

LARGIS

TERRITORIAL ADMINISTRATION IN UKRAINE

Reform Options Related to European Experience

The Issues

1. Outside the oblast cities the territorial communities of local self government comprise over 30,000 cities, towns, villages and settlements of greatly varying size. This fragmentation has two practical impacts:
 - (1) the majority of these communities are too small and/or poor to manage and finance local public services on their own; and
 - (2) services like schools, hospitals or social care institutions usually serve a wider catchment area than the town or village in which they are located; it is neither fair nor feasible for that community to bear the full costs on its own budget.
2. As a result many local public services are managed or financed at the level of the rayon. The rayon, however, is a hybrid organisation with an elected assembly but executive power in the hands of local state administration. Traditionally, also, the rayon has tended to be regarded as an organ of state power rather than local government.
3. Current debate about territorial administrative reform reflected in the Concept on Regional Policy embraces a number of options including
 - (1) amalgamation of territorial communities to form larger and more viable entities
 - (2) converting rayons into fully fledged local self governments by giving their assemblies full control of their executives in relation to their own competences.
4. This Paper does not attempt to suggest which direction reform should take in Ukraine, but describes options derived from European experience. It draws particularly on the experience of the Central European states which have been reforming their public administration systems since the political revolutions of 1989.

Tiers and Sizes: the Central and Eastern European Context

5. The reforms of local government in the post-Communist states in 1990 shared two characteristics
 - respect for the right of individual communities to form basic units of self government

suspicion of higher tiers of local administration and contention over their future.

6. These were essentially reactions to the period of Communist rule. The latter had been underlain by the principle of the unity of state property and administration, and the concept of local autonomy was not recognised. Although Communist hierarchies of "national committees" had embraced some practical delegation to county, town and village level and some limited degree of local representation, the will of the Party hierarchy could always prevail in the final resort. Moreover, historic boundaries had often been ignored in forcible amalgamations of settlements.

The Basic Level

7. The 1990 reorganisations in central Europe were based on a recognition of the principles of local autonomy and the reassertion of historic rights and communities. The Czech, Hungarian and Slovak laws, for example, allowed virtual freedom for any settlement to declare itself self-governing. In Hungary the number of municipalities doubled in 1990; in both the Czech Republic and Slovakia the process of fragmentation continued for some years. In one Czech village nine people constituted a local government area, a population now reduced by mortality to seven.
8. In Bulgaria, Poland and Romania, however, small villages remained grouped with larger settlements in single municipal entities. In Bulgaria constituent settlements may elect mayors but they lack elected councils or separate corporate status.
9. The resultant differences in the size and number of the basic corporate units of local government are shown in the following Table:

Table I: Basic Level of Local Government

Country	Number of Municipalities	Average Population	% Municipalities under 1,000
Bulgaria	280	30,258	n/a
Czech Republic	6,196	1,666	80
Hungary	3,149	3,338	54
Poland	2,459	15,623	n/a
Romania	2,996	7,613	n/a
Slovakia	2,853	1,845	69

Upper Tiers

10. Some regional tier of administration had existed historically in each country, in cases like the Hungarian county of long lineage. Although traditionally a unit of royal supervision, it had often been manned principally by local notables with, therefore, some reflection of local

interests. During the Communist period this level of government became strongly associated with Party control inimical to local autonomy.

