



ADMINISTRATIVE AND TERRITORIAL REFORM

TECHNICAL CRITERIA FOR THE NEW ADMINISTRATIVE AND TERRITORIAL DIVISION

April 2014

Introduction

The administrative and territorial reform is identified as one of the key priorities of the Government program 2013-2017 and aims to improve the quality of local public services by increasing their efficiency and also the access of citizens to local public services.

The development and implementation of the administrative and territorial reform is based and conceived pursuant to the following legal framework:

- Constitution of the Republic of Albania;
- European Charter of Local Self-Government;
- Law no. 8652, dated 31/07/2000 "On the organisation and functioning of local government in Albania";
- Law no. 8653, dated 31/07/2000 "On the administrative-territorial division in the Republic of Albania"
- Decision of the Council of Ministers (DCM) no. 1012, dated 22/11/2013 "On defining the scope of state responsibilities of the Minister of State for Local Government";
- Recommendation of the Committee of Ministers of the European Council REC(2004)12 "On the processes of reform of boundaries and/or structure of local and regional authorities".

Approach in defining the criteria

Pursuant to the approved government programme, the Minister of State for Local Government has taken all measures to ensure proper support for the implementation of the administrative and territorial reform in Albania. To this end, organisations such as the Council of Europe (CoE), Organisation for Security and Cooperation in Europe (OSCE), U.S. Agency for International Development (USAID), Swedish International Development Cooperation Agency (SIDA), Swiss Agency for Development and Cooperation (SDC), Austrian Development Agency (ADA), United Nations Development Program (UNDP) have given their technical and financial support to have the best local and foreign experts analyse the situation and develop alternatives based on the best criteria for a new administrative and territorial division.

In October 2013 the Technical Secretariat and the team of experts composed of 8 local experts and 3 foreign experts from Great Britain, Sweden and Poland, funded by the above mentioned donor organisations, were set up at the Ministry of State.

Additionally, in November 2013 a special evaluation mission from the Council of Europe, composed of experts from Member States of the Council of Europe was conducted, which prepared a report with specific recommendations for the development and implementation of the administrative and territorial reform.

In this context the requirements of the legal framework and different European models have been studied and analysed and all the recommendations and studies specific for Albania in this field have been reviewed. The technical criteria constitute the objective basis on which the new administrative-territorial division of Albania will be developed.

Technical criteria and legal context:

Article 108, paragraph 2 of the Constitution of the Republic of Albania stipulates that ***“The administrative-territorial division of local government units shall be established by law on the basis of mutual economic needs and historical tradition”***.

Law no. 8652, dated 31/07/2000 “On the organisation and functioning of local government in Albania”.

Article 63 of Law 8652 provides as follows:

*“The administrative-territorial division in force may be reorganized with or without changing the existing borders of local government units, **in compliance with the economic and social interests, tradition, culture, traditional bonds and other local values**, for a better fulfilment of functions in favour of the local community or for the implementation of local, regional or wider development policies”*.

Criteria used in the models of some European countries: Ireland, Denmark, and Sweden

Ireland:

Ireland, a EU Member State with a population of 4.6 million inhabitants (2011 Census) has undertaken a local government reform that also provides for the administrative-territorial reform. The Administrative-Territorial Reform in Ireland started in October 2012 and shall enter into force after the local elections of May 2014, and it shall be implemented over a period of 19 months.

The existing local government structure (which shall change after the May 2014 elections) in Ireland is as follows:

- Regional level: 3 Regions with 250 regional councillors
- District level: 34 Districts with 744 councillors
- Local level: 114 Local authorities with 883 councillors

The idea of territorial reform is based on higher service efficiency by reducing the administrative costs and reorganizing services. The implemented criterion is **the reduction in the number of districts**, and the integration and unification of local authorities (cities and communes) with those of the district, thus establishing the new integrated local authority to be called **Municipal-District**, that will include in its administrative border the existing cities and communes up to the borders of existing districts with respective changes.

