptly, courteously, fairly, honestly etc
− potential for coordination of services and investments which may deal with a common problem (e.g. unemployment) or clientele (e.g. the elderly)
− efficiency savings from sharing of common services (offices, receptionists, equipment etc)
− ability to harness local resources including taxes, knowledge and social responsibility.

There is much emphasis now on partnership between levels of government, rather than "autonomy" or "control". This is partly because of privatization or "de-etatism", but also because contemporary problems like poor infrastructure, unemployment, criminality, or drugs cannot be tackled in isolation by any level of government or even the public sector as a whole.

Traditions

The traditions of the countries presented have significantly influenced the form of local government that has been developed, the size of the units and the level of local autonomy. However, while post-socialist countries have been catching up with Western mainstreams of mixed private and public means of provision, the service structures of Western countries has also been changing rapidly.

Countries with much tradition on inter-municipal cooperation as Finland or Switzerland faced important recent reforms toward more efficient public service provisions and regional development, as
the countries like Czech Republic, Estonia where European integration fostered important reforms, together with accession countries like Romania and Bulgaria and aspirant countries like Macedonia, Serbia, etc.

**Authority and responsibility**

What is common in all presented cases, as in general when about inter-municipal cooperation, is the fact that cooperation happens when:

- the respective municipalities have the right to cooperate and the authority to take decisions related to cooperation arrangements
- the service subject of cooperation is under the partnering authorities control and responsibility at least in terms of property, administration and delivery, if not entirely on standards and finance.

It is clear therefore that we cannot meet inter-municipal cooperation without public service devolution at municipal level together with administrative and fiscal decentralization.

**Process initiation and coordination**

In terms of process initiation and coordination cases were selected to reflect different options of triggered events: from central governments initiative to private economic opportunity.

In Finland case the process of cooperation took place under a broader program initiated by the central government specifically aimed to foster municipal cooperation on different issues: labor markets.

Sometimes, an international assistance program could have an important role in this process initiation as well (structural EU funds in Portugal) or a private company could initiate an inter-municipal cooperation process as a directly involved partner (as in waste collection case in Macedonia, where the initiator was a private investor in the field and he proposed the feasibility study). But even the initial idea belongs to external partners or assistance programs the cooperation cannot be effective without directly involved parties.

In most cases, the search for service efficiency is actually the reason that leads municipalities themselves to look for neighbor partners dealing with complex development projects (as metropolitan area in Romania) or simply sharing some personnel.

**Organizational types of partnerships**

From the organizational point of view, the cases detailed in previous chapter present organizations that result from voluntary agreements among autonomous governmental structures
(Finland) and organizations that emphasize functional aspects, through special agencies (Macedonia, Romania).

In terms of cooperation agreements, we can group the examples from previous chapter into two main categories: service agreements and joint agreements. Examples of joint agreements are a town and village working together to operate an economic project or municipalities jointly delivering social workers capacity building services as in Estonia, or municipalities cooperating to deliver waste collection service as in Macedonia. A service agreement exists when one local government contracts to provide a service to another local government for an agreed upon charge—as in the case of Vinica-Zrnovci joint communal inspector.

The Romanian metropolitan area development encompasses both joint agreement as related to planning and coordination but also service agreements between each pair of involved municipalities.
Chapter 6 Guidelines for inter-municipal cooperation

When to consider inter-municipal cooperation

Local governments choose to collaborate in the provision of services for a variety of reasons, such as:

- **Capture Economies of Scale** — Several municipal services have strong economies of scale that can only be maximized by increasing the service area, often beyond one municipality's boundary. A large recreation center or sewage treatment plant, for example, may be run most economically when used by the populations of two or more jurisdictions. The high fixed costs associated with these facilities can be more easily averaged-out over larger population bases.

- **Avoid Duplication** — It may be unnecessary for two or more municipalities to develop the organizations, and acquire the materials to provide the same specialized service. Consider the example of a dog squad for a local police force. One of the municipalities could assume responsibility for developing the squad and providing the service throughout the broader inter-municipal area.

- **Provide an Otherwise Unattainable Service** — There are several local services that individual municipalities may be unable to provide on their own. Recreation services (and, in particular, recreation facilities) fit into this category, as do libraries, theatres, specialized police and fire functions and other community services such as social planning. Some of these services can only be provided by pooling local government resources.

- **Promote Equity and Consistency** — Several services provided by one municipality have benefits that extend beyond the municipality's borders. Consider economic development, for example. The efforts of one municipality to attract and develop business will almost invariably benefit neighboring centers. A decision by the benefiting municipalities to provide the service together may be necessary from the perspective of equity and to ensure consistent service provision. That is important to the users of services, especially where the service is one that does not necessarily recognize boundaries (e.g. business licensing).
- **Use Existing Expertise** — One municipality may have developed the necessary expertise for a particular service. An agreement with other municipalities could make that expertise available to a broader region. A forensic police service and a high-angle emergency rescue service are just two examples.

A common thread that runs through many of these examples is cost. In simple terms, municipalities often consider partnering with one another to provide important local government services when there is a potential to save money. The potential to improve overall service levels, particularly by offering services that could not otherwise be offered, is also an important driver. Finally, fairness is an important consideration.

**How to proceed setting up an inter-municipal cooperation**

A municipality interested in partnering with another local government should consider the following five-step process:

1. **Identify Opportunity or Need**

   The first step in the process is for the municipality to identify a servicing opportunity or need that the municipality feels it should address. The specific need might be related to:
   - an existing service that needs to be expanded or improved;
   - an existing service that is proving too costly to provide; or
   - a new service for which the community has expressed a strong demand, which is not presently provided for.

   The specific need (or needs) might be identified through a formal strategic planning exercise involving council and the community. Alternatively, the need might be brought to the attention of council by a group in the community, or by a member of staff. The need might also be presented as a partnering opportunity by a neighboring municipality.

2. **Consider Methods of Service Provision**

   Municipalities have at their disposal a wide range of methods for providing local services — partnering with other local governments is just one of the choices available. Before embracing any particular approach, municipalities should examine carefully their needs and objectives related to the service in question, as well as the pros and cons of the various provision methods. Questions to explore include:
can the municipality afford to provide the service on its own, or does the municipality need to rely on others?

will other communities share the municipality's vision for the service?

what is the most cost-effective way of providing the service?

what method of provision would result in the highest level of service, for a given price?

is the municipality willing to share control over the service with another government (the willingness to share control is required, to some degree, in all partnerships)?

will the public accept the involvement of another municipality in the delivery of the service?

do other municipalities have assets or expertise that would benefit the service and its recipients?

do the municipality's collective agreements allow the municipality to consider partnering in the delivery of the service?

does the municipality have any experience in collaborative service provision?

3. **Explore Partnering**

If the municipality determines that partnering with another local government is the preferred method, the municipality then needs to identify and approach prospective partners.

Given the nature of local services, in most cases, prospective partners will be neighboring jurisdictions, close enough to effectively share in the cost and benefits of a particular service.

Finding a partner for a cooperation arrangement can be accomplished by contacting neighboring local governments that already provide the needed service (as sharing personnel in Macedonian case, development land availability and specialized services in Oradea Metropolitan Area in Romania) or that do not provide the service but wish to do so (as in Macedonia waste collection case or Finland labor market). Options are then to be studied thoroughly and officials should focus on realistic programs that show promise from both a policy and financial perspective. After finding a partner, the next step is to jointly study whether the cooperative arrangement is feasible.

A number of issues need to be discussed with prospective partners, including:

- each party's vision for the proposed service, and the extent to which the visions can be made to match one another;
- each party's view with respect to the scope of the proposed service;
- the anticipated cost of the service, and how costs are going to be shared among the participating jurisdictions;
views on governance for the service (e.g., how will decisions be made, and by whom);
- the specific type of partnering arrangement to be pursued (e.g., a regional service through the regional district, the establishment of a joint but separate legal entity, a partnering agreement under the Community Charter);
- the specific roles and responsibilities of all parties in the service;
- the contributions required of each party (e.g., land, facility, expertise, etc.) to implement the arrangement; and
- the conditions under which the parties should be allowed to exit the arrangement.