11. The result of this history has been a set of conflicting and ambivalent attitudes to regional administration. On the one hand it was seen as an agent of control and supervision by central government, a threat to the independence of local government. On the other hand, it was recognised that the relatively small size of the basic municipal units made it difficult to devolve all local functions to them, particularly those services with bigger catchment areas such as secondary schools, hospitals and social care institutions.
12. There has been a general desire to establish an elected authority at this level to bring the regional services and some of the regulatory activity within the sphere of local accountability. But this has been tempered by three factors
 - (1) dispute over the territorial demarcation of an upper tier, associated with rivalry between potential headquarter towns;
 - (2) fear of an upper tier taking over powers from municipalities rather than the State; and
 - (3) reluctance to vest the appellate and supervisory roles of provincial/district state offices in an elected body, which might be of a different political complexion to many municipalities.
13. There have been, in consequence, major arguments in each country over the administration of provincial/county/district tiers of government, in some cases still unresolved. In *Bulgaria* the law provides for the creation of district councils, but this has not been implemented. In the *Czech Republic* the Constitution mandates the creation of regional level of self government, but this will only come into being at the beginning of 2001. In *Poland* the creation of 16 *województwo* and 373 *powiat* self governments was delayed until 1999. The *Slovak* Government has declared the intention to establish regional self governments in time for 2001 elections but again there is continuing argument over boundaries, functions and finances.
14. In all these countries the vacuum has been filled, unsatisfactorily, by deconcentrated units of state administration - by district offices in the Czech Republic, regional governors in Bulgaria, *voivods* in Poland and both regional and district administrations in Slovakia. They combine a number of roles including performance of region wide services (roads, hospitals etc), exercise of regulatory powers, and legal/appellate oversight of municipal decisions. There are anxieties over their accountability, particularly in Slovakia where a reorganisation of state administration in 1996 was seized as an opportunity to increase the penetration of ruling party supporters.
15. Upper tiers of self government have been established in *Hungary*, *Poland* and *Romania*, though still contentious. In Hungary and Romania 1990 laws provided for indirect election to county assemblies by colleges of municipal councillors. Direct elections were substituted in 1994 in Hungary. The Romanian *Judets* are relatively strong bodies since they control

both most of the utility companies and until 1999 the apportionment of national revenue shares to municipalities. Urban municipalities contend that *judets* councils disproportionately represent rural interests, and that towns suffered severe financial discrimination as a result; they also criticise their lack of control over the operations of the utility companies. Hungarian counties have been kept weak by the jealousy of the municipal tier. Their power and duty to run services such as secondary education and medical care have been diluted by the right of municipalities to take ownership of such institutions if located on their territory, and they have no independent taxing power. Larger towns, on the other hand, complain of the financial burden of regional facilities; the state budget support system gets ever more complex as it tries to compensate for the mismatch between the boundaries of the municipalities and the populations they effectively serve.

16. The most comprehensive reform took place in *Poland* in 1999 with the creation of the *województwo* and *powiat* self governments. In 65 larger towns the roles of *gmina* (municipality) and *powiat* are combined in the same local authority (as in Ukrainian oblast cities).

The Problem Issues

17. The questions of both vertical and horizontal subdivision remain live throughout central and eastern Europe. Major issues include
 - (1) the viability of very small village municipalities and methods of promoting their cooperation and association in performance of basic service and administrative functions
 - (2) the location of responsibility for services serving wide catchment areas
 - (3) separating the legal/appellate oversight of municipalities from politically dominated agencies
 - (4) striking some balance between the principles of local fiscal autonomy and the needs both for redistribution/equalisation and fiscal restraint.

Size and Task

18. Implicit in all the local government reform debates are questions over the optimal size of local authorities and allocation of functions between tiers of government. There are several, conflicting dimensions to the argument.

Catchment areas

19. The first argument relates to the match between *catchment areas* and territorial jurisdiction. How far do municipal boundaries correspond with the area from which the clients of its services are drawn? What is the minimum size of area and population for which an effective service can be provided?