This reform will reduce the number of LGUs by 65% and the number of councillors by more than 45%. The new local government structure in Ireland after the elections of May 2014 shall be as follows:

- Regional level: 3 Regions with 62 regional councillors in total
- Municipal-District level: 31 Municipal-Districts with 950 councillors in total

Denmark:

Denmark is an EU Member State with a population of 5 million inhabitants, and with a dispersed and greatly diverse geography that includes the mainland and islands. Denmark has undertaken an administrative and territorial reform during 2005-2007 (around 24 months) by substantially reducing the number of LGUs from 250 to 98, by practically eliminating the commune level.

Territorial reorganization in Denmark aimed to maximise public service efficiency by reducing administrative costs and achieving administrative-territorial consolidation. The reform was based on 2 simple criteria:

- One city - one municipality (according to this criterion the territory is reorganized around urban centres (cities) by not allowing the inclusion of rural local units that do not have an urban centre);
- Any new unit must have at least 20,000 inhabitants (the minimum population criterion

Sweden:

Sweden is an EU Members State with a population of 9.7 million inhabitants, 85% of whom live in urban areas. Sweden has undertaken 2 administrative-territorial reforms in the 1950s and 1970s as a result of the fast urbanisation and industrialisation of the country after World War II. The challenges that guided the reforms were those related to demography, the massive migration towards urban areas and the depopulation of rural areas that brought about differences and inefficiency in local public services.

The criterion on which the territorial reforms in Sweden were based was the design and re-organization of local units in clusters around the so-called **“natural area”** concept, that included the rural areas organized around commercial/economic centres.

The 1950s reform resulted in the reduction in the number of local government units from 2,500 to 1,000. 20 years later, in 1970, Sweden concluded that the reform had not achieved the intended aim regarding public service efficiency and economy of scale, so it undertook a second reorganization of the territory by reducing the number of local government units from 1,000 to 290 units, that they have at present.

The territorial reforms in Sweden reduced the number of local government units by 85%, from 2,500 to 290.

Studies on the administrative-territorial reform in Albania

The current administrative-territorial reform in Albania did not start at level “0”. The Albanian Government, with the assistance of the Council of Europe, undertook a serious effort in 2002-2004 as a continuation of the decentralization reform implemented in 2000. For political reasons that reform was never developed into concrete decision-making.

Since then a series of studies performed by international and Albanian organizations or institutions have been conducted, and they have recommended specific proposals regarding the criteria and alternatives to be used in developing the territorial reform in Albania.

The findings and recommendations of these studies are briefly outlined below:

1) The Supreme State Audit

In 2013, the Supreme State Audit undertook a performance audit study with the topic “Territorial and administrative division in the Republic of Albania”.

The main message of this study is:

“The current administrative-territorial division has resulted in the slowdown of local development and a dependence of the LGUs on state budget income. Albania needs a new administrative-territorial division based on clearly-defined criteria, in order to increase the efficiency and effectiveness of LGUs in fulfilling their objectives for providing higher quality services to the community”.

Through this study SSA recommends, among others, that the merging of local government units be carried out by preserving the minimum population limit of 10,000 inhabitants for communes and 15,000 inhabitants for municipalities.

SKL Study - Sweden

Upon request of the Albanian Association of Communes, a team of Swedish experts have conducted a study on the territorial reform in Albania, by recommending 5 options for the administrative and territorial division in Albania. The experts of the working group have carefully reviewed the options of the Swedish study, by analysing them as follows:

- Voluntary reorganization

This option includes LGUs that take the initiative to merge voluntarily.

This has been considered as a process that might take years and inadequate for Albania, taking into consideration that since 2000 there has been only one case of voluntary merging of 2 communes.

- Amalgamation/merging of small communes

The main criterion of this option is the merging of small communes, which essentially represents the concept of mechanic amalgamation of LGUs and is considered inadequate by the experts.

- Asymmetric decentralization of functions and competencies

This concept recommends that decentralized functions and competences be performed only by units that have the capacities to perform them. According to this option, the functions of small units, without the necessary capacities, are transferred to larger units. This option is against the symmetrical decentralization concept provided by the organic law, and by preserving the current fragmentation it increases the burden for larger units. It is considered as an inadequate option.

- Region-based reorganization

This option proposes that reorganization be made within the borders of the 12 existing Regions by grouping LGUs in larger clusters of 5-8 LGUs per region. Ultimately, the recommended total number of LGUs can be reduced to 80 LGUs.