4. **Conduct a Feasibility Analysis**

   The feasibility study should be viewed as an opportunity for officials to determine whether a proposal “makes sense” economically, operationally, and administratively. After determining a possible service to provide on a cooperative basis and finding a potential partner (or partners), a feasibility analysis should be conducted. Besides economy of scale and beneficiary area determination, this thorough analysis will give elements for the cooperation organizational arrangements (as in Macedonia waste collection project).

   While it is important to give much thought and consideration to implementing a cooperative service agreement, the analysis need not overwhelm planners. A clear goal should be established for the cooperative service provision project. In doing this, the service to be provided should be well described, with the aspects of the service that will remain the individual responsibilities of the participants defined and any particular requirements, which must be addressed by the joint service, clearly stated (as illustrated in details in Romanian Oradea metropolitan area projects).

   Expectations such as cost savings or improved level of service should be clearly detailed. The criteria that will be used to measure the quality or the effectiveness of the cooperative service should be determined as well.

   In addition:
   - In the case of an existing service, a detailed description as to how the service is now being provided by each participant should be clearly documented.
   - The level of service presently being provided by each participant should also be documented, in quantifiable measures.
   - Total costs, as well as participant costs, should be calculated.
   - Determine if the proposed cooperative provision of service meets the established goals.

5. **Develop the Arrangement**
At this step in the process, the municipality and its partner(s) would undertake the work required to actually develop the partnering arrangement. The following types of tasks need to be considered and/or undertaken:

- the development of a memorandum of understanding to outline the vision and intent of the parties to the partnering arrangement;
- the preparation of bylaws to give legal meaning to the arrangement, and to set out the arrangement's parameters;
- the preparation of contracts (e.g., to lease or operate facilities) that may be required in addition to the bylaws;
- addressing liability issues and other insurance/risk management issues that may arise;
- dealing with labor relations concerns that may arise; and
- obtaining the approval of electors, where required.

Certain types of expertise (e.g., legal, financial, personnel) will be required to properly complete many of these tasks.

During this negotiation process, several important issues to consider include:
- Revenue and cost allocation;
- Manner of employment and compensation of personnel;
- Care, custody and control of equipment and facilities;
- Liability;
- Fiscal arrangements; and
- Frequency and method of financial reporting.

It is strongly recommended that any written agreement be carefully reviewed and approved by the local council of each participating municipality, prior to governing board approval. Cost allocation will likely prove one of the more controversial details to be worked out. Individual circumstances will have to dictate the best approach.

There are many administrative matters that will require attention when considering, or entering into, an inter-municipal agreement. Establish a chain of authority. Determine and agree upon a management arrangement. Outline what needs to be done in order to achieve the listed objectives. This involves identifying and recording all of the tasks, sub-tasks and other activities that must be carried out in order to fulfill the terms of the anticipated partnership, and who will be responsible for each. It is important that each partner understands its decision-making authority and that roles and responsibilities are assigned on the basis of knowledge and know-how (not according to financial capacity or power).
The roles and responsibilities should be assigned equitably among the partners so that no one partner is, or appears to be, able to exercise control over the others. Specify the areas of autonomy and interdependence for each. This will include defining the limits of what each partner can do without the approval or knowledge of the other partners. A conscious effort will be required to consult each other on issues that require all partner agreement, such as budget, timetable, and replacement of key personnel.

Determine the procedures for decision-making. In the area of multi-partner partnerships, it is even more important to decide in advance the way in which decisions are to be made - by consensus, majority vote, open or secret balloting, or other manner. Sometimes there are different decision-making processes for different kinds of questions. For example, do financial decisions have to go back to each partner for approval? In the case of disagreement or conflict between the individual partners it is beneficial to provide for a conciliation or conflict resolution process.

Determine the rights of ownership, use, distribution and visibility, of any technology or services that may be delivered by means of the partnership. Depending on the type of product or service that will result from the partnership, some consideration will need to be given to who will retain ownership of each particular asset, and these ownership issues should be clearly defined in the formal agreement. Seek expert or legal opinion when necessary.

Specify the conditions governing the admission or withdrawal of a partner. The procedure that is to be followed when a potential new partner is admitted to the arrangement, or the appropriate compensation that is to be paid if one of the partners withdraws, should be defined in the agreement so that all stakeholders are aware of the arrangements.

Ensure that the municipality’s finance experts and legal advisors, review draft agreements and are satisfied that the arrangements meet the needs of the municipality prior to formalizing agreements. Make sure your advisors know what the municipality’s goals and concerns are. The timetable for the project should be compatible with the needs of each partner. Financial obligations concerning any commitments should be in line with the strategic and financial plans for the municipality. Cost benefit and risk analysis should be carried out and reviewed to ensure the project is in line with projected costs and benefits, and that each partner has sufficient resources to meet their obligations.
Copies of the draft agreement should be circulated to each participating municipal council to ensure that all expectations have been addressed and that council members are fully versed on the project and its ramifications. When finalized, obtain each council's endorsement of the agreement vis-à-vis a formally adopted motion.

Anticipating and planning for potential “roadblocks”
Addressing concerns that may compromise the widespread acceptance and the ultimate success of the program may prove challenging. However, not addressing them can prove fatal. Turf issues, personality conflicts and mistrust can all be minimized and possibly resolved with the proper plan in place.

6. Implement and Monitor
Once the arrangement has been fully developed, the municipality and its partner(s) will be in a position to implement it. Ongoing monitoring of the arrangement is important. Periodic adjustments will need to be considered.

In order to maximize the return on investment, it is essential that resources be managed carefully. In an inter-municipal cooperative project it becomes even more essential to do the appropriate preliminary work, and to maintain careful oversight on the project as it progresses.

Building and maintaining support may be easily accomplished as long as all the relevant stakeholders are involved in the development process. This might include community groups, elected officials, municipal staff or private sector. It is especially important to identify and involve those groups or individuals that fear they will “lose out” should the effort move forward. Whether the fear is unfounded or a real possibility, these individuals should be included (i.e. a delay in involving the central government as an important stakeholder -and founder- in Macedonia waste collection case made the project waiting for central government transfer too long). Avoiding the issue will only diminish the likelihood of success. Good communication is an essential element of the process.
Chapter 7 Policy Recommendations

First, it is important to note that cooperation is not an efficient solution in every situation, and thus policies designed to impose cooperation upon local governments based purely on fiscal considerations will not necessarily produce optimal results for the management of public services.

Secondly, there are certain characteristics of local entities that may reduce transaction costs, political risk, or autonomy losses associated with cooperation, including past experience cooperating in service provision or other issues, presence of a cooperation entrepreneur, and homogeneity among potential partners.

Finally, another aspect of cooperation facilitation is having policies and institutional arrangements in place that encourage cooperation by clearly communicating benefits of cooperation and reducing transaction costs, political risk, or autonomy risk associated with cooperation. Such policies may include sufficient time for decision maker education and exploration of alternatives, flexibility in options, and establishment of an efficient communication link between local decision makers and policy makers. To the extent possible, taking the decision making process out of the political realm may also facilitate cooperation. Policies and institutions sensitive to the conditions required for successful cooperation can lead to more efficient provision of public services management.

The analysis encompassed in this paper as well as many other programs have demonstrated that inter-municipal cooperation is possible, efficient and effective. Without diminishing the effort required to create and maintain these programs, they are minor in comparison to the benefits and outcomes.

Until the state legislature acts to foster inter-municipal cooperation, the municipalities cannot be required to cooperate. Therefore, the challenge is to construct an aggressive program that addresses the incentives for inter-municipal cooperation. This program should include:

- providing local flexibility and decentralization despite the territorial fragmentation concerns
- public service management reforms including fiscal decentralization and financial incentives.
- developing a specific legislation on inter-municipal cooperation
- capacity building programs and assistance to municipalities

Not only institutions, but also functions create identities and ties of community. However, functionally and institutionally induced identification and community are strongly intermingled: both are important parts in the mosaic of territorial communities. Therefore, the answer lies not in
building new institutions at the expense of existing ones, but rather in re-articulating or re-arranging them with each other. This integrating mechanism cannot work along the lines of a fixed blueprint, as if carried out by a single organization under existing conditions. It should not be a model but more of a “framework” gathering general guidelines which can be shaped for shorter or longer time horizons. It will be an “enabling” mechanism which catalyses and coordinates actions by others; and a ‘learning” mechanism which continuously innovates, adapts and communicates. The slim-line coordination remains to be worked out for each theme and activity.