20. Both questions have been illustrated in Hungary where both basic and secondary education are local government responsibilities. The terms of the 1990 Act, the availability of capital grants and local pride combined between 1990 and 1994 to promote a norm that every local authority should have at least one basic school, regardless of size. The result was the proliferation of small schools with minute pupil numbers and disproportionate overhead costs. This was exacerbated by requirements that a teacher should be employed for every year group. One village school, for example, employed five teachers for 17 children. Similar problems have been experienced in the attempt to provide every settlement with a sewage treatment plant. There are user thresholds below which it is clearly uneconomic to provide a separate service at all; facilities will be very limited and overhead costs excessive.
21. The 1990 Act in Hungary also allowed municipalities to appropriate and operate secondary schools located on their territory, although otherwise the responsibility of county governments. Many towns exercised this right, running schools which served a much wider catchment area. This led to various practical difficulties. There have been complaints of discrimination against children from the rural periphery. Municipalities have faced budgetary strain since the specific grant aid for the schools only meets part of the costs.
22. It would be easy to propound a theoretical principle that municipal boundaries should embrace the catchment areas of their main service functions. But this raises a number of secondary questions. Firstly, what is a minimum level of service? Is a population able to fill a medium sized primary school sufficient for a municipality charged with educational responsibilities? Most European countries would accept that view, which results in population thresholds around 5,000. In Britain, however, a professionally dominated view has so far prevailed that a local education "service" needs to integrate a full range of facilities including a choice of primary, secondary and vocational schools, and support services such as teacher training, specialist advisors, counselling and inspection, an apparatus which may only be economic for populations of 100,000 or more.
23. The same argument can apply to any function. Does one clinic or general hospital constitute a local medical service; if not, what range of specialist facilities have to be included? Do economies of scale demand that responsibility for maintaining trunk and local roads should be shared by the same bunch of engineers using the same equipment? Is it efficient to separate bulk water supply and treatment from reticulation?
24. Moreover, whatever catchment area is eventually agreed as reasonable for one service is unlikely to coincide with the boundaries of another, except in the case of large towns.
25. In practice, compromises have to be made. If a local authority does not provide an adequate catchment area for a particular service, it has three basic options: to buy in services from an external source, to attract additional users, or join forces with neighbours in running a joint operation. All such arrangements are possible, but they involve transaction costs - delays in negotiation, arguments (usually over the apportionment of costs), diluted control. The judgment which has to be made is whether these transaction costs exceed the benefits of local pride and accountability associated with having a local authority of a particular size and giving it functions which involve economies of scale.

Executive Capacity

26. The second issue concerns the size of local authority necessary for effective management of services and exercise of regulatory duties. This is principally a question of ability to recruit and employ professional staff resources, though technical equipment may also be involved. It has also been argued that larger authorities can attract a more intelligent class of elected member, though this is difficult to verify! There is also the associated issue of cost; does the overhead cost of maintaining a central administration become disproportionately heavy below a particular population threshold?
27. The Council of Europe has reported on a number of surveys undertaken by individual member states on these issues including Belgium, Denmark, Italy and the Netherlands. (Steering Committee on Local and Regional Authorities: Colloquy on the size of municipalities, efficiency and citizen participation, Budapest, 1994). The results are somewhat inconclusive, partly because effectiveness is hard to measure. They tend to suggest that below a population size of 5,000 unit costs are substantially higher and professional capacity equally lower. Above this level differences in cost and the core administrative abilities are not consistently evident, though the more specialised technical skills may only be comprehensively marshalled in municipalities of 12,000 people or more.
28. The Dutch study suggests that population size is not the only determinant of the level of professional skills deployed. They are more likely to be available if a municipality is a regional centre or part of a major conurbation.

Financial Resources

29. Territorial fragmentation generally increases disparity between local authorities in their resource base. There are two types of disparity at issue: between the general wealth and income levels of local authority areas, and in the distribution of commercial and industrial undertakings contributing to local revenues.
30. Large jurisdictions are likely to contain a mixture of more and less affluent areas, contributing different levels of local taxation such as shares of/surcharges on personal income tax, or residential property taxation. The poorer areas may also demand higher levels of spending on social services and support, (although this may be partially offset by higher standards of environmental services secured by richer neighbourhoods). A large jurisdiction will permit some cross-subsidisation between localities within the municipal budget.
31. Small jurisdictions may be far more uniform in their degree of affluence or poverty and level of revenue generation. Indeed where procedures allow the formation of small authorities, affluent neighbourhoods have an incentive to secede from a larger territory to escape from subsidising services elsewhere.
32. Large jurisdictions are likely to combine business and industrial districts with a range of residential areas. Where jurisdictions proliferate, industrial and commercial development

may be concentrated in one local authority, while the people they employ and serve may be scattered between several authorities. This will lead to gross disparities in the incidence of taxes on business premises or transactions.