- Return to district-based reorganization

The idea behind this option is the reorganization of municipalities/communes based on the former district-based administrative territory. According to this concept, the number of new LGUs is proposed to be 42, which correspond to the territory of 36 districts, but corrected with some new urban centres that have strengthened after the changes of 1990s. According to the team of experts this option was considered as the most adequate and applicable.

DLDP Study (Switzerland)

The DLDP programme for local government funded by the Swiss Government in 2013 conducted a study on **“functional areas”** in Albania in 5 regions, Durrës, Lezhë, Shkodër, Dibër, and Kukës.

The concept of the functional area in the context of this study is used to define a space where interactions between the inhabitants and the cooperation between government entities are frequent and intense. “Functional area” refers to the notion that the understanding of a space – whichever level this may be (municipalities, regions and so forth) – is not to be defined along administrative or historic lines, but rather on the basis of how various interactions happen within that space for economic purposes (employment, consumption, markets, income), social purposes (health care, education), and collaboration between various local institutions.

In order to define the functional areas in the five regions of interest, an analysis of several interactions amongst the inhabitants driven by the economic and services relations, as well as the institutional interactions between the LGUs was carried out. In conclusion the analysis indicated that in these 5 regions, Durrës, Lezhë, Shkodër, Dibër and Kukës, from 133 current LGUs the territorial reorganization based on the concept of functional areas goes down to **18-24 local government units called “functional areas”**.

METHODOLOGY OF CRITERIA PROPOSED

When determining the criteria for the new administrative-territorial division the team of experts considered all the above models and recommendations, and after intense consultations with local and foreign actors, they proposed that the best alternative is the determination of a **small number of clearly defined** technical criteria that give flexibility and legitimacy to the reform implementation process by guaranteeing the integration of all actors and stakeholders.

The criteria proposed are objective and technical, and exclude the application of mechanic or artificial amalgamation of local government units that cannot achieve economic efficiency and the economy of scale. The proposed criteria comply with the legal requirements on the criteria provided for by the Constitution and organic law no. 8652 and the models used in some European countries, and the specific studies for Albania.

Criteria alternative for the administrative-territorial division of municipalities and communes (basic level of local government).

In this context the main option of the team of experts for the potential criteria is the definition of new local government units as territories that are considered as ***“functional areas”***.

The concept of “functional area” shall mean a territorial space where there is a frequent and intense interaction between the inhabitants and institutions for economic, social, development and cultural purposes. Thus, *functionality* is viewed in the light of cooperation and analysis of the vectors of economic, social, developmental and cultural interactions.

In this sense the “functional area” is a local government unit organized around the urban centre with the highest population compared to other centres within the area, that has the capacity to provide a full range of public services that should be provided by a local government unit, by also applying the efficiency of the “Economy of scale”.

According to the notion of “functional area” any new local government unit should guarantee the necessary critical mass for the functioning of the local government unit, starting with the existence of at least one urban centre with the necessary socio-economic infrastructure such as a network of schools, hospitals, social care centres, police services, fire stations, interurban transport services, state or private services for the citizens and businesses, such as branches of tax office, post office, bank network, etc., and the existence of an economic foundation and sources for generating sufficient local income for a certain number of businesses or other economic assets that allow for an adequate development perspective.

The concept of “functional area” is based on and promotes *polycentric development* of local government units, presuming that several development centres exist within the LGU besides the main urban centre.

Additionally the “functional area” breaks away once and for all from the current concept of artificial division of urban and rural areas in municipalities or communes.

According to this concept, new local government units are considered *large administrative spaces regarding territory and population* that include both urban and rural areas, allowing for an alignment of development policies by reducing deep inequalities between urban and rural areas.

“The functional area” also allows for the provision of services with the same quality for inhabitants of urban and rural areas, by guaranteeing the “adequate economy of scale” for the provision of public services, which is impossible for the present development of the country, with the current parameters of service provision.

Preliminary analyses and studies indicate that “functional areas” correspond to, or in the majority of cases, overlap with former-districts administrative territories. Statistical data also indicate that district centre municipalities are also economic,

social and public services centres for the majority of the country, and they remain a point of reference for development policies and achievement of the economy of scale.