*How national governments and their partners can support inter-municipal cooperation as alternative for better service delivery*

- **Approve laws, policies and procedures** supportive of alternative service delivery (including inter-municipal cooperation) that:
  - improve the legal, fiscal and governance framework for local government;
  - make sectoral policies and systems compatible with local governments’ and community organizations’ empowerment.
  - clarify the rights of local governments on voluntary associations and partnerships;
  - recognize the role of CBOs, NGOs and private sector in governance and service delivery;

- **Enhance local capacity** through investments that:
  - reorient the local public sector to improve horizontal coordination and to promote participation;
  - build social capital through community organizations and voluntary associations;
  - strengthen local organizations, both public sector and non-governmental; and
  - increase knowledge and skills to enhance the technical, administrative and adaptive capacities of local actors.

- **Provide resources** for local development to:
  - finance government budget allocations to deconcentrated public agencies and devolved local governments to increase the coverage and quality of local infrastructure and public services;
  - make grants to local governments, NGOs, and CBOs to finance local investments for improved services to households, economic actors and capacity building;
  - provide technical assistance to local public sector and civil society organizations, increase the availability of information to local actors; and
  - promote transfer of expertise among both local and national actors.
In response to territorial fragmentation of service delivery

As a result the territorial fragmentation of local government is seen as a widespread problem. Options for reform toward improving public services efficiency are to take into considerations the following most common ideas under debate:

- The apparently unshakable trust in bigger territory/population to administer is unlikely to suit the rapid change and the need for institutional adaptability that will characterize the twenty-first century; large and more centralized governments will be further removed from their voters, and less able to respond effectively to local needs and choices;

- The background assumption that smaller and more numerous jurisdictions provide services at high cost is often wrong; small municipalities contract for services with their neighbors, private suppliers, or other providers when it is cost effective to do so, and provide services themselves when that is less costly. In each case, the decision is based on what is technically efficient in specific lines of activity and depends on close familiarity with local conditions.

- Because distant mega-councils have less information on which to base decisions than do councils closer to their voters, the cost savings that provinces hope to deliver through amalgamation often prove illusory, and services are thus less likely to match voters’ wants and willingness to pay.

- The key is most likely to be local flexibility. Cooperation areas with numerous local governments and a variety of production arrangements can respond to local needs at less cost than monolithic amalgamations. The superior performance of such “polycentric” structures stems from competition among governments — and from their service arrangements with outside organizations of various scales, including cooperation in specific tasks with neighboring governments. Decentralization among local governments is no hindrance to economic growth: some of the fastest-growing metropolitan areas are also among the most governmentally fragmented.

Designing a specific legal framework for inter-municipal cooperation on service delivery

- To encourage inter-municipal co-operation, it is not enough to grant municipalities the legal right to build partnerships; municipalities should be given an incentive to generate new development-oriented partnerships, especially where their territorial and economic scale is so small as it is in Bulgaria, Romania, Hungary etc.
- The legal regulation of inter-municipal co-operation should not be considered as an attempt to set limitations to the powers and independence of municipalities. This is rather an effort to give municipalities an opportunity to seek common rational solutions to some specific situations in order to achieve a more effective use of public resources.

- No provisions of the current legislation in majority of countries from SEE and CIS on cooperatives could possibly be used directly to regulate inter-municipal co-operation. The objectives of the legal regulation of inter-municipal cooperation cannot be achieved through amendments and supplements of the existing laws. If the emphasis is to be on cooperation, there should be a special law treating inter-municipal cooperation. Having in view the perspective of inter-municipal cooperation and association, it should be proceeded to the identification of the authorities and bodies which will manage and represent municipalities as legal persons, and the property that these legal persons may use to participate in different forms of association.

**Towards increasing municipal capacity**

- There is little doubt that further capacity building efforts, both in relation to the project cycle and in the application of the partnership principle, are a necessary condition to improve the overall absorptive capacities of the municipalities.

- Advance a culture of cooperation: Cooperation is stimulated by local officials willing to build and maintain relationships with one another. To accomplish this, interaction at the local level must be encouraged through strong leadership at the central (or, when available, regional intermediate level). All central government agencies or regional coordinating bodies (or level of government) that deal with local government issues on a regular basis should introduce new and enhanced lines of communication among local officials. Several new services could be initiated towards this end: creating a list of local officials with expertise in specific areas of cooperation, identifying experienced local officials willing to mentor new officials, and creating a “best practices” registry. Valuable outcome could result from the establishment of a regional working group to identify appropriate partnership issues, partners and resources, to collaborate on setting priorities and to continue discussion among municipalities.

- An educational component that quantifies and publicizes the financial benefits of cooperation: An educational component that deals with the concerns that cooperation will mean loss of access to government, governmental accountability and responsiveness as well as the fear that a municipality’s socioeconomic/ethnic homogeneity will be threatened.

- The implementation of a national capacity building programs in project and partnership skills in favor of all the municipalities is recommended to consolidate to skills acquired by the more
experienced municipalities and to build the skills of the less experienced ones. The programs should cover the whole range of project and partnership knowledge and skills required for inter-municipal cooperation on service delivery. Differences in experience and skills should be taken into account in the design of the program by tailoring the focus and depth of each of its components to the accumulated knowledge and experience of the different municipalities. The lessons learned and best practices of different donor supported training activities should be taken into account when designing the program.

- Focus on offering practical resources: Much can be achieved by merely providing local officials with effective and practical tools that will allow them to work through the process of collaborating with each other: develop management guides and consultative services to support efforts to cooperate and consolidate services. Assistance to those municipalities who are ready to develop intergovernmental cooperative efforts is very important.

Towards improving public service management

- The efficiency of financing and delivering services and their responsiveness to local clients can be enhanced if local and regional governments have access to own-taxes with the right to adjust tax rates. Indeed, the service delivery incentives facing sub-national governments may improve if, at the margin, they have to raise their own revenues through tax increases rather than relying on central transfers or bailouts that soften the budget constraint. This potential impact of own-taxes suggest that proposals for national tax reforms should include tax instruments that can be devolved, or, at the very least, introduce a system of surcharges on national taxes.

- The design and implementation of intergovernmental fiscal transfers can influence the efficiency with which sub-national governments will manage service delivery. Own-tax sources will rarely meet the funding requirements of sub-national governments, and nor does the theory of fiscal decentralization suggest that each tier of government should be self-sufficient. Several factors determine the effectiveness of fiscal transfers. They should clearly specify the conditional and unconditional portions of the grant system. The former leads to a more hierarchical system of accountability – the center holding the sub-national accountable for proper use of central transfers. The latter falls in the category of discretionary resources for which sub-national governments are directly accountable to their constituencies. Also critical is the predictability of fiscal transfers, essential in allowing sub-national governments to plan local service delivery more effectively. Predictability is enhanced through the use of formula-based allocation systems driven by simple measures of equity and efficiency.
In general, the use of unconditional, formula, and block transfers enhances both the predictability and “own revenue” properties of such fiscal flows. However, transfers are also subject to political manipulation by central governments. There is an emerging consensus in the literature that resource distribution across sub-national governments cannot be explained by efficiency and equity considerations alone, that political variables representing the incentives of central political agents are additional and significant determinants. Thus, sub-national governments that are politically disadvantaged, in that there are weak political incentives for central resource transfer towards them, risk having poor capacity for service delivery.

- Over-dependence on central transfers can also undermine the accountability of sub-national governments to the local electorate, and facilitate shifting of blame for breakdowns in service delivery to upper tiers of government. The extent to which the design of intergovernmental transfers effects local accountability depends upon the nature of political relations between national and sub-national governments—if institutions of political competition promote accountability to the local electorate, there will be stronger incentives for quality service delivery.

