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THE PRINCIPLE OF SUBSIDIARITY IN SERVICE OF SUSTAINABLE DEVELOPMENT

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1. INTRODUCTION

The Mediterranean region as a whole is being rapidly urbanised, and the amount and the quality of the soil and water resources are greatly influenced by the rapid increase of urban populations, industrial development and the influx of population into tourist centres along coastal regions. Therefore, it can be assumed that market solutions alone may not be effective for better protection of natural resources, and some sort of regulatory action by local public authorities and the NGOs be utilised at the same time. Public-private partnership in handling issues of resource conservation and an increasing role by local authorities seems to be essential.

Strengthening local authorities to enable them to cope with the environment and natural resources would not only ensure discouragement of wasteful exploitation of resources but would also stimulate democratic public participation and consultation. In order to enable local authorities to play an increasing role, constant efforts are being made by major European institutions, like the European Union and the Council of Europe. The United Nations Organisation, in its turn, through its specialised agencies and international conferences, supports the efforts to make both the principles of subsidiarity and sustainable development prevail in the relationships between the administrative levels closest to citizens and the higher administrative echelons.

The principle of subsidiarity, for example, is one of the most frequently pronounced concepts within this context. Since 7 out of 11 countries that co-operate within the present research project are members of the European Union, and 9 out of 11, members of the Council of Europe, this principle that concerns more than one set of linkages, namely those between local and central governments, those between the members of a federation and the federation itself, and between national and international regulatory agencies, gains particular significance.

2. THINKING ON THE CONCEPTS

2.1. Sustainable Development

The idea suggesting that the concern to meet the current needs of urban populations should not acquire an extent and nature to constitute a threat to the sustainability of resources and development (WCDE, 1987, p. 6). Therefore, priority actions have to be centred on reducing all kinds of wastes in the global environment. Such initiatives may include reducing fossil fuel consumption through energy conservation, more efficient transportation systems, and reducing the amount of waste through pollution prevention (WRI *et al.*, 1996, p. 14). There is no doubt that these longer term ecological concerns are relevant to both urban and rural areas. However, cities in the way of rapid development will face enormous increases in resource consumption and generation of wastes as they grow and prosper unless action is taken now to promote the efficient use of resources and minimisation of wastes.

Sustainability can be regarded as the successor of the earlier demand for quality of life. It is generally accepted that sustainable development should not be left to market forces but must be a responsibility of the state. Another principle of sustainable development requires that all public policies be harmonised and prohibits any degradation of natural, cultural and social capital. Respect for the carrying capacity of both man-made systems and ecosystems, restoration of disturbed ecosystems, the protection of biodiversity, restrained development in fragile ecosystems, qualitative development and the satisfaction of man's aesthetic needs and a sound system of values and environmental awareness in people are other elements of a viable concept of sustainable development (Decleris, 2000, p. 19).

As stressed in the European Union's report to the UN Habitat II Conference, sustainable development is identified as a much broader concept than environmental protection. It has economic, social and

cultural as well as environmental dimensions and embraces notions of equity between people in the present, and between generations. It implies that further development should only take place as long as it is within the carrying capacity of natural and man-made systems (EU, 1996, p. 17). It is assumed that sustainable development can be realised only when master planning, in the urban context, is directed to minimise total needs, to promote public instead of private transportation, to conserve fertile agricultural land, to avoid wasting other sensitive ecological resources, and to enhance energy saving in building design and layouts. This would require carrying out sustainability in city planning processes, vertical and horizontal co-ordination among public authorities and private institutions involved in regional resource management and development of renewable resource strategies. In other words, sustainable urban development may be understood as the maximisation of efficiency in the use of resources, maintaining natural resource stocks at or above their present level, ensuring social equity in the distribution of development costs and benefits and the avoidance of unnecessary foreclosure of future development options.