33. Just how these disparities between small authorities impact on their finances depends on the types of taxation assigned to local government and the method of their distribution. In the Czech Republic, for example, shares of personal income tax accrue to the district in which they are collected, but are distributed to individual municipalities according to population. Shares of corporate profit tax, by contrast, accrue to the municipality from which they derive. In Slovakia, shares of personal income tax are distributed to local authorities according to population nationwide. These systems mitigate differences in local tax bases to a varying extent, although disparities in wealth and economic activity will still be reflected in non-tax revenue such as property income.
34. A second financial issue concerns the role of intergovernmental transfers - grants and revenue shares - in mitigating the effects of territorial fragmentation. Reference has already been made to mechanisms by which the distribution of tax shares may reduce disparities in their geographical incidence. This may also extend to taxes directly levied by municipalities. In Denmark and Sweden, for example, there is some redistribution of the yields of the local income tax surcharges between authorities with above and below average income tax bases, variations in expenditure need also being taken into account. A similar redistribution of business tax yields takes place in the Ile de France (metropolitan Paris). The British Revenue Support Grant aims to compensate fully for differences in the value of residential property on which the Council Tax is levied.
35. Grants may also compensate for mismatches between municipal boundaries and the catchment areas of local services. The Hungarian normative grant is based on a combination of factors, some of them general (population size etc) and some of them specific to individual services (numbers of social care home residents, secondary school pupils etc). There has been a tendency for the specific factors to increase in number and weight to give added support to municipalities running regional services. The Netherlands revenue sharing system (on which municipalities depend for half their current income) has recently been revamped, to give preponderance to the needs of authorities with either high levels of social deprivation or regional centre functions.
36. These examples show that it is possible to compensate for the disparities and mismatches to which territorial fragmentation gives rise. But there are costs in terms of the classical instruments of local autonomy and accountability. Municipalities become less dependent on the resources directly levied on their local economy, more dependent on redistribution by the State and on transfers with a greater degree of specificity.
37. Moreover, there is a danger of encouraging fragmentation simply by compensating small municipalities for their size and excessive per capita overheads. Some grant systems include a basic lump sum element which, though small overall, can be significant for tiny authorities; others, as in Hungary and Slovakia, may include an equalisation fund for villages in deficit. It is wrong to compensate unviable authorities for their self-inflicted penury. State budget support should be an incentive to the sharing of administrative and

service costs, not to misguided efforts to go it alone.

Political Representation

38. The conventional wisdom is that the design of local government structures has to contend with a universal tension between the demands of political participation and economic efficiency. Services will be more effectively and efficiently run if local jurisdictions are large, but political participation will increase if they are small.
39. Both suppositions are questionable. The correlation between size and effectiveness, above populations around 5,000, is inconclusive. So is the inverse correlation between size and political participation. Again this Paper draws on analysis by the Council of Europe of individual studies in countries such as Denmark, Germany, Norway and Sweden, (Steering Committee on Local and Regional Authorities, op cit).
40. In two measurable respects participation has been shown to vary *inversely* with size. These are voter turnout at local elections and the extent to which individual citizens are acquainted with elected officials. But there is evidence of countervailing forces affecting the quality of participation. Larger jurisdictions tend to house a more vigorous civil society, a more effective combination of local media and pressure groups putting local government under scrutiny and articulating demands and options. Elected membership of the larger authorities is more likely to be organised on party lines; this can distort the debate of local issues, but it does put some curb on faction and can facilitate hard, strategic choice (though it does not necessarily do so).
41. There are, of course, other factors than size which determine the quality of political participation. Electoral systems are important. Election by ward rather than by party list decreases the fear of exclusion from power by peripheral or minority communities. It can also lessen resistance to a process of amalgamation since individual councillors may be confident of keeping their place, whatever the new boundaries. (It may also be no coincidence that amalgamation policies have been more successful in countries without executive mayors, since no individual loss of office is threatened).
42. There is also evidence that the political legitimacy of a local authority depends more on its historical identity than its size. It can attach as much to a large city as to a small village. This has been particularly shown in Britain where a recent reorganisation has been persuaded by public opinion to revive historic counties like Herefordshire and Rutland, abolished in 1974 because of supposed non-viability, and dispense with new territories like Avon and Humberside, carved out in 1974 in the name of strategic capability.

Optimal Size

43. The search for optimal size has proved elusive, more the pursuit of alchemy than economics or political science. Attempts to relate size objectively to efficiency, effectiveness and participation are bedevilled by problems of measurement. Evidence tends to converge around a population threshold of 5,000, below which unit costs rise and efficiency declines. Above this level the evidence is inconclusive, since the more specialised demands for

economies of scale can be met by the more politically acceptable forms of cooperation and buying in.