- Fiscal interdependence between different tiers of governments means that budgeting and evaluation of transfers are also important elements in ensuring efficient service delivery and getting value for money. In terms of the budgeting process, a number of countries have implemented a medium term expenditure framework (MTEF) that allows local governments to participate in a multi-year budgeting system.

- Incorporate cooperation in deficit-financing requirements: Municipalities seeking deficit financing should be encouraged to examine cooperative ventures and service consolidations as a component in restructuring their budgets. Various programs and resources made available at the upper level of government should be prepared to assist these local governments as they evaluate their options.

- Provide funding for feasibility studies: Determining the feasibility of cooperative ventures is an important first step for local governments to take, but there may be reluctance to spend money on feasibility studies during these fiscally stringent times. The central government could help stimulate cooperative ventures by providing matching funds to help local governments pay for these studies. The return on such an investment in local efforts could prove substantial.

- Many proposals have called for the creation of new financial incentives that go far beyond reimbursing study expenses by actually subsidizing cooperative ventures. However, incentives of this nature would be difficult to support in today’s fiscal environment. The act of cooperation itself should result in efficiency and savings. It is those gains that should act as an incentive for local governments.
In the field of local utility and communal services, progress in transforming the public functions is as important as the development of market orientation. Both of these mechanisms are dependent on each other. If transformation of the government functions was stopped before market liberalization, then the position of the state monopoly would be preserved. If privatization was implemented, but public regulation left underdeveloped, then the consumers would be threatened by unlimited power of the newly created private monopolies. Their position is further strengthened by the multinational firms, which increase their shares in the world market of public utilities.

What is really dangerous is the uncontrolled private undertakings supplemented by the system of powerful, incompetent and corrupt national or local bureaucracies. In order to avoid this scenario and more exactly to diminish its existing harmful implications, a conscious and comprehensive policy formulation is required. Main elements of the proposed policies are as follows:

(a) Sequence of steps in the transformation of public utilities should be designed as an integral process.
(b) Developing all the critical elements of the new local public service management model.
(c) A conscious policy formulation to build – in parallel with liberalization - new public institutions and functions. First of all new regulatory functions and autonomy of regulatory institutions should be developed. Monitoring of the progress is also necessary, new institutions and procedures have to be revised regularly (e.g. public procurement rules). Changes should reach their critical mass and continuous revision has to be implemented, when it is required.
(d) Introduction of anti-corruption measures is also important on those areas which are influenced by public functions. Market segment of state orders is the least transparent field of public sector.
(e) In the legal harmonization process, European Union laws of transformation have to be preferred. But expectations of the EU are mainly liberalization criteria, in order to support the free movement of goods, services, capital and people. At the same time the transformation of public services must necessarily involve effectiveness and efficiency measures.
(f) Development of consumer protection is unavoidable. It is one of the most important guarantees, because the public is not equal to government.
(g) Finally, the policy design process on local public utility and communal services should be improved. There are various interconnected aspects of public utilities and consequently there
are so many actors, that all of them should be involved in policy making, otherwise no long
term solutions can be developed.

- Efficiency of services production has a status of cornerstone of cooperation. Objectives of
cooperation are in many cases concentrated to this perspective. The results of cooperation are to
be evaluated after a longer period of time, which requires efficiency evaluation indicators. The
problems of efficiency evaluation are well known worldwide, especially when there are services
of social care and well being at stake. This is too complicated problem to be even described here,
but the point is that without targets and goals of services efficiency, developing municipal
cooperation is in danger to stay rhetorical and separated from other units or municipal sectors
structurally and in development.
Chapter 8 Final conclusions

Further Challenges

In light of the possible benefits of inter-municipal cooperation, one can bring together some general challenges to be further considered:

1) Long-term benefits could be overshadowed by short-term conditions.
   Advocates of cooperation in an area must realize that the end-result of a service provided jointly by municipalities is often subservient to the short-term conditions present at the time of initiative. Some financial crisis, unpopularity of leaders, lack of any immediate gain for citizens can make the goal of smart growth and effectiveness to be quickly lost in light of these negative aspects. Especially when about cooperation as a long-term solution, its immediate effects are too unclear to invite broad voter support.

2) Strong leadership is necessary.
   Almost all successful municipal cooperation cases have been led by strong and popular elected officials. Voters are more apt to listen to people for whom they vote and support, and citizens are likely to consider cooperation on its merits if accountable officials are the individuals advocating it to them. Other community leaders and business leaders are useful and often employed in these efforts, but voters must feel that the main proponents of cooperation are vulnerable at the voting box.

3) Crisis can be a catalyst, but cannot be too widespread.
   A period of crisis presents one of the most ideal times to engage in active cooperation efforts. In this case, voters feel they have something to gain from cooperation that is not currently available: stability. If, however, crisis becomes too widespread, it is possible that no municipality will be trusted enough to take part in a cooperation endeavor.

4) Community Access and Representation
   A common concern related to cooperation is the effect it will have on community access and representation. The most important part of this process is to maintain open lines of communication that will enable citizens to voice their concerns with local decision makers. A good suggestion here would be also setting up a Citizens Task Force on Inter-Municipal Cooperation, which meets regularly, as another good example to how these issues can be discussed in an open forum.

6) Cost Savings vs. Service Quality
Much of the current debate on inter-municipal cooperation revolves around the potential benefits of cost savings versus service quality. While in some situations both goals can be achieved, any community seriously exploring public service provided together must be aware of the problems that can arise by providing jointly a service with unconfirmed benefits.

7) Regional Effectiveness and Economic Development

Economic growth, especially in stagnant or declining regions, stimulates the debate on the reform of local government structure. Proponents of regional government argue that politically integrated arrangements are more likely to attract new (or retain existing) population and business growth. Their main arguments rely on the assumption that initiatives such as regional governance will stimulate investments and the local economy by providing clearer rules and lines of authority, as well as simpler procedures for businesses, a more professional bureaucracy and less risk. In addition, regionalization reduces the limitations due to a lack of coordination between different governments and enhances the planning capacity of local government. Regional systems also possess larger financial resources which provide them a higher ability to offer a wider variety of services to residents and businesses than can governance systems comprised of relatively small, resource-limited, sometimes part-time-staffed municipalities.

On the other side, decentralist scholars argue that politically decentralized government arrangements are a magnet for economic growth and investment. The main argument is that fragmentation is more likely to foster competition between jurisdictions, thus increasing the number of options and the bargaining power of private investors.

The relationship between the structure of local governments and the localization and dynamism of businesses is difficult to establish and, at best, indirect. Economic development is often associated to the quality of governance. Nevertheless, it is necessary to look at intermediary variables such as tax burden as well as the level and quality of public services in order to determine the relationship between inter-municipal cooperation and economic development. Finally, the quality of governance rather than the structure of government might be the critical factor that influences economic development.

Conclusion

Despite the fact that the present analysis does not provide clear-cut responses in terms of the impacts of inter-municipal cooperation, it is critical for any decision maker to build a frame of analysis on the basis of those arguments and to apply these frames to a particular context. The main problem in analyzing cooperative arrangements is that many theoretical arguments are contradictory and rest on different types of assumptions. Empirical studies demonstrate
limitations in clarifying the debates. This is understandable given the very small number of documented cooperation cases that have been available.

In order to gain a clearer picture of the issue, a systematic analysis of the degree of homogeneity of resident preferences, the nature of services provided, the presence and intensity of externalities, and the level of competition will help define the optimal system of inter-municipal cooperation arrangements tailored for each particular case.

It is important to recognize that inter-municipal cooperation provide more opportunities for active distribution policies, for internalizing externalities and coordinating efforts to deliver quality public services.

