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CORLEAP REPORT

The role and place of local democracy and decentralisation in the modernisation and consolidation of democratic processes in the EaP

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1. New challenges for the role and place of local self-government in EaP countries with regard to democratic processes, reforms and the modernisation of society

The role and place of local authorities in the new architecture is significantly influenced by the status of local democracy and local autonomy as pan-European values based on the European Charter of Local Self-Government. At the same time, many recent developments, including the pandemic crisis, have demonstrated the efficiency and efficacy of local authorities in dealing with people's problems in emergency situations, confirming the overall validity of the subsidiarity principle. Local democracy is also a basic pillar and a cornerstone of democracy per se, including of national democracy. This is particularly the case for Eastern Partnership countries, under conditions whereby systems of public administration are still poor, national democracy is rudimentary and civil society underdeveloped.

A rather important aspect here is the widespread and recent recognition of local authorities as a significant contributor to European unity and European values, by generating connections, trust and motivation for pan-European processes, responding to people's aspirations across Europe and cooperating closely with other global structures and institutions.

In relation to CORLEAP, the latter thesis has been significantly reinforced by the status and European perspective granted to three Eastern Partnership countries – Ukraine, Moldova and Georgia. Now the question is to what extent candidate status will influence reforms in these countries, on the one hand, and also provide much needed funding for projects (e.g., infrastructure), on the other hand. Will it have the same influence, at the same scale, as was the case with all previous candidate countries before the pandemic crisis? Several factors, which we shall address, affecting both EU members and Eastern Partnership countries, will represent a challenge here:

- the permanent and multiplying crises, including war, climate change, high energy prices and gas shortages, the pandemic, inflation, refugees, etc., which are significantly affecting EU and Member States' financial capabilities, including from the point of view of financial resources for pre-accession needs;
- to what extent the focus on decentralisation, local democracy and local government reforms will be continued in the same way as it used to be for previous candidate countries. Firstly, to what extent, under the new geopolitical conditions, will these reforms be generally important for European Union pre-accession since even previously many of these reforms were left to the discretion of candidate countries. And secondly, to what extent will all of the reforms be imperative under the new geopolitical conditions?
- how the priorities for developing services and infrastructure will be pursued under pre-accession and candidate status, with regard to both the influence of the crises and the funding arrangements. Will the project-based funding system for infrastructure continue, or will some new forms of funding and procedures be introduced?
- what will be the shape of EU relations with the three countries as well as with other Eastern Partnership countries in view of the new developments? Will the current EU structures and institutions accommodate new candidate countries in the same way as they accommodate current candidate countries? Will the structures, institutions and funding arrangements created for the six

Eastern Partnership countries (including CORLEAP) be maintained or will they be adapted to the changing geopolitical environment by creating a new perspective and configuration?

Support for reforms is the key issue for local governments in EaP countries, as these reforms seem to have been significantly postponed or even completely abandoned during the pandemic crisis. And according to a survey of the NALAS countries, the situation in the Western Balkans is basically the same. Recent discussions with the European Commission and DG NEAR representatives seem to confirm the disappointment coming from the lack or rather slow pace of the reforms during the pandemic years. Central governments assisted by donors were mostly engaged in fire-fighting the crises and accumulated problems, rather than being engaged in reforms. Fire-fighting during times of crises is a valid and important approach; however, only reforms can bring development in EaP countries.

The issue of funding for both reforming and improving public services, and primarily public administration, is becoming of paramount importance, not only in view of implementation of the *acquis communautaire*, but above all in view of the increasing problems as regards maintaining deteriorating infrastructure, in the absence of investment, and thus as regards the diminishing quality of public services.

2. Why decentralisation is important. Decentralisation and overall level of democratisation in a society

When thinking about the decentralisation reform from a somewhat more general or even philosophical perspective, the notion of "decentralisation" might take on a much broader meaning, especially for the countries in transition from one socio-economic system to another, as is the case with the Eastern Partnership countries. In this sense, we can generally speak about the "decentralisation of power" from central governments to the people, including decentralisation from centralised government to parliament and judiciary institutions, within central government institutions, from political party leaders to the parliament, from central level to the local, from the state to civil society, to mass media and, finally, economic decentralisation. In fact, it might be the case that the only thing our countries need under this architecture is exactly this "decentralisation of power". This organically includes all-embracing democracy. Of course, decentralisation of power must be accompanied by anti-corruption measures, improvement of justice systems, people's participation at all levels, etc.

In this context, the decentralisation from central to local level is essential, because with the unavoidable degradation of power and control mechanisms within the process of transition from one socio-economic system to another, it is the regional and local level that forms and represents the basis of administrative stability in the countries under transition, benefiting from the highest degree of trust on the part of the population and being the level closest to the population, which is extremely important particularly for the transition countries.

