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**PUBLIC ADMINISTRATION REFORM AND TERRITORIAL ORGANISATION:
EMPOWERING LOCAL GOVERNMENTS**

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1. Introduction: the problem of economies of scale in highly fragmented local systems

The fragmentation of local authorities and the small size of many municipalities in European countries pose a problem for the distribution of functions and competences among levels of government. Functions refer to what government do or the fields of activities in which they play *de facto* a role: health, education, culture, mobility.... Competences refer to formal responsibilities and powers (delivery, regulation, inspection, monitoring, evaluation, contracting...) that public authorities have in each field of activity.

Article 3.1 of the European Charter of Local Self-Government (ECLSG) refers to the competences of local authorities that enhance their autonomy: “Local self government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.”

The article emphasizes both dimensions of municipalities as representative units of citizens’ needs and demands and as service providers either in their capacity as direct deliverers or regulators. Local authorities can manage services and have a ruling capacity which entails how services should be delivered by municipal or external bodies, as long as municipal legislation on the matter does not go against other sector legislation. Local authorities thus can be fitter in terms of responsiveness and accountability to citizens than higher levels of government thanks to the principle of subsidiarity. Subsidiarity, according to the Charter, means that “public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy (art. 4.3)”.

The allocation of functions to local level of government is also influenced by the idea of services of universal access that has been used in European Union legislation. Universal access does not require a public delivery of the service. Universal access is a claim that citizens might require from government for certain services (privately or publicly delivered). Examples of universal access can be asked in provision of water and management of water disposal, trash collection, cemetery services, public health or public order. However, some other services are not really subject of the universal principle, because there are specific addressees of the service like in drug addiction programmes, health campaigns, etc. Therefore, the principle of universality should be applied for those services in which universality should be claimed for. In some countries like Spain, universal services appear in local statutes (draft legislation).

In the name of equality, higher levels of government might want to achieve a minimum threshold of quality and quantity conditions for citizens across the territory. Starting conditions do not equal the same service standards, because starting conditions is one of the dimensions regarding the quality of service provided to citizens, while service standards depend on how subjectively and objectively is considered a service. The subjective and objective perceptions might vary from one part of the territory to the other not only according to demographic, geographic and economic differences but also according to differences in preferences, demands and needs of citizens (see Parrado 2005). In order to achieve similar starting conditions across the territory, basic legislation could address what specific competences should municipalities have in a list of activities.

Central government, following the principles of the Charter and the legislation of the European Union, should transfer functions of national level to local authorities at the same time that creates similar starting conditions for all citizens across the territory. However, many local authorities, being very close to citizens, have not the capacity (organisational, financial, human resources, technical capacity) to deliver because they are too small. In a companion paper (Parrado 2006) for this conference a section is devoted to summarise the arguments related to size. Although the several relationships between size, efficiency and effectiveness are understudied and there is no definite conclusion about the right size of local authority,

many small municipalities have to overcome the problem of size in order to be able to provide certain services. Three basic answers have been devised by different systems: a) amalgamation of local authorities (United Kingdom, Scandinavian countries); b) associations of different government units (from the same level or different level like in Germany, France and Spain); and c) the role of upper tier of local government like departments, *Kreise*, and provinces in Germany, France and Spain.

The amalgamation process depends not only on a sound analysis of how best to proceed and of which optimum size solves most problems. It also raises the question as to whether amalgamating communes with a long-standing tradition of autonomy is feasible. Amalgamation has been relatively successful in Northern European countries. However, amalgamation attempts in several southern European countries have shown that citizens are very attached to their city councils, and policies of amalgamation are therefore doomed to failure. The arguments of service delivery have been counterbalanced with questions of proximity, representativeness, and sense of community. Furthermore, it is unclear what is the population size or threshold from which it could be claimed that economies of scale and efficiency gains are obtained. The right territorial size in economic and efficiency terms differ for distinct services like water supply, trash collection and treatment, electricity provision, interurban transport.

Therefore, the other two options have been considered in these countries: b) the association of municipalities with neighbours, other levels of government, or even non-profit organisations and businesses might therefore prove helpful in order to overcome the problems and consequences of fragmentation and c) the assignment of competences to higher levels of government (upper tier of local government) has proved to be an adequate option when local authorities show that they are unable (and/or unwilling) to deliver certain services considered as universal. The rest of the paper is devoted to examine these two issues.

2. One Answer: Upper-Tier Local Authorities As Subsidiaries of Small Municipalities

One answer to the problem is the aiding role of higher levels of government. In order to profit from proximity, it seems more adequate upper-tier local authorities than regional government. This question though could be debatable. Upper-tier local authorities may have two types of competences: a) competences on functions that are delivered at provincial, county or department level, for instance, inter-municipal transport or provincial road network building and maintenance; b) competences of lower-tier local authorities that prove to have insufficient resources (financial, human, technical, organisational) in order to deliver compulsory services according to local statutes or sector legislation.