Nevertheless, developing inter-municipal cooperation in the context of municipalities and local governance is a challenge that consists of different actors, targets, traditions and structures. The biggest challenge is to survive in this complexity, and without becoming conscious of this the survival will truly be endangered. In the name of optimism, though, the possibilities must be always be emphasized.
Bibliography and list of useful resources

Bibliography


Berg, L. van den, Klink, H. van & Meer, J. van der, Governing Metropolitan Regions, EURICUR, Avebury, Aldershot, 1993

Colette Fitzgerald, EU Activities to Strengthen Regional and Local Administrative Capacity, European Commission

Council of European Municipalities and Regions, Complementarities between urban and rural areas in promoting employment and social inclusion

Davey Kenneth, Division Of Reponsibility Between Levels Of Power, UNPAN


Discredited ideas and Utopian ideals driving municipal amalgamations, C.D. Howe Institute study published on “Communiqué” issue

Effective Democratic Governance at Local and Regional Level, Published in Budapest by Local Government and Public Reform Initiative in 2005, ISBN 9639419834


Ionita, S., Expandable Government: How a large, fluid and incoherent central administration avoids taking policy decisions, Crisis Paper, no. 2, Romanian Academic Society, Bucharest, 2002

Iugan Florentina, Experimenting Governance Matrixes –Algorithms of European Governance patterns towards outlining metropolitan framework in Romania, MA Program in Urban Management, IHS Rotterdam, 2003


Junaid Ahmad, Shantayanan Devarajan, Stuti Khemani, Shekhar Shah, *Decentralization and Service Delivery*, Draft: August 24, 2004

Luís Madureira Pires, *Portugal country report - Strengthening Partnership In The Planning And Absorption Of The EU Structural And Cohesion Funds*, UNDP, June 2005


Sulev Mäeltsemees, *Local Government in Estonia, LGI*

*The Future Of Rural Areas In The CEE New Member States*, Network Of Independent Agricultural Experts, Iamo (Institute Of Agricultural Development In Central And Eastern Europe, Halle, Germany), January 2004

**List of useful resources**

Discussion paper - Local Governance and Decentralisation in the ECIS region:

State restructuring and decentralisation dynamics in France: politics is the driving force-
http://www.portedeurope.org/IMG/pdf/cahier_ville007.pdf

How should the state encourage greater municipal cooperation and coordination of plans and actions? - http://www.issuespa.net/viewpoints/1512/

Intergovernmental Cooperation: Partnering with other municipalities can stretch your infrastructure budget dollars further:
http://www.hrg-inc.com/resources_info/intergovernmentalP.asp
Cooperation Between Small Municipalities: Lessons for Israel -
http://www.fips.org.il/fips/site/p_publications/item_en.asp?iid=701


The inter-related roles of the regional and local government in developing local partnerships in Italy - http://www.uwe.ac.uk/bbs/sglg/potsdam/Cape.PDF


The future of rural areas in the CEE new member states: www.eu.int/comm/agriculture/publi/reports/ccrurdev/text_en.pdf

Explaining cooperation in municipal solid waste management: apacweb.ag.utk.edu/ppap/pdf/97/mswaste.pdf
Annexes

The Finnish Local Government Act

Chapter 10: Intermunicipal cooperation (sections 76 - 87)

Section 76
Forms of cooperation

By virtue of an agreement, local authorities may perform their functions jointly.

Local authorities may agree to have a function performed by one local authority on behalf of one or more other local authorities, or that a function will be performed by a joint municipal board.

Local authorities may also agree that a function prescribed by law as resting with a local authority or one of its authorities, in which power can be delegated to an officeholder, shall be delegated with public liability to an officeholder in another local authority.

A local authority's duty to belong to a joint municipal board in a given sector and in some specified area is provided for separately.

Section 77
Joint organs

When a local authority performs a function on behalf of one or more other local authorities by virtue of an agreement, it is possible to agree that some of the members of the organ performing the function in the first-mentioned local authority shall be elected by the other local authorities.

Persons qualifying for election to the corresponding organ in the local authorities concerned may be members of the organ.

If the minutes of the organ have to be made publicly available for inspection this shall take place as laid down in section 63 in all the local authorities party to the agreement.

Section 78
Charters of joint municipal boards

Joint municipal boards shall be set up under an agreement between the local authorities concerned which has been approved by their councils (charter).

The charter shall state the name of the joint municipal board, its domicile, the local authorities that are members and its functions. The name of the board shall include the phrase "joint municipal board".

The charter shall agree on:
• the manner in which decision-making is organized in the joint municipal board;
• the number of members on the joint municipal board's organs or of delegates to the general assembly, and the basis for their voting power;
• the functions and powers of any general assembly;
• the joint municipal board organ that will watch over the board's interests, represent it and make agreements on its behalf, and the way in which the right to sign for the board is decided on;
• the percentage of the board's assets contributed by its member authorities and their liability for its debts, and other matters concerning the board's finances;
• the standing of a member authority resigning from the board and of authorities continuing to be members;
• audit of the board's administration and finances; and
• how the joint municipal board will be dissolved and its affairs wound up.

The charter may also agree that a qualified majority is required for a decision to be taken on certain matters specified in it.

The provincial State office in the province where the joint municipal board is domiciled shall be notified when a joint municipal board is founded and dissolved. A copy of the charter and of the council decisions approving it shall be appended to the notification on founding.

Section 79
Amending a charter

A charter can be amended if the councils of its member authorities all so decide.

If a local authority is required by law to be a member of a joint municipal board in a given sector and specific area, the board charter can be amended if at least two thirds of the member authorities are in favor, and their number of inhabitants is at least half of the total number of inhabitants of all member authorities. Without its consent, no member authority can be required to contribute to the performance of new voluntary functions and to the costs thereof (amended 15.11.1996/844).

Section 80
Contractual capacity of joint municipal boards

Joint municipal boards can acquire rights and enter commitments and have the right to be heard in courts of law and before other authorities.

Section 81
Organs of joint municipal boards
Decision-making authority on joint municipal boards rests either with the member authorities at the general assembly or with an organ designated in the charter and elected by the member authorities.

Joint municipal boards may also have other organs as specified in the charter.

General assemblies shall be held at least twice a year. Representatives to general assemblies shall be elected by the board of each member local authority or by some other municipal organ specified by the council.

The composition of organs other than those referred to in paragraph 1 shall be adjusted such as to correspond to the proportion of votes obtained within the area of the joint municipal board by the various groups represented on the councils of member local authorities, in accordance with the proportionality principle laid down in the Municipal Elections Act.

Section 82

Qualifications for election to organs of joint municipal boards

Persons qualified for election to a municipal elective office under section 33 shall be qualified for election to organs of joint municipal boards. The persons referred to in section 34, paragraph 1, subparagraph 1, or persons in the permanent service of a local authority, shall not, however, be qualified for election.

Furthermore, persons who are members of the board or some comparable organ or perform a managerial or responsible function or have comparable status in a corporation engaged in business operations shall not be qualified for election to the organs referred to in section 81, paragraph 1, if decisions on matters normally dealt with by said organs could well cause this corporation substantial advantage or disadvantage.

It can be agreed in the charter that the members and deputy members of any organ of the joint municipal board other than the general assembly shall be councilors of member authorities.

Section 83

Financing of joint municipal boards

Member authorities shall be liable to finance joint municipal board expenses that are not otherwise covered as agreed in the charter regarding the sharing of liability between member authorities.

Section 84

Resignation from a joint municipal board

A member authority may resign from a joint municipal board. If the charter does not state otherwise, such resignation shall take place at the end of its councilors' term assuming that the
member authority has announced its intention to resign by the end of the calendar year prior to the end of the term.

Section 85

Making minutes publicly available for inspection in a joint municipal board

Once they have been signed, the minutes of a joint municipal board organ referred to in section 81, paragraph 1, and any appended directions of redress, shall be publicly available for inspection. Before they are made available for inspection, a copy of the minutes shall be sent to the municipal board in each member authority. Member local authorities and their members shall be considered to have been informed of the decisions mentioned in the minutes on the day on which the minutes were made available for inspection.

The minutes of other joint municipal board authorities shall be publicly available for inspection if the body referred to in section 81, paragraph 1, so decides and the authority concerned considers this necessary.