Thus, one of the suggested modalities is to start the implementation of the concept of “functional areas” from **the former-districts administrative territories**.

From the local government perspective “the district” as an administrative unit is no longer applicable as an administrative organisation level, but the former districts are identified by the organic law on local government as a concept of administrative subdivision of the Region, and also for the distribution of decentralized services of different Ministries. Moreover, in the institutional and community memory “former districts” clearly continue to preserve a reference role. The restoration of the concept of “district” territory size would be a very good option, because the main municipalities today are located in former-district centres.

The above criterion enables the newly established local government unit to provide the full range of public services for all its citizens by not losing sight of the aims of this reform, the territorial consolidation, or to put it in other words, the enlargement of the current LGUs to ensure better performance of the functions, and quality in service provision.

The other proposed criterion is related to **the distance of the LGU centre from the territory**. On the one hand this distance should not be such as to represent an obstacle for providing services to the community, but on the other, new LGUs cannot be established close to other LGUs which can provide better services to the public and ensure greater development opportunities.

Another important criterion is **the principle of territorial continuity**. This principle implies that the territory of a local government unit goes uninterrupted and it includes no territorial “islands” that belong to another local government unit.

At the same time, LGUs in the new division shall include all the bordering territories that are closer to its administrative centre compared to other LGU centres; this way citizens will receive cost-efficient and fast services.

The **population number** criterion is recommended as a reference criterion for the new proposed LGUs. Taking into consideration the geography of the territory, and the population distribution it is recommendable for the new LGUs to have a considerable number of inhabitants, which means an average population of over 30,000 inhabitants in areas with a high population density, over 20,000 inhabitants in areas with average population density and over 10,000 in areas with low population density.

Classification of the number of population in 3 different categories is rational because Albania's geographical terrain is diverse and population density varies according to flat, hilly or mountainous areas.

A very important criterion (and a legal requirement) is also to guarantee the **historical and traditional bonds** of new LGUs. In this case, new LGUs would have a previous historical tradition defined by traditional exchanges between inhabitants in order to ensure social cohesion.

The above criteria aim the consolidation and strengthening of new local government units, so that they are larger in terms of population, as one of the most important components in the establishment of a local government unit, and also larger in terms of territory size, which would enable the achievement of "economy of scale" and efficiency of public services on the one hand, and observing traditional historical-geographical borders that also allow for the prospective urban and space development.

Cases that take into consideration the best international practices for **the protection of ethnic minorities**, where these minorities represent the majority population of existing LGUs can be reviewed as an exception from the above criteria, and as an exclusive special criterion.

Criteria alternatives for the division of regions (second level of local government).

In the case of Regions the criteria for their division would take into consideration the recommendation of the experts of the Congress of the Council of Europe and the best practices in establishing European regions.

Region reorganization shall be proposed to the Parliamentary Commission, the Minister of State for Local Government, after the team of technical experts have analysed and reviewed the Regions current functions.

Criteria for the administrative-territorial division of local government units

Basic level: Municipalities and Communes

1. The administrative-territorial division process will begin with the “districts” as a basic local government unit, pursuant to Law no. 8653, dated 31/07/2000 “On the administrative-territorial division of local government units in the Republic of Albania”.
2. The District Centre Municipality will be the new centre of the basic local government unit.
3. New basic local government units can be created within the borders of the districts, or from the territory of two or more districts if the following criteria are met:
 - a. The newly created unit is a separate functional area;
 - b. The distance of the territory from the unit centre enables the provision of the full range of services for its inhabitants;
 - c. The newly created unit observes the territorial continuity principle;
 - d. It should have a considerable number of inhabitants, based on the geographical characteristics of the area and population density: high 30,000 inhabitants; average 20,000 inhabitants and low 10,000 inhabitants;
 - e. It has a historical tradition and is characterized by traditional bonds between the inhabitants of all its constituent territories;
4. The above criteria will not apply for local government units where ethnic minorities represent the majority of the population, if they violate the principles of international conventions.

Second level: Regions

Administrative-territorial division of second level local government units

The Minister of State, based on consultations with all stakeholders and the working group, shall prepare the proposal for the new administrative-territorial division of the Regions as a second level of local government and shall submit it to the special Parliamentary Commission for the Administrative-Territorial Reform.