44. The pursuit of optimal size (and the belief in economies of scale) was at its most active stage in the 1960s and 1970s when widespread amalgamations were undertaken in several European states. Numbers of local authorities declined by 87% in Sweden, 80% in Denmark, 78% in Belgium, 76% in Britain and 67% in Germany. Similar policies were pursued by Communist regimes, but mainly reversed in 1990. The policy was least effective in the Mediterranean states where alternative strategies have been pursued, encouraging intermunicipal cooperation or strengthening intermediate tiers.
45. It could be argued that differences in the degree of restructuring reflect differences in the context and concept of local government. Territorial fragmentation remains greatest and amalgamation processes least effective in the "Napoleonic" systems where the State maintains a major local presence through both prefectorial administration and field technical services. These support, oversee and supplement local government in the delivery of services. Local authorities have been important traditionally not so much for their capacity to provide services themselves as to represent local demands and interests to those agencies that have the mandate and resources to do so. Conversely, attention to size has been greater and amalgamation policies more active in the north European states where the State does not maintain a major executive apparatus at local level, and has depended to a far greater extent upon local government for the direct provision of local services.
46. There has been some convergence between these contrasting traditions in recent years. The Mitterand reforms in France, for example, transferred more executive tasks and apparatus to local government control, particularly at the intermediate levels, while post war governments in Britain have created several parallel networks of single purpose, non-elected authorities, in some cases taking over local government responsibilities.
47. Nevertheless broad differences between North and South European systems remain. The paradox is that post Communist reforms in countries like Hungary have basically created a South European structure of multiple local authorities with huge disparities in size and resources, but a North European role in terms of function and self-sufficiency. The post Communist backlash also makes them particularly sensitive about attempts at rationalisation.

Alternative Remedies: structural or cooperative

48. Some local government systems have been reorganised to achieve a target minimum size of basic local authority - around 5,000 people in Scandinavian countries, vastly greater in Britain. Others tolerate - willingly or by default - a proliferation of jurisdictions giving equal status to large cities and a mass of tiny villages. In the latter case practical solutions have to be found to the inability of many local authorities to perform even elementary duties. But in both cases there are tasks which lie beyond the capacity of even substantial local authorities. They may have exceptionally large catchment areas (a school for the blind, for example), they may demand highly specialised expertise and equipment (e.g. a trading standards laboratory), or they may require strategic coordination over a very large area

(e.g. transportation planning in a conurbation).

49. There are many types of solution to these differing situations, but they can be grouped into two categories
- (1) structural solutions, depending either on amalgamations or on intermediate levels of single or multi-purpose authority
 - (2) cooperative solutions, leaving basic local authorities with functional responsibilities, but exercised through forms of cooperation or buying in.

These will be examined in the following sections.

Structural Solutions: Amalgamation

50. The *amalgamation* model simply involves abolishing small municipalities and merging them into new basic units of local government with some minimum population size. It is typified by reorganisations in Scandinavian countries where minimum populations are generally around 5,000 but averages in the range of 10,000 to 30,000.

Structural Solutions: Semi-amalgamation

51. There is also a *semi-amalgamation* model which combines small municipalities into larger units for administration and service provision but leaves some form of representative body in existence in the original settlements. Examples are the British rural system of districts and parishes, and the *grossgemeinde* in some German Lander.
52. The British reorganisation in 1974 merged local authorities into districts with large populations (25,000 being the smallest). All mandatory tasks and all the normal financial resources (grants, taxes etc) were allocated to the districts or county tier authorities. The districts became in practice the basic level of local authority.
53. Smaller communities within districts can, however, constitute and elect parish councils with the right to levy a small surcharge on the local district tax. Parish councils have no mandatory tasks but they can provide supplementary services if they wish, have the right to be consulted on all planning issues (plans and planning/building permissions) and generally represent local opinion to other bodies, public or private.
54. *Grossgemeinde* were formed in some German Lander by amalgamating smaller *gemeinde* to form a single operating unit of local government, undertaking all tasks requiring substantial budgets and staff. However, the original *gemeinde* were left with the right to elect a *burgermeister*, to undertake small ceremonial and administrative duties and to represent local opinion to higher authority. A variation in the Rhine Palatinate created an upper tier of *verbandsgemeinde*; both the *verbandsgemeinde* and the constituent *gemeinde* have elected mayors and councils and their individual competences, but the *verbandsgemeinde* provides a single office serving both levels.