At the same time, it is generally accepted that in the countries which "have defined and are carrying out more consolidated strategies of devolution and political-administrative decentralization, the overall indexes on the democratization of the system and/or on the progress of a democratic transition tend to be higher and grow over time". "From a broader perspective, the correspondence between greater

capacities of the local level of government and the level of democratization of a society is one of the cornerstones of the *acquis communautaire*. It is worth referring to one of the EU fundamental principles, the subsidiarity principle, whose rationale lies precisely in the consideration of the greater effectiveness of an action carried out, but also conceived or programmed, by a level of government closer to the interests of the community, whether it is national, regional or local. Furthermore, in the concept of subsidiarity, there is also the consideration that the regional and local level of government is more accountable, and its decision-making processes are more monitorable and controllable by citizens and stakeholders in the various policy areas." Thus, overall, people's participation and involvement is higher with more advanced levels of decentralisation of power and administrative devolution.

When we talk about the decentralisation of power as decentralisation from central government to the people, this also means the democratisation of society. Indeed, even more than anything else this means democratisation and democracy. Under this concept, the "decentralisation of power" and "democracy" are synonyms. And so, decentralisation certainly implies democracy and more decentralisation more democracy – they are correlated. Of course, the technicalities of the process of decentralisation of power, including models and systems for ensuring comprehensive democracy, are rather important in the first instance, in order to build viable, sustainable, long-lasting democracy.

The correlation between decentralisation from the central to the local level and local democracy is a more complicated process requiring more attention and reflection and professional input. Although normally with higher levels of decentralisation, states tend to also provide higher levels of local democracy, this is not yet guaranteed. The main issue would appear to be the influence over the local level and on local democracy of the central government. There are many examples where central governments agreeing to devolve or decentralise competences, simultaneously tend to maintain or even to consolidate significant opportunity control and oversight over the local governments' activities, especially within young democracies such as in Eastern Partnership countries. Normally, the main constraint on local democracy in the countries in transition is the relationship between central and local government, where central government's interference and control in local affairs might be quite advanced. Thus, decentralisation at local level is very much bound up with decentralisation and democracy at the central level.

3. International aid and national development

Unfortunately, apart from maybe in Ukraine, complex decentralization efforts have been poorly supported by means of international aid. This is partly connected with a lack of decentralisation ambition or a lack of political will and political agenda on the part of the central governments, and is sometimes due to insufficient pressure towards reforms in this field on the part of local governments and their associations. However, guidance or even pressure from donors towards these reforms is sometimes also insufficient, unlike the pressure towards other reforms, such as judicial reform or anti-corruption reform. Yet there is very poor understanding of the simple notion that no judicial or anti-corruption reforms can be carried out successfully under the centralisation of power, under poor public administration systems and where there is a lack of any sufficient basis or capacities for the implementation of reforms at all levels. Unfortunately, local democracy and local autonomy as pan-European values are quite often being

forgotten, and are not being merely poorly addressed, but are being infringed on, even by the donors and the international experts. Most alarming, however, is that there are signs of centralisation on the ground. Quite often, centralisation approaches, including sectoral approaches, are being put forward and promoted not only by central governments but also by international partners and international experts in various fields, including, for example, education, social protection, public procurement, regionalisation, administrative-territorial structure, inter-municipal cooperation, solid waste management, public finance, etc. Moreover, this has now taken on a considerable scale, propelled by the pandemic crisis and the many other crises happening these days. Recommendations from international experts towards different types of centralised approaches in various sectors are gaining much support from central-level politicians, who generally feel that more control and stricter oversight best serve a variety of their interests, including political, administrative, financial, and even sometimes personal.

Moreover, centralisation and centralisation attempts are now quite widespread in developing or in Eastern Partnership countries, and are also rather familiar to our colleagues in EU Member States. The persistence of such a situation for some time raises a rather unfortunate, but inevitable straight question.

Are local democracy and local autonomy still considered values today?

Abstracting from political declarations and based on the realities on the ground, there seems to be no straightforward, clear-cut answer to this question. It would seem that all local authorities, collectively, will have to apply efforts to preserve the status of our cause and of our key value, which was once a cornerstone of Europe and today is probably one of the major prerequisites for the development of our countries and our region. We will have to step up our efforts to convey this perspective to our colleagues in Europe, in the EU institutions and in EU countries, both via the European Committee of the Regions and via the Congress of Local and Regional Authorities of the Council of Europe. Probably, the basic starting points for this will be:

1. to point out that local democracy and local autonomy constitute a pan-European value enshrined in a written document, signed and sealed by the authorities of the vast majority of European countries – in the European Charter for Local Self-Government;
2. to consolidate our advocacy and promotion of the premises and principles of the Charter, first of all with EU institutions and EU governments, then with donor agencies and international organizations; only afterwards, can we have a proper hearing from the governments of our countries and of all the developing countries. What is happening now is that our governments are rarely, if ever, hearing about importance of the Charter, and of local democracy and local autonomy, particularly from our international partners. Quite often, this leads not only to the lack of necessary reforms but even to abusive practices on the part of central-level politicians.