Section 86

Application of provisions concerning local authorities in a joint municipal board

The provisions on local authorities in sections 2, 3, 8 and 12-18, section 19, paragraph 1, sections 20-23, 27-29, 32, 33 and 37-43 and in chapters 6-9 shall apply in the case of joint municipal boards, as appropriate. However, section 8, paragraph 2, shall not apply to a joint municipal board as referred to in section 76, paragraph 4.

What is provided in section 57, paragraph 1, concerning public access to council meetings shall also be valid with regard to public access to general assemblies of joint municipal boards. What is provided in section 52, paragraph 1, concerning the disqualification of councilors shall also be valid with regard to the disqualification of general assembly delegates.

If a joint municipal board has only one organ, its member authorities shall elect the auditing committee and auditors, and decide whether to grant release from liability, as agreed in the charter.

What is provided in section 25 concerning a municipal manager shall be valid, as applicable, to the dismissal or transfer to other duties of an officeholder in charge of a joint municipal board as referred to in section 76, paragraph 4, above. For a decision to be valid, it must be supported by two thirds of the total number of votes cast by all the member authorities, as specified in the charter.

Section 87

Arbitration

Draft as January 13, 2006
An agreement on intermunicipal cooperation may specify that any disputes arising from it shall be settled as laid down in the Arbitration Act (967/92).

Macedonian Local Self Government (Article 14, 15 and 61)

The current law on Local Self Government addresses the issue of inter-municipal cooperation in three articles. The law on this matter reads as follows:

**Article 14**

(Inter-municipal Cooperation)

(1) In the performance of their competencies, the municipalities may cooperate among themselves.

(2) For the purpose of accomplishing common interests and performing common tasks that fall within the competency of the municipalities, they may join funds and establish shared public agencies, in accordance with the law.

(3) For the purpose of performing certain competencies, municipalities may also establish shared administrative bodies in certain areas, in accordance with law.

(4) The municipalities may also cooperate with units of local self-government of other countries, as well as international organizations of local communities, and may be members of international organizations of local governments.

(5) The ministry responsible for the performance of activities that relate to local self-government shall keep records on the realized international cooperation of the municipalities, in accordance with the law.

**Article 15**

(Right to Associating of the Municipalities)

(1) For the purposes of protection and enhancement of the common interest the municipalities may form associations, in accordance with this and other laws.

**Article 61**

(Establishing and Abolishing of the Shared Administration)
(1) Shared administration bodies for the performance of certain competencies shall be established or abolished on the basis of a decision adopted with majority vote of the total number of members of each municipal council.

(2) Based on the decisions referred to in paragraph 1 of this Article a written agreement shall be signed and it shall define: the municipalities that establish the shared administration body; seat of the shared administration; the type scope and way of performance of the activities; usage of the facilities and equipment; financing; the manner of its abolishing; and control over the operation of the shared administration body.

(3) The agreement referred to in paragraph 2 of this Article shall be published in the “Official Gazette of the former Yugoslav Republic of Macedonia”.

---

**Romanian legislation related to inter-municipal cooperation:**

*Law 215/2001 of the Local Public Administration:*

Art. 11(1) The authorities of local public administration, within the limits of their competencies, have the right of cooperation and association with other authorities of local public administration from Romania or abroad, according to the law.

Art. 12 The authorities of local public administration can conclude agreements between them and can participate, including by allocation of funds, in the elaboration and implementation of regional development programs, according to the law.

*OG (Government’s Ordinance) 53/2002 on the Frame-statute of the territorial-administrative units”*

Art. 4 (3) The communes around Bucharest and around the 1st rank municipalities can be organized in the metropolitan area of the respective large municipality.

Art. 4 (4) The organization and functioning of metropolitan areas are undertaken according to the law.

---

Law 351/2001 on approval of the National Territory Plan – section IV The network of localities:

Art. 7 (1) In order to achieve balanced development of the territory of the Capital area and of the 1st rank cities, the administrative-territorial units from these areas can associate each other
within a voluntary partnership with the goal to establish metropolitan areas adjacent the urban space. The association contributes to strength the complementarities between these units and the decision-makers interested in territory development.

Art. 7 (2) The metropolitan areas function as independent entities without juridical status.

Art. 7 (3) The metropolitan areas can function on a perimeter irrespective to the boundaries of the territorial-administrative units, commonly agreed by the authorities of local public administration.

Art. 8 The metropolitan area association, with agreement from the Local Councils and from population referendum according to the law, adopts the area development program.

Annex 1, definition 11: Metropolitan Area – area established by association, based on voluntary partnership, between the large urban areas (the Romania’s Capital and the 1st rank cities) and the neighboring urban and rural localities within a distance of maximum 30 km, among which multi-realm cooperation relations have been developed

Law 350/2001 on urban and regional planning:

Art. 43 The Zonal Territory Plan is statutory and drawn up for solving specific problems of certain territories. These territories can be:

- Inter-communal or inter-city, encompassing basic territorial-administrative units, communes and cities;
- Inter-county, encompassing county parts or counties;
- Regional, encompassing more counties.

Annex 2, definition: Metropolitan Territory – the area around the large urban agglomerations, bounded by specialized studies, within which reciprocal influence relations are created in the realms of communication ways, economic, social, cultural and utility infrastructure. Usually, the boundaries of the metropolitan territory surpass the administrative boundaries of the localities and can surpass the boundaries of the county.

Annex 2, definition: Peri-urban Territory: the area around the cities and towns, bounded by specialized studies, within which inter-dependency relations are created in the realms of economy, infrastructure, job migrations, supply of green areas and recreational areas, provision with food products, etc.

Current initiatives on further elaboration of legal acts concerning institutionalization of metropolitan area development in Romania:
- law project on organizing and functioning of urban communities, drawn up by the Parliamentary Group of the Liberal Party within the Romanian Chamber of Deputies (2003). The draft comprises many similarities with the French law on “communautes urbaines”. It was submitted to the Parliamentary Commission of Public Administration, Regional Planning and Environmental Balance, but it was not agreed.

- Study on the opportunity of promoting a legal act on regulating the metropolitan area organization. The study is coordinated by an inter-ministerial committee, gathering representatives of the Ministry of Public Administration and Home Affairs, the Ministry of Justice, the Ministry of Economy and Commerce and the Ministry of Transportation, Building and Tourism\textsuperscript{11}.

The Capital’s Law: the fragmentation of Bucharest City and mergence with the neighboring communes. The project, promoted by the Mayor of the 1\textsuperscript{st} sector of Bucharest city, proposed establishment of a metropolitan government led by a Guvernator with status similar as a prime-minister. Several services administered by the Central Government would have been transferred to the new metropolitan government (subway, airports, utilities). The representative body (Metropolitan General Council) would have been included partially elected, partially appointed members. The reference for the new organization was mentioned as being Rome, Ital

\textbf{Council of European Municipalities and Regions (CEMR) criticizes EU Commission and Court of Justice}

(\url{http://www.ccre.org/communiques_de_presse_detail_en.htm?ID=112})

Representatives from European local government and the European Commission came face to face at CEMR's seminar on intercommunal cooperation, in Brussels, on 29 September 2005. At issue was the impact of European law on cooperation between municipalities.

Over 80 participants attended the seminar, including local government representatives from Germany, France, Italy, Britain, Poland, Sweden, the Czech Republic, Belgium, Austria, Greece, Denmark, Estonia, Slovakia, the Netherlands, Cyprus, Luxemburg, ...

\textsuperscript{11} \url{http://www.gov.ro/presa/afis-doc.php?idpresa=17250&idrubricapresa=&idrubricaprimm} (June8, 2003)
CEMR secretary general Jeremy Smith, gave participants an overview of the current situation facing intercommunal cooperation. He pointed out that recent judgements of the Court of Justice put at risk many long standing arrangements between local governments. These include the delivery of frontline services, but also back-office cooperation between municipalities, whose purpose is to improve efficiency, eg sharing call centers: We cannot accept the full reasoning of the Court in the recent Stadt Halle and Coname cases, and we are also concerned at the approach of the Commission which appears not to understand the advantages of intermunicipal cooperation.