Structural Solutions: Intermediate Tiers

55. The most frequent structural solution to the inadequacies of the basic level of local government is to establish an intermediate tier of multi purpose, elected bodies. Examples are the French *departements*, the British, Danish, Hungarian and Swedish counties, the German *kreise*, the Romanian *judets*, the Dutch province.

Territorial Jurisdiction

56. There are significant differences between the functioning of these middle tier authorities. The first is the scope of their geographical jurisdiction. The normative model is for the whole country to be divided into these units - *departements*, counties etc - and for their local government authorities to exercise their particular tasks everywhere within their respective boundaries.
57. There are many exceptions, however. Several countries follow what is known in Britain as the "doughnut" shape within which large cities and towns are excluded from the jurisdiction of the surrounding middle tier authority and exercise both basic and middle tier functions. This applies to British metropolitan boroughs and unitary authorities, German *kreisfreistadte*, Hungarian county rights towns. This may be a nationwide pattern or confined to exceptional cases - Stockholm, Prague and three other Czech cities, for example.
58. The "doughnut" system, illustrated by the role of oblast cities in Ukraine, has long historical roots in most cases. It harks back to days - usually mediaeval - when burgeoning cities obtained charters from the Crown to exercise a degree of autonomy in the exercise of tasks which were performed outside their boundaries by royal delegates. This exemption from county jurisdiction is a treasured mark of local identity and autonomy, and is often fiercely defended. It was lost by British county boroughs in the 1974 reorganisation which imposed a two tier system throughout the country, but has been regained by most of the larger cities in subsequent changes which have left a single tier structure of districts in the major conurbations outside London (which has regained an upper tier in 2000) and a series of "doughnuts" elsewhere.
59. The exclusion of cities from middle tier jurisdiction respects tradition and allows the integrated delivery of services. But it also causes difficulties, particularly in managing and funding services with wider catchment areas, and in coordinating development planning and transportation with a city's hinterland.

Electoral Systems

60. A second area of difference between middle tier authorities lies in their method of election. Most are directly elected by the same methods as the basic municipal tier. Again, there are exceptional cases in which the governing council is elected by a college of members of basic tiers councils. This was the case in Hungary from 1990 to 1994 and remains so in Romania.

61. Indirect election can be seen as a source of weakness, depriving the middle tier authority of the degree of legitimacy derived from direct election. It can give rise to accusations of bias, since rural councils may have more members in proportion to population than urban authorities and thereby more weight in the electoral college. If members are mandated by individual municipalities they may find that this accountability makes hard, strategic choices difficult. Choosing a landfill site becomes almost impossible.

Distribution of Functions

62. In countries like Denmark and Sweden the functions of the middle tier are tightly defined to avoid duplication and minimise infringement of municipal competence. They tend to be confined to the management of very large or highly specialised institutions such as hospitals or technical colleges. Those of British county councils are wider, embracing both primary and secondary education, social services and transportation. But even in Britain relationships with the lower tier are non-hierarchical and respective tasks are demarcated to avoid any suggestion of superior authority. Central government deals directly with the lower tier in respect of its field of competence.
63. This demarcation is not universal. In countries where the basic tier includes many tiny communities, the role of the middle tier may be more flexibly defined. The division of responsibility between the German *kreise* and *gemeinde* is more varied and flexible, depending on local agreement, capability and partnership; the *kreis* has its distinct duties but also a general role in supplementing and supporting the smaller *gemeinde*.