As regards funding support for local authorities from international partners, up until now a lion's share has been allocated to "soft" interventions, capacity-building, promoting and learning various practices and principles. And very little funding has been channelled to the most needed support for infrastructure investment projects aimed at improving public services and public administration. Overall, support to local government infrastructure projects up to 2015 was rather scarce and fragmentary. Some improvement started to happen from 2017-2018 when key donors, including the European Union,

USAID, and the Swiss government, took more decisive steps towards supporting local governments, the local level and local communities. This is partly explained by increased pressure from local authorities and their associations, and partly by some significant disappointment among international partners in central governments of the partner countries. However, up until now, and especially since the pandemic crisis, resources for infrastructure investments have remained rather limited. The question of serious concern now is whether, with all the multiplying global and European crises, there will be any funding left for infrastructure in Eastern Partnership countries?

4. National priorities through the lens of Council of Europe recommendations, local government reforms and international development in Eastern Partnership countries

Council of Europe recommendations for CORLEAP members from the Eastern Partnership clearly call for greater administrative decentralisation and stress the need to overcome the stalling of this process. What emerges mainly from the recommendations is the problems, sometimes chronic, continuous problems, both from the regulatory and from the implementation perspective. Administrative decentralisation reform and consequent fiscal rebalancing has struggled to advance or moreover to complete the process and to achieve long-standing objectives, which was particularly challenging during the years of the pandemic. In fact, we are witnessing not merely a slowdown in the decentralisation process, but in fact a continuous stalling, which was taking hold even before the pandemic crisis. Clearly, the pandemic does not seem to have positively influenced this process in any possible way.

Regarding the process and dynamics of decentralisation in the Eastern Partnership countries, it is important to note that in some cases there are well-focused targeted objectives and a coherent and almost constant process of implementation, even if slow and less scaled, while in other cases there is no such continuity or even no real strategy. Small steps versus the strategic dimension is a predominant approach in this case. Sometimes this approach delivers even more results than formal strategies, especially when strategies are being left unimplemented. In fact there is one, more or less stable, continuous priority for all countries – fiscal decentralisation. While central governments are at least contemplating administrative decentralisation, including under the pressure of their commitments to the Council of Europe, fiscal decentralisation and the sharing of scarce national resources with local governments seem to be too much for them to bear.

As far as dialogues and consultations between central and local governments are concerned, the situation in the six Eastern Partnership countries varies greatly, in a range that goes from more or less stable and established methods of regular consultations between the levels of government up to a still too unsatisfactory situation in this area. Consultations are mentioned as a challenge in the Council of Europe recommendations for almost all Eastern Partnership countries. Quite often consultations are more of a formality, merely in order to tick the box or for the sake of international partners. There is little focus on the modern reality that consultations are needed in order to take the opinions of those consulted into serious consideration, and that where those opinions are not taken on board, those seeking the input, not being a key player in the field or often not even understanding the field of local government, should give a thorough rationale for not doing so. Otherwise, the price – expressed in small or big failures upon policy implementation or any time thereafter – might be too high for society.

Among the Council of Europe's major recommendations for the Eastern Partnership countries, the following seem to be predominant and relevant for many or even all of them:

- increasing the share of public affairs managed by local authorities;
- guaranteeing the right of local authorities to be consulted on matters that concern them directly;
- revising and clarifying "own" competences of municipalities and limiting the state supervision of their tasks to the control of legality;
- ensuring that local authorities have access to sufficient financial resources of their own;
- making sure that the financial equalisation system compensates the regional discrepancies and different financial capacities of the municipalities;
- unambiguously recognising municipalities as state institutions exercising public power as part of the overall public administration;
- amending the laws transferring tasks and functions to municipalities to ensure that the powers and duties entrusted to municipalities are full and exclusive;
- creating a legislative framework for consultation of municipalities and their associations in the process of drafting legislation relevant to them;
- reducing the financial dependence of municipalities on the state by increasing and making sustainable their own revenues;
- specifying the dismissal and revocation procedures for local public officials;
- accelerating the alignment of the legal framework, notably sectoral legislation and policies with decentralisation objectives to ensure that powers given to local authorities are full and exclusive;
- revising the formula of calculation of equalisation transfers, in particular the distribution criteria, and increase the equalisation fund to smooth out regional and inter-municipal disparities;
- making the local administration more flexible and adjustable to local circumstances;
- enhancing the financial capacity of local governments, including the capacity to generate their own resources through all available means;
- further elaborating the legal framework in order to facilitate and promote inter-municipal cooperation, also ensuring balanced and sustainable socio-economic regional development;
- getting back on the path to decentralisation;
- allocating sufficient financial resources to local authorities and increasing the fiscal capacity of local authorities;
- revising and clarifying the system of local competences;
- increasing the managerial capacity of local authorities and allowing local authorities to have more discretion in adapting the exercise of their tasks to local conditions;
- raising the wages of mayors, local representatives and local officials in proportion with the importance of their responsibilities;
- ensure a proportional system of supervision over the acts of local authorities;
- reinstating a fair consultation process with local authorities;
- establishing a suitable legal framework to review and clarify the system of local competences;
- strengthening the managerial and budgetary capacity of local authorities;
- refraining from exercising any type of pressure against local elected representatives;
- reinforcing subsidiarity by granting local authorities competence for a substantial share of public affairs and increasing the capacity of local authorities to act;

- reinforcing the financial autonomy of local authorities and improving the equalisation system, providing a fair and transparent redistribution of funds, based on clear criteria and objectives.

The following table demonstrates the international support for local government and decentralisation reform aspects in Eastern Partnership countries.

<p>Armenia</p> <ul style="list-style-type: none"> • local governance and democratic consolidation by supporting the development of effective, transparent, accountable and inclusive self-government bodies; • capacity-building within the local public administration in line with the Principles of Public Administration; • efficient service delivery to local communities; • self-reliance of local communities, enhanced citizen mobilisation around key reforms, including the Territorial and Administrative Reform (TARA) and inclusive participation of women in local decision-making.
<p>Azerbaijan</p> <ul style="list-style-type: none"> • facilitating and promoting women's participation in key governance and decision-making processes through instruments such as commissions on gender equality, gender budgeting and gender statistics.
<p>Belarus</p> <ul style="list-style-type: none"> • small grants to municipalities for local projects to enhance self-governance and management of public funds.
<p>Georgia</p> <ul style="list-style-type: none"> • facilitating the implementation of public administration reform (2016-2021) through the strengthening of policy planning, human resource management, accountability and service delivery at central level; • supporting the implementation of integrated territorial development measures by facilitating the implementation of systemic reform of local and regional governance; • increasing citizen engagement in decision-making and human rights protection at the local level; establishing effective mechanisms for dialogue and cooperation between citizens and self-government administrations, improving gender equality and women's participation in local governance; • strengthening the efficiency of local administrations by providing advice on aspects such as improved procedures, efficiently addressing rural-urban differences, etc.; • increasing the efficiency, transparency and accountability of local administration by strengthening municipal governments' institutional and strategic capacity; • enhancing the impartiality, transparency, accessibility and accountability of civil services.
<p>Moldova</p> <ul style="list-style-type: none"> • supporting national administration reform through modernisation and further digitalisation of public service delivery as well as inclusive and evidence-based policy development; • improving public finance management practices in local government and increasing locally-generated revenues;

- strengthening the accountability, transparency and integrity of the public administration, including its professionalisation and depoliticization;
- enhancing civic participation in decision-making, improving the accountability of local authorities towards their communities as well as strengthening the dialogue and consultation mechanisms between civil society and local self-governance;
- improving the quality of and access to local public services, particularly in rural areas.

Ukraine

- boosting the capacities of key actors at national, regional and local levels to implement key aspects of decentralisation reform through knowledge-sharing and capacity-building;
- improving coordination between the different levels of government by strengthening local ownership and providing a balance of authority and responsibility between central and local self-governments;
- supporting fiscal decentralisation by promoting the effective and efficient management of fiscal resources at the local and regional government level as well as the mobilisation of local own-source revenue and external financing for investment;
- supporting the capacities of amalgamated communities to deliver efficient, modernised, accessible and transparent public services;
- strengthening citizen engagement and participation in decision-making by facilitating participatory and results-driven dialogue between citizens and self-government institutions as well as supporting the dissemination of information on the decentralisation process and establishment of an effective, transparent and participatory system of education management for democratic citizenship and human rights;
- supporting the development of e-services and e-democracy both at the national and the community level;
- supporting the alignment of local legislation with international standards (e.g. the Council of Europe standards and good practice);
- supporting the decentralisation process in the Donetsk and Luhansk regions.