Jeremy Smith explained that the main problem encountered by local governments in the field of intercommunal cooperation is the public procurement directives: The current European legislation is not clear about whether and in which cases a group of municipalities is allowed to directly assign a task to a public company they have created together and for that purpose, or whether and in which cases they must issue a call for tenders open to private companies. CEMR's view is that local governments should be allowed to directly assign a task to a company they control along with other municipalities if the task is a local public service delivered across their joint area, and that the main aim is not to make profit.

The concept of intercommunal cooperation is more than well established throughout Europe. Prior to the seminar, the Council of European Municipalities and Regions conducted a survey amongst its members. The results, presented at the seminar, show that intercommunal cooperation exists in various forms and shapes in every European country. In every country that responded to the survey, the creation of intercommunal cooperation is not subject to tendering procedures, and equally, in almost none of these countries is the participation of private shareholders subject to tendering procedures.

Local government speak with one voice

European local government representatives explained how intercommunal cooperation works in their respective country and what impact the EU legislation and Court of Justice's decision may have on it.

The representative of the association of Flemish cities and municipalities, Christof Delatter, called on the European Commission to aknowledge that intercommunal cooperation can have a positive influence on competition. The presence of companies set up by a group of municipalities...
can force private companies to take them in consideration when replying to a call for tenders. Similarly, the presence of private companies forces publicly-owned companies to be more economically efficient. Unfortunately, when a group of municipalities tries to become more efficient by creating a jointly-owned company, the European Commission imposes stricter rules on them than on the private sector.

Lee Digings, of the British Improvement and Development Agency for local government, stressed the contradiction British municipalities are faced with: The British government is pressing its local government to be more efficient, i.e. to join forces to provide better services; but at the same time, the current attitude by EU bodies discourages local government to create such groupings. He also explained that "public-public partnership" (as opposed to public-private partnership) in Britain is not only between local governments; it can be between local and regional governments, or even between municipalities and the national government. French participants added that this multi-level cooperation applies to France as well.

The EU institutions reply...

European Commission's DG Internal Market representative, Robert Wein, disagreed with local representatives's views, he explained that the assumption that intercommunal cooperation is a field totally distinct from public procurement laws is erroneous: In many cases, there is an overlap of both concepts. Cooperation without contracts against remuneration is outside the realm of Internal market rules, but when such cooperation includes remuneration between public entities, then the Internal market rules apply. We must make a distinction between procurement activities between public entities, and other forms of intercommunal cooperation.

The Court of Justice was represented at CEMR's seminar through Rita-Maria Kirschbaum. She pointed out that more and more in the recent years, the European Commission has seized the Court on issues connected to public procurement, even in cases when no third party has started court proceedings.

Articles:
A. CEMR "baffled" by Court of Justice ruling on public procurement case

The Council of European Municipalities and Regions (CEMR) expresses serious concern at the recent European Court of Justice’s ruling in the Coname v. Comune di Cingia de’ Botti case (C-231/03).

CEMR believes this decision damages the right of municipalities to decide what is the best way for them to deliver public services to their citizens. In particular, it undermines long-standing “intercommunal” arrangements, under which groupings of local authorities join together to deliver local services across their joint area.

The Court held that even though the public procurement directives did not apply to this case (the award of a concession), the municipality did not have the right to award the task to its intercommunal company (Padania) without opening up the process to the private sector. Even where the public procurement directives apply, local governments may give tasks directly without tender to companies they fully control, and which operate almost wholly in the locality.

Yet in the Coname case, one of the Court’s main arguments is that a municipality cannot simply award a local task to a company which it and other local authorities own if this company is partially "open to private capital". The Court’s argument is baffling, says CEMR secretary general Jeremy Smith; its decision is not based on the fact that a percentage of a public company’s shares are actually owned by a private undertaking, but on the fact that some of these shares might one day be owned by a private company!

This case highlights once again the unacceptable level of uncertainty that European local governments have to face whenever their own in-house services are concerned. The Court of Justice keeps moving the goalposts. The EU institutions are supposed to be neutral between the public and private sectors in service delivery, but that is not how things are working out in the Court’s case law. In the last week or two the European Commission has shown welcome signs of better understanding the need not to trample on local self-government and local decision-making, in its decisions on public service compensation, and the new draft Regulation on public transport. What we need is less bureaucracy, a less top-down Europe. It is high time the Court of Justice stopped creating new law that goes in the opposite direction.

The Coname v. Commune di Cingia de’ Botti case

The municipality of Cingia de’ Botti (province of Cremona, Italy) awarded directly the service covering the maintenance, operation and monitoring of the methane gas network to Padania, a
company (Padania) with predominantly public share capital held by the province of Cremona and by almost all the municipalities of that province including Cingia de’ Botti. The consortium Coname contested that award, claiming that it should have been made following an invitation to tender.

On 20 July, the Court stated that an undertaking located in another Member State must be able to have access to appropriate information regarding the concession before it is awarded, in order to be in a position to express its interest in obtaining that concession.

In addition, the Court observed that the public company Padania is open to private capital, which precludes it from being regarded as a structure for the ‘in-house’ management of a public service on behalf of the municipalities which form part of it.

B. Public procurement: CEMR slams Court of Justice's decision as damaging for local democracy

The Council of European Municipalities (CEMR) strongly criticizes the European Court of Justice's decision (11th January 2005) in the "Stadt Halle" case as an unbalanced prioritization of the market over local democracy and self-government. CEMR calls for the law to be changed to respect the principles of subsidiarity and local democracy.

The question raised was whether the local government - the German town of Halle - could lawfully assign the task of disposing of its waste to a company it had established, and in which it held a dominant 75% interest, without a public tendering process (the minority interest was held by a private company).

The EU public procurement rules require a tendering process whenever it is proposed to let a public contract over specified financial limits. However, there is no legal obligation to tender services which are directly managed by the local government itself. Moreover, earlier ECJ jurisprudence (the Teckal case) has clarified that the European tendering requirements do not apply to a local government which assigns a task to a company it has set up, provided that:

- it controls the company in a manner that is similar to the control it exercises over its own departments, and

- the company carries out the large majority of its work for the local government in question.

The law treats such cases as being “in-house” delivery.
Despite this, the ECJ in the Halle case held that the city had acted in breach of EU law by not tendering the service. The Court claimed that the presence of any private share-holding in a public company means that the EU competition rules must apply, however small that private holding.

We are dismayed that the ECJ has ignored the persuasive reasoning of the Advocate-General in this case, says CEMR secretary general Jeremy Smith. Instead, it has produced a thin and rather ideological ruling which totally ignores any aspect other than the supremacy of private sector competition. CEMR believes in competition, but also believe that elected local governments must have a degree of choice over how best to deliver purely local public services for their citizens. It is a nonsense to conclude - as the Court has done- that just because there is a minority private holding in the company, a local government cannot exercise the same kind of control as it does over its own departments.

CEMR believes that the Court of Justice's decision totally ignores how modern local government works, i.e often with other stakeholders playing an important role in decision-making. Yet, ultimately it is the issue of control that should count - and here the local authority obviously had full control. The Court's decision puts at risk the viability of publicly controlled companies across Europe.
In Switzerland, different arguments are used for inter-municipal cooperation. They are primarily of an economic nature. Many municipalities, it is argued, would have a less-than-optimum size for professional task fulfillment. The administrative advantages of size, as well as an increase in professionalism, could be attained by cooperation among various small municipalities. Regional welfare and consulting departments often exist, for example, in the social and health-policy area, since the offering of professional consulting services is thus possible for the inhabitants of small municipalities (that is, a broader range, better quality, and the tendency to be less expensive). Another reason for cooperative ventures can be the fact that a municipal catchment area is too small for the installation of the necessary expensive infrastructure, e.g., schools, hospitals, or homes for the elderly. By means of mergers, supply and demand can be better synchronized. Furthermore, there are tasks, e.g., in public transportation, that go beyond the traditional municipal boundaries. The tasks of the municipality would, as it is argued, correspond less and less to the historically established municipal boundaries. The functional instances of integration no longer relate only to traditionally trans-boundary functions, such as, for example, the supplying of water, but also increasingly to social and cultural services. Another advantage of cooperative ventures is the fact that the position of the municipalities vis-à-vis the super-ordinate level of the state tends to be strengthened. Furthermore, a duplication of offerings is avoided, something that is more economically beneficial.