Metropolitan Authorities

64. A special type of middle tier authority has been created in some countries to manage city-wide development and services in conurbations. A significant example is the *communautes urbaines* established in 9 French cities like Lille to take charge of town planning and major infrastructure such as waste disposal, public transport, water, parks, cemeteries and roads, and to promote economic development and environmental improvement. A similar authority exists in the environs of Frankfurt and was created but later disbanded in the Rhine estuary around Rotterdam. The British metropolitan county councils, created in 1974 and abolished 12 years, later had similar roles.
65. Experience of such authorities has been very mixed. Some have pursued a strategic vision with great success, attracting the political ambitions of major civic leaders as in Barcelona and Lille and substantial external funding. Others have failed to surmount the jealousies of constituent municipalities or to capture popular support. The abolition of the Greater London Council left a major gap in strategic planning and transportation management, and a replacement has just been created. The demise of the other metropolitan counties in Britain has scarcely been noticed and they have not been brought back.

Cooperative Solutions

66. Alternative approaches leave basic tier municipalities with a full range of local government tasks, but insert various cooperative and contracting mechanisms to compensate for their inadequacies.

Inter-municipal Cooperation

67. 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.
68. The Hungarian legislation was an exception in that it virtually required very small neighbouring 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.
69. Far greater experience of intermunicipal cooperation lies in those western European states with large numbers of small municipalities. Chief of these is France which 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.
70. Even in countries where basic tier authorities are generally larger, joint working is common for specialised 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 smaller authorities form joint boards mainly for health care, social services and vocational training.
71. There are a number of significant differences in the operation of these joint authorities. The first is their legal form varying from an independent statutory authority to a joint committee or a company in which the partner municipalities hold equity. Most are governed by some form of board of representatives of the member authorities. They may establish their own management structure or entrust administration to one of the constituent municipalities. The British joint boards normally employ their own technical staff but use the administrative, accounting and legal machinery of one of the member boroughs/districts.
72. The second difference concerns their financial base. Joint authorities typically receive directly any charges or fees pertaining to their function, but rely on contributions from member municipal budgets for the balance of their cost. Whether these contributions are obligatory or voluntary, i.e. at the discretion of the joint boards themselves or the

municipalities, depends on the statutory base of the board. In some cases, however, joint boards may levy a tax directly, normally by "precepting" on taxes raised by their members, i.e. an additional percentage rate on the local tax base.

73. The third difference lies in the voluntary or compulsory nature of the cooperation. Some joint authorities are purely voluntary creations of their member municipalities. Some, by contrast, are established by legal requirement, examples being the metropolitan fire and public transport authorities in Britain, some (but not all) of the French *communautes urbaines* or the common rural administrative offices in Hungary. Many lie in between these two descriptions, the results of vigorous arm twisting by the State. A high proportion of the French *syndicats de communes* fall into this category - constituted by agreements brokered by Prefects, backed by State grants and loans only accessible to joint authorities.
74. This, indeed, may be the principal lesson of western European experience. Large municipalities may combine spontaneously to run a highly specialised function which is peripheral to their main operations and a relatively small charge on their budgets. But small municipalities do not cooperate readily with neighbours to run a basic service like a school or a water supply or to share administrative machinery, whatever the technical merits of such arrangement.
75. A high degree of legal compulsion or State manipulation lies behind the scale of intermunicipal cooperation found in countries like France and essential in such systems to secure service viability, particularly in rural areas. Of special interest is the French legal provision that all communes in a locality must participate in a specific *syndicat* if it is established by agreement between two thirds of the communes concerned or communes representing two thirds of the population of the area served. It may be important, also, to make budgetary contributions binding on member authorities and to provide model formulae for the distribution of costs.
76. Much of the 1990 legislation in Central and Eastern Europe rests on an assumption that municipalities will readily cooperate for their mutual benefit, which is highly questionable. This is not a field for romantics.

Contractual Arrangements

77. An alternative strategy for coping with inefficiencies of size is "contracting out" or "buying in".
78. Such practice may be inter-municipal or commercial. Intermunicipal arrangements consist of buying the services of another local authority. This is not uncommon in central Europe where rural and suburban authorities frequently purchase the services of municipal companies owned by the core town (though these are normally reimbursed by direct charges on their residents). A number of the newly restored unitary authorities in Britain are buying in specialist services such as trading standards laboratories from the surrounding county.
79. A widespread alternative is contracting out service provision to a commercial company,

which may well operate on a national, or even international basis. Again, France offers the most celebrated cases with companies, led by Vivendi (formerly Compagnie Generale des Eaux) and Societe Lyonnaise-Dumez, managing 75% of municipal water supplies by contract, with a high degree of vertical integration including distribution, treatment, maintenance and pipe manufacture. These companies have expanded their contracting to many other municipal services, Vivendi being active in construction, street lighting, leisure management, carparking, telecommunications, public health and catering. They have also expanded to other countries, taking advantage of privatisation and contracting out policies in Britain, for example, and securing water supply management contracts in the Czech Republic.