According to a definition of the Economic Commission of Europe (ECE) of the United Nations, the ideal sustainable community is characterised by such factors as environmental integrity, economic vitality and social well-being (ECE, 1996, p. 25). Urban sprawl, congestion, increasingly poor air quality, and the shortage of land for affordable housing are some of the symptoms of unsustainable development. The Earth's non-renewable resources are being depleted, mountains of solid, liquid and toxic wastes pollute the air, water and soil, and threaten local and regional habitat. As these current trends persist, it becomes clearer that solutions for seemingly environmental, economic and social concerns are linked together and require more holistic approaches. This is the reason why environmental, economic and social policies have to be integrated in order to ensure compatibility of all these elements.

Two characteristics of urban areas give way to consequences that may be detrimental for sustainable development: First, inhabitants and enterprises depend on natural resources for living and on natural processes for breaking down or diluting their wastes. Second, urban areas can concentrate a large range of environmental hazards, such as biological pathogens in the air, water and soil, chemical pollutants and physical hazards (OECD, 2000). Therefore, through an official planning process, it is necessary to provide a framework for guiding the spatial development of human settlements in such a way as to minimise environmental costs. Implementation of such policies is a shared responsibility of different levels of government, particularly local authorities, the business community and the local people, in an understanding of partnership approach.

Main policies targeted at ensuring sustainable development may be summarised in the following categories (ECE, 1996, pp. 26-27):

1. Conservation, protection and enhancing natural areas and life forms;
2. Promotion of compact community policies;
3. Encouragement of the utilisation of already built-up areas so as to limit urban sprawl;
4. Optimisation of density potential of existing urban areas;
5. Limitation of the use of the private car through the maximisation of the use of public transport alternatives, including commuter rail, buses, bicycles and walking;
6. Promotion of a sense of community, and creation of opportunities for social interaction;
7. Ensuring that environmental considerations and the precautionary principle become an integral part of plans, programmes and projects;
8. Integration of the "net environmental gain" in assessing development;
9. Preservation of the coherence of the landscape;
10. Encouragement of the development of medium-sized cities as a network of complementary urban settlements to big cities, in order to develop a more balanced hierarchy of human settlements.

It is a surprising coincidence that the European Urban Charter (1992) encompasses, in each of its chapters dealing with urban rights, principles of sustainable urban development that originate from the main philosophy of sustainable urban development. The rights connected with transport and mobility, environment and nature in towns, the physical form of cities, urban architectural heritage, housing, urban security and crime prevention, disadvantaged and disabled persons in towns, sports and leisure in towns, citizen's participation, urban management and urban planning, and economic development of cities are all regulated there with due regard to the principle of sustainability.

Particularly, the role of the local authorities in ensuring sustainable development is emphasised in the following terms:

1. Local authorities should adopt policies to prevent pollution.
2. Local authorities have a responsibility to protect nature and green spaces.

3. City centres must be safeguarded as important symbols of identity, and of the European culture and historical heritage.
4. The provision and management of open space in the city are integral parts of urban development.
5. It is essential that the volume of travel, particularly the private car, be reduced.
6. Multiculturalism and non-discrimination are fundamental aspects of urban policies.
7. Citizen's participation in the political life must be safeguarded through the right to elect representatives, freely and democratically.

An institutional mechanism that was created in 1996 and called the Mediterranean Commission on Sustainable Development has been acting since then as an advisory body to the Mediterranean Action Plan (MAP) on such issues as sustainable management of coastal zones, water demand management, sustainable development indicators, eco-tourism, information, awareness and public participation, free trade and environment, industry and sustainable development, and urban management (Algan, 2000, pp. 237-240).

2.2. Subsidiarity

Subsidiarity that is used frequently in the European institutions means that decisions should be taken as closely as possible to the citizen. It was introduced in the preamble of the Maastricht Treaty in 1992 in order to regulate relationships between the European Union and the member states. Since Amsterdam, paragraph 2 of the Article A has read : "This Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen". The new Article 5 of the Maastricht Treaty states: "in areas which do not fall within its exclusive competence, the Community shall take action in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the member states and can therefore by reason of the scale or effects of those actions be better achieved by the Community".