In summary, then, the opinion is that, the more precisely the recipient of services is dovetailed to the costing unit, that is, the smaller the "spill-overs" are, the more efficiently the local administrative bodies perform their services. To begin with, political and organizational reasons opposing cooperative ventures are stated. The possibility exists, it is said, for the individual municipality to lose part of its autonomy. Furthermore, in the case of certain forms of cooperation, democracy deficits could ensue. From the organizational perspective, one complains of unclear mandates and responsibilities, a lack of cost transparency, and, finally, that municipalities would have to bear the costs resulting from decisions on which they are able to exercise little or no influence. Furthermore, many agreements with participating partners would be necessary, something that awakens bureaucratic fears.

Concrete Implementation in Switzerland

Draft as January 13, 2006
Inter-municipal cooperation has a long tradition in Switzerland. Already in the middle of the 19th century, small municipalities founded public-legal associations. Due to their relatively great autonomy, the municipalities can freely regulate their forms of cooperation within the framework of cantonal law. The cantonal survey has shown, however, that there is a large number of areas in which the canton stipulates cooperation or supports it by financial incentives. This is most often the case in the areas of healthcare (35%), education (31%), planning (31%), and waste disposal (27%). Recently, in 19 of 26 cantons, the cantonal administration initiated projects in order to promote cooperation.

The municipal survey confirmed the increasing significance of inter-municipal cooperation: 63.0% of all municipalities have intensified cooperation. In 36.4% of the municipalities, activities have remained the same, and only in a very few municipalities, can a drop in activities be recorded. It is primarily those municipalities with more than 2,000 inhabitants that have an above-average incidence of expanded cooperation.

If one considers the average number of task areas in which there is inter-municipal cooperation, it is striking that the number of areas in which small municipalities (100-2,000 inhabitants) cooperate is below average. This can probably be explained by the fact that municipalities fulfill certain tasks only when they are above a certain size (e.g., in the cultural area).

Examples of inter-municipal cooperation exist for all municipal tasks. Cooperative ventures in school issues, medical care, sewage issues, waste disposal, and civil defense are the most widespread, with more than 60% of the municipalities cooperating in these areas (see Figure below).

Cooperation in the various areas of general municipal administration (information technology, accounting, residential monitoring, and human resource management) and in the tasks fulfilled by the municipal police has expanded very little, with values less than 20%. Interestingly enough, among those tasks for which cooperation has not yet expanded, there are a large number for which municipalities reach their performance limits at an above average frequency.

Figure: Frequency of IMC According to Task Area
During the past five years, cooperation in the areas of care for the unemployed, civil defense, fire brigade, and medical care have increased at an above-average rate. The marked increase of unemployment at the beginning of the 1990s and the cost explosion in the healthcare system may have demonstrated the need for inter-municipal cooperation in the areas of care for the unemployed and medical care.

The special purpose association is the most frequent legal form of cooperation for task fulfillment. At least 1359 of these exist (18 of 26 cantons recorded this data). According to the municipal survey, the special purpose association is selected most often as the cooperative form in the areas of sewage (82.0%), welfare (68.1%), waste disposal (67.8%), civil defense (63.3%), and schools (57.4%). In these cases, one is dealing with resource-intensive task areas. In individual areas, however, the private law organizational form is also frequently represented at an above-average rate, e.g., in the areas of energy supply (39.0%), medical care (29.2%), and care for the
elderly (22.1%). Here, one is dealing with tasks from the health care area and deregulated tasks. Contractual solutions are frequently found when municipal authorities cooperate in tasks having to do with the municipal police (47.5%), information technology (43.6%), accounting (38.3%), the fire brigade (36.7%), and human resource management (35.6%). These tasks are often internal processes, but a concrete pattern is not visible.

The local authorities think that cooperation necessitates more agreements with other local authorities, that the cooperative venture is less flexible in conforming to changed circumstances, and that the range of services can be extended. In addition to this, they believe that the quality of performance increases. That the strain on the municipal budget can be relieved is more likely to be answered in the negative.

Swiss local authorities further, above all, contacts with neighboring municipalities (see Table below). Important negotiating partners are also municipalities in the district and in the canton. Interestingly enough, local authorities likewise further intensive contacts with municipal interest groups. Local authorities think quite locally. They have only little contact with cantonal municipalities that are located farther away. Practically no contacts are furthered with supra-cantonal entities or the federal administration. As a general rule, government institutions are the most important dialogue partners of the municipalities.

Table: Intensity of Cooperation with other Municipalities and Levels of Government

<table>
<thead>
<tr>
<th>Neighboring Municipalities</th>
<th>3.8</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canton</td>
<td>3.4</td>
</tr>
<tr>
<td>Municipalities in the District</td>
<td>3.1</td>
</tr>
<tr>
<td>Municipal Interest Groups</td>
<td>3.0</td>
</tr>
<tr>
<td>Municipalities Within the Canton</td>
<td>2.3</td>
</tr>
<tr>
<td>Private Enterprises (Public-private Partnerships)</td>
<td>1.9</td>
</tr>
<tr>
<td>Federal Government</td>
<td>1.8</td>
</tr>
<tr>
<td>Municipalities Outside of the Canton</td>
<td>1.5</td>
</tr>
</tbody>
</table>

Averages on the Likert Scale from 1 to 5 (1 =“no contact at all“ to 5 =“very intensive contact“)
<table>
<thead>
<tr>
<th>Country</th>
<th>Forms of pooling services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Municipalities are allowed to create mono-functional consortia and may enter into more than one consortium. The organization of consortia is governed by Land regulations.</td>
</tr>
<tr>
<td>Belgium</td>
<td>Municipalities may form joint authorities of different types (limited companies, nonprofit organizations, cooperative and private entities together with public and private law). The joint authority has considerable powers as it may contract loans and expropriate in the public interest. The supervisory authorities are the regions.</td>
</tr>
<tr>
<td>Denmark</td>
<td>Agreements between local authorities must be approved by the supervisory authority (Ministry). The joint authority is responsible for annual expenditures. Intermunicipal cooperation is frequent and can take many forms under private and public law.</td>
</tr>
<tr>
<td>Finland</td>
<td>All municipalities are members of joint boards. Cooperation concerns mainly healthcare, vocational training and social services.</td>
</tr>
<tr>
<td>France</td>
<td>Local authorities may associate on the same level or include different levels (mixed consortia). The cooperation entities associating local authorities at the same levels are: consortia, districts, urban communities, new town consortia, communities of communes, communities of town. All joint authorities are public law bodies, invested with legal status and financial independence. The prefects supervise their acts. Besides these special forms of intermunicipal cooperation, there are about 18'000 joint authorities, either single or multipurpose.</td>
</tr>
<tr>
<td>Germany</td>
<td>Legislation provides a variety of possibilities for intermunicipal cooperation. This can involve the creation of a public corporation, to which powers are transferred from the municipalities, or the setting-up of local working groups where the members co-ordinate activities without abandoning their areas of responsibility. A variety of other forms of association can be entered into according to the local situation and “Länder” legislation.</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Municipalities are allowed to co-operate provided they do not evade their public responsibilities. Cooperation is voluntary in principle, but restricted to a specific</td>
</tr>
</tbody>
</table>
geographical area defined by the province (some port authorities and large industrial zones are required to co-operate by an Act of Parliament). There are three models of cooperation: the public body (consisting of a governing body, an executive committee and a chairman), the joint agency (without hierarchical administrative structures and a legal personality), and finally the "core city" arrangement, where one municipality exercises some powers on behalf of the others.

United Kingdom

In England and Wales there are basically three forms of intermunicipal cooperation: joint authorities, committees and combined authorities. There are statutory joint authorities for the police, fire and civil defense, and public transport, as well as a number of joint or combined police, probation, and waste disposal authorities. Local authorities can combine voluntarily to discharge functions, or provide services to each other on a contractual basis. In Scotland there are few formal joint arrangements.

Sources: Council of Europe, 1995