80. British legislation has required local authorities to submit provision of many services to public tender, although the in-house organisation is allowed to compete with the private sector. This has also brought private sector companies into the management of services like refuse collection and leisure centres, and even now into "white collared" services like engineering, payroll management and legal representation.
81. Contracting out enables municipal purchasers to benefit from the economies of scale offered by external suppliers, and to tap into the expertise they gain from operating on a wider scene. Some of the leisure management companies have undoubtedly brought new flare and innovation to both sporting and cultural facilities in Britain. It also potentially offers greater efficiency; compulsory competitive tendering is estimated to have resulted in overall cost savings of 6% in Britain, even though in-house organisations have secured around 70% of the contracts. But the efficiency benefits do depend on the existence of genuine competition, based on alternative providers, honest and transparent procurement processes and effective supervision. Local authorities have to retain the technical expertise to design and supervise contracts - or have some shared resource for doing so. This poses some problems in the post-Communist states where professional skills have largely been located in the municipal companies and institutions, rather than the mayors' offices which tend to be staffed largely by lawyers and generalists.

Conclusion

82. Belief in economies of scale dominated the debate over local government structure and function through much of post War Europe. It resulted in major reorganisations and reductions in the numbers of local authorities in several, largely North European states, together with the creation of intermediate tiers for strategic purposes, mainly in conurbations. It has been echoed in much of the restructuring and "globalisation" of the commercial world.
83. The 1980s and 1990s have witnessed something of a reaction against this trend. "Small is beautiful", an emphasis on community, a reversion to historic identity mark the backlash. There is little technical consensus or political will to drive through further amalgamations. "Buying in" is the most typical of the solutions to the needs for shared capability.
84. Empirical evidence has suggested that the effectiveness of local authority services declines

and unit costs rise below a municipal population threshold around 5,000. Above this level there is no conclusive evidence that increasing size results in either improved effectiveness or reduced participation.

85. The local government systems recreated since 1990 in several of the post Communist states share the major problems of disparate size and mismatch with functional requirements which inspired the northern European amalgamations of previous decades.
86. Whether such restructuring offers a feasible solution in Ukraine is very questionable. It is out of fashion in western Europe and contrary to the post-Communist mood in central and eastern Europe.
87. the *semi amalgamation* model might, on the other hand, be one option for Ukraine. Larger territorial units combining several towns and villages could be created with elected bodies, taxing power etc to manage all local competences which required substantial resources of finance and manpower. But villages might retain the right to elect mayors and councils, with minor ceremonial and administrative *duties* (performing weddings, for example), *rights* to voice local opinion and to be consulted on sensitive issues like planning, and *discretion* to raise a small amount of revenue and provide extra, non-obligatory services. They might even be given a definitive role in managing schools and determining planning/building applications, but with the funds and expert advice being provided by the larger territorial body.
88. A second main option is to formalise the position of the rayon as an *intermediate tier of self government* charged with all the functions requiring scale economies and running services with catchment areas exceeding the individual towns and villages. This would perpetuate the interim position under the draft Budget Code but would presumably involve giving the rayon rada full control over its executive and separating the latter from the organs of local state administration.
89. The third option arising from the international comparisons is to make no structural change but to rely on *intermunicipal cooperation* for the fulfilment of town and village functions with wider catchment areas and scale economies.
90. International experience suggests, however, that this cannot be a purely voluntary process. On the one hand there have to be legal requirements concerning the minimum capabilities needed for specific competencies which induce municipalities to cooperate. On the other hand, there have to be the financial and legal incentives to encourage them to do so - model agreements, criteria for cost sharing, improved access to state budget support. There should be financial incentives for cooperation, not for costly isolation. Both sticks and carrots are essential to the process.

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