Subsidiarity is a principle of organisation in both social , economic, environmental and political fields. It means that where possible, decisions should be taken by the individual or the family, not by society at large; by the local community, not by the state; and by the member states of a federation , not by the federation itself ; by the member states of the European Union, not by Brussels". It is argued that the subsidiarity principle can be found in three different sources: Firstly, it is said that it was developed by Catholic social philosophy and in that sense the old philosophical idea of personal autonomy is behind this principle. It is transferred from this source into social and political organisations. Its second source is political and constitutional theory. According the latter, the principle of democracy requires decisions to be taken close to the citizen and with the citizen's participation. Thirdly, it is argued that decision-making on a smaller scale is more efficient than decision-making in larger units. As such, it has become an element of argumentation in controversies about centralisation versus decentralisation in political systems. As briefly mentioned above, it is used to defend local autonomy against state power, or member states of a federal state against the centre (Bothe, 1993, p. 123).

Elsewhere, the basic sources of the principle of subsidiarity were shown as Althusius (liberty), American Confederalists (liberty), Economic Federalism (efficiency), Catholic Personalism (justice) and a liberal contractualist case for subsidiarity (Follesdal, 2000, pp. 88-90).

The concept dates back to ancient history but its current meaning bears the traces of the Catholic social theory of the 19th and 20th centuries. It is highly debatable whether this principle also applies to the relationships between the European Union and the subdivisions of its member states (Hoffschulte, 1999, p. 285). It is also questionable whether this Maastricht principle can be used as a yardstick to apportion public responsibilities and financial resources between the central governments and their sub-national authorities, because the principle of subsidiarity is a criterion for allocating tasks between the European Union and the Member states, not for deciding whether tasks should be assigned to a level below central government (EC, 2001, p. 23). Opinions expressed elsewhere suggest that the European Commission acknowledged that it regarded itself as bound by this principle also to respect local and regional authorities as parts of the member states both in its work and when presenting regulations and directives relating to local and regional authorities (EC, 2001, p. 5).

In addition to the new Article 5 (formerly 3/b) of the Maastricht Treaty, the European Union on various occasions openly expressed its intention with regard to the discretionary competence of the member states in environmental matters. It was generally accepted that environmental standards adopted by the

EC were only the lowest common denominators and should thus not prevent Member states from taking more stringent measures to protect their environment. As a result, certain provisions to protect the Member states' interest in taking more severe, strict environmental measures have been inserted into the EC Treaty when it was amended in order to introduce environmental protection as a field of Community policy.

Article 100a (par. 4) and Article 130r (par. 1) contain different opportunities for more stringent national environmental protection rules. According to the latter, "Community shall take action relating to the environment to the extent to which the objectives (in this field) can be attained better at Community level than at the level of the individual Member states...". Certainly, this apportionment of the competencies between the European Union and the Member states can be utilised in order to enable local and regional authorities to take the most appropriate measures to ensure sustainable development.

One of the basic premises on which the principle of local autonomy is based on the principle of subsidiarity is implicit in the Preamble of the European Charter of Local Self-Government, which refers to local authorities with real responsibilities as an administration both effective and *close to the citizen*, without using the word, subsidiarity. The principle of subsidiarity is explicitly mentioned in the Article 4 (paragraphs 2 and 3), but still without using the word subsidiarity. In its form conceptualised by the European Charter of Local Self-Government, the principle of subsidiarity means that "Local authorities shall ...have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority...Public responsibilities shall be exercised by those *authorities which are closest to the citizen*. Allocation of responsibility to another authority will be allowed only depending upon the extent and nature of the task and the requirements of efficiency and economy". This is an explicit preference of a decentralised pattern of decision-making to a centralised form of decision-taking and action (Keleş, 2001).

3. CONTRIBUTIONS OF SUBSIDIARITY TO SUSTAINABLE DEVELOPMENT

As mentioned by the Declaration of Ancona on Subsidiarity in Action (Council of Europe, 1999d), the excessive accumulation of responsibilities due to the development of the welfare state and the centralisation of power required by government in order better to meet the demands of a complex and increasingly diversified society have gradually reduced the effectiveness of public action and created an impression of growing distance between the centralised public authorities and the citizen. Such a development cannot be defended on the grounds of either democracy, or economy and efficiency. The principle of subsidiarity is a criterion which can guarantee both respect for democracy and the effective exercise of public powers.

Although there are numerous UN supported programmes to realise sustainable development, it was first at the end of the Habitat II Conference (1996) that the Ystanbul Declaration adopted a strategy and principles of partnership and participation as the most democratic and effective approach for the realisation of the commitments made in the Conference. Participant nations decided to promote decentralisation through democratic local authorities and to work to strengthen their financial and institutional capacities in accordance with the conditions of countries, while ensuring their transparency, accountability and responsiveness to the needs of people (UNCHS, 1996, pp. 5-6). The paragraph 180 of the Habitat Agenda deals with decentralisation and strengthening of local authorities and their associations as a part of the section devoted to capacity building and institutional development. The Sustainable Cities Programme, the Local Agenda 21's, the Urban management Programme, the Mediterranean Platform of Association of Local Authorities are all making serious efforts to increase the capacity of local authorities. In addition to these and many other similar programmes, several multilateral conventions adopted at the European level offer vast opportunities for enabling local authorities to play a more efficient role in ensuring sustainable development. Below, in a short review of these instruments, an effort will be made to see what their likely contributions to the sustainability of natural resources and environmental values could be.

4. THE EUROPEAN CHARTER OF LOCAL SELF-GOVERNMENT

This document was adopted by the Council of Europe in 1985. It is signed by 39 members and ratified by 34 states (Belgium, France and Switzerland are some of the non-ratifying states) out of the total 43 member states. The Charter sets out the fundamental principles of local autonomy. The basic philosophy of the Charter rests on the belief that the degree of local autonomy enjoyed by local authorities may be

regarded as a yardstick for a genuine democracy. It aims to guarantee the political, administrative and financial independence of local authorities and it tends to commit the states that ratified the Charter to comply with its principles.

Local self-government, according to the Charter, denotes the right and ability of local authorities to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. They have to exercise this right through freely elected decision-making bodies. In addition to the existence of elected local councils, recourse to direct citizen participation, such as having assemblies of citizens, local referenda, etc., has to be open to citizens. The principle of subsidiarity is defined in the Charter in the following terms: "Local authorities shall have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence or assigned to any other authority. And, public responsibilities shall be exercised by those authorities, which are closest to the citizen. Allocation of responsibility to another authority will be allowed only depending upon the extent and the nature of the task and the requirements of the efficiency and economy". Almost the same principle is enshrined, as noted above, in Article 5 of the Maastricht Treaty.

The central control and supervision of local authorities is limited to the control of compliance with the law and with constitutional principles (legality control). A state supervision with regard to expediency is not allowed in principle. In order to be regarded as genuinely autonomous public entities, local authorities have to be provided with financial resources, which are commensurate with their responsibilities. The provisions of the Charter concerning their financial resources, equalisation procedures and safeguards for their political independence all tend to strengthen local authorities in such a way as to carry out their functions in an appropriate way.

Consultation is another element of local autonomy which requires that local authorities be consulted in due time and in an appropriate way, in the planning and decision-making processes for all matters which concern them directly. A final component of the concept of local autonomy, which is considerably important from the point of international co-operation for sustainable development, is the provision entitling local authorities to form consortia and to have the right to belong to a national or international association for the protection and promotion of their common interests.

5. THE AALBORG CHARTER

The Aalborg Charter is the second international document according to which nations can co-operate for the protection of the environment. The First European Conference on Sustainable Cities and Towns gave birth in 1994 to one of the most important documents on sustainable development at local level. Nearly five-hundred representatives of local authorities coming from 35 European countries and representing more than 100 million European citizens had signed the Charter. The Charter maintains that the city or town is both the largest unit capable of addressing the many urban architectural, social, economic, political, natural resource and environmental imbalances damaging our modern world and the smallest scale at which problems can be meaningfully resolved in an integrated, holistic and sustainable fashion. It therefore suggested that the principles of sustainability be integrated into all policies

Thematic issues dealt with in the individual sections of the Aalborg Charter cover a wide spectrum from urban economy and social equity to land use patterns, urban mobility, responsibility for the global climate, prevention of the ecosystems' toxification and local self-governance. The Charter gives a clear message that economic development, social welfare and protection of the environment cannot be achieved separately from each other (Payne and Löffler, 1999, p. 4). Perceiving citizens as key actors and the involvement of the community in ensuring sustainability in addition to political, technical, administrative and economic tools and instruments for urban management towards sustainability characterise the basic philosophy of the Aalborg Charter.

6. THE AARHUS CONVENTION

The Aarhus Convention is an important international legal instrument adopted by the UN Economic Commission for Europe that is relevant to international co-operation for sustainable development in the Mediterranean Region. The Convention that was adopted in 1998 is called the Convention on the Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Parties to the Aarhus Convention are committed to take proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of the Convention.

They have to ensure that officials and authorities provide guidance to the public in the implementation of its principles. An appropriate recognition of, and support to associations, organisations or groups promoting environmental protection have to be ensured by the signatory states. The Convention suggests (Art.7) that the States taking part in it make appropriate practical provisions for the public to participate during the preparations of plans and programmes relating to the environment, within a transparent and fair framework .

It is beyond any doubt that proper implementation of the Aarhus Convention would provide a unique opportunity to all concerned with environmental protection to contribute to the realisation of sustainable development. Thus, Mediterranean countries should be encouraged to ratify this Convention in order to make it sure that Mediterranean citizens enjoy the right to live in an environment adequate for his or for her health and well-being.

7. TRANS-FRONTIER CO-OPERATION

Local authorities in Europe are also encouraged by another Convention adopted by the Council of Europe to establish trans-boundary relationships in economic, social, cultural, environmental matters (Madrid, 21 May 1980). This is the European Outline Convention on Trans-frontier Co-operation Between Territorial Communities and Authorities (Council of Europe, 1999a). The Outline Convention was strengthened by two subsequent protocols in 1995 and 1998, respectively (Council of Europe, 1999b and 1999c). The matters to be dealt with within the framework of trans-boundary co-operation are urban and regional development, energy, nature and water conservation, protection of the atmosphere, mutual assistance in disaster relief and the like. There is ample room for European territorial communities or authorities to enhance their co-operation for sustainable development by ensuring flexibility in administrative procedures, to lift the legal objections before fruitful co-operation and to equip territorial communities or authorities with the necessary financial and other means.

Similar experiences among the member states of the European Union have been encouraged and supported during the last several decades. A great number of projects of co-operation under various titles are now co-financed by the European Union and other international institutions (Parlement Européen, 1996). Among numerous EU initiatives, the LIFE Third Countries programme specifically encourages implementation of environmental policies and activities in non-member countries.

8. CONCLUDING REMARKS

The principle of sustainable development means that in urban settlements, not only the way in which people live, but also the settlements themselves and the Eco-systems that support them must be sustainable. In order to achieve sustainability in the Mediterranean Region and to meet the needs of rapid urbanisation and of increased building activities in coastal regions, international co-operation in technical and financial fields is needed. Use of international legal instruments of which some have been briefly reviewed above may considerably contribute to the achievement of these goals. However, with respect to the institutional context for urban co-operation, the capacity and orientations of urban governments have to be changed. The major weaknesses of local governments consist in the lack of financial resources, inadequacy of powers and professional staff to mobilise necessary funding. The capacity of local governments to invest in basic infrastructure without funding from higher levels of government is extremely limited. Particularly, the degree to which national governments allow development co-operation agencies to work directly with their territorial authorities needs to be improved without jeopardising the homogeneity of the operations. Local governments are not only responsible for urban policies and environmental management, but they also act as facilitators and enablers of action by all interests in society (Ravinet, 1997, p. 19).

Now addressing sustainable development requires an integrated and multi-disciplinary approach, combining aspects of participatory land-use planning (Owens, 1997), pollution control, transport planning, environmental impact assessment, economic instruments, administrative reform and public education. If land-use planning fails to achieve its objectives, it often pushes low-income households to the periphery and to land still poorly controlled by owners and regulators. This may result in untimely and unnecessarily conversion of agricultural land that can be detrimental for sustainable development. The overall objective is to ensure that critical environmental problems are resolved as a part of a long-term commitment to see that urban development contributes to the achievement of the goals of sustainable development.

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