France, Germany, Portugal and Spain, for instance, have upper-tier local authorities, although their competences vary in content. In Portugal, provinces are rather deconcentrated units of State administration; therefore, the State administration covers up the incapability of certain municipalities for the provision of certain services. In France, the decentralisation laws have devolved packages of competences to different levels of government. In theory each level should have different powers and responsibilities on the same or different fields of activity. In practice, it has been criticised that everyone is doing everything and municipalities are devoid from real competences. In the case of inability to cope with assigned competences to municipalities instead of handing them over to upper-tier of local government, municipalities create EPCIS (associations of municipalities). For this paper, the option of Germany and Spain is preferred because it applies in a clearer way the principle of subsidiarity. Lower-tier local authorities, in principle, enjoy most powers because they are closest to citizens. Upper-tier local authorities intervene in a subsidiary way or whenever supralocal interests are at stake (for instance, provincial roads or transport).

If this subsidiarity-based strategy is considered, the main competences of upper-tiers of local authorities could be the following ones.

- Competences for cooperating with municipalities (for instance, by creating working networks of municipalities or by giving technical or legal advice on services). In this case, the municipalities are the clients of the upper-tier.
- Competences for substituting those municipalities which are unable to deliver the mandated or delegated services. In this case, upper-tier authorities should have the same competences which have been listed above and the recipients of the service are the citizens.
- Competences for creating, designing, regulating and providing services of supramunicipal nature within the boundaries of the county, province or *Kreise*.

3. Another Answer: Vertical and Horizontal Associations of Small Municipalities

France and Spain have chosen to overcome fragmentation besides by regulating inter-municipal and government-to-non-government associations. There are several underlying reasons for this choice:

- Both countries have a severe problem of fragmentation, with numerous rural municipalities that are unable to provide most local services.
- Amalgamation attempts have not been successful in the past or are not even considered in the political agenda on the eve of fierce opposition by locals.
- France has a long tradition of several decades of municipal associations, although the most successful reforms have taken place in the last five or six years.
- Spain has faced the typical problems of some political transitions. With the transition from dictatorship to democracy in 1975-1978, local authorities gained autonomy. Central ministries could then no longer intervene directly in local affairs. For that reason, Spain's experience with municipal associations can be of use to other transition countries that have recently faced the same problem.

The French case will be outlined here, while the Spanish experience will be analysed in more detail in the next subsection. France has a highly fragmented local system, with 36,672 communes. In recent years there has been an explosion of inter-municipal co-operation through EPCIs (*établissements publics de coopération intercommunale*). In 2005, a total of 2,525 EPCIs included 88% of French communes (32,311), while in 1999, the 1,680 EPCIs included 19,140 communes. According to the Ministry of Interior in France (2005), 52.2 million inhabitants participate in an EPCI. There are different types of EPCI according to population size – fewer than 50,000 inhabitants (*communauté de communes*); from 50,000 to 500,000 inhabitants (*communautés d'agglomération*); above 500,000 inhabitants (*communautés urbaines*) – and also different types depending on whether the EPCI has taxation powers.

Since 1999, EPCIs have been formed by neighbouring municipalities with the purpose of managing pooled resources. Municipalities are obliged to transfer functions of economic promotion, territorial development and transport to the newly created EPCI, and they may voluntarily transfer other competencies related to culture, sport, drainage, etc. Personnel also have to be transferred from municipalities to the EPCI. The novelty of the EPCI in recent legislation, in contrast to municipal associations in other countries, is that EPCIs can directly tax the population of the associated municipalities. This system avoids competition among neighbouring municipalities within the EPCI, although it does not solve the problem of competition among different EPCIs.

EPCIs could be considered as an attempt to amalgamate municipalities through economic incentives instead of by launching an amalgamation law that would meet strong opposition. In fact, recent legislation encourages municipalities to amalgamate using the EPCI as a framework and leaving the issue of political representation to EPCI members (municipalities).

In addition to EPCIs, a vertical association has been created. The *pays*, defined and redefined in 1995 and 1999, constitutes a territory with geographical, cultural, economic and social cohesion. Municipalities and municipal associations may form a *pays*, with the main goal of strengthening ties between city and rural areas. The *pays* can sign contracts with the state and with departments.

In Spain, approximately 86% of all towns have fewer than 5,000 inhabitants, and 72.2% have fewer than 2,000. Inter-municipal co-operation has been promoted through *mancomunidades* (horizontal associations of municipalities) and *consortia* (vertical associations of municipalities, other levels of government and non-governmental actors) in order to overcome fragmentation. In 1999, a total of 5,857 municipalities joined at least one *mancomunidad*, and 87.3% of these municipalities were towns in rural areas with fewer than 5,000 inhabitants.

Mancomunidades and *consortia* flourished in Spain after the transition from dictatorship to democracy. With the advent of democracy, local government gained political autonomy but financial resources, transferred mainly from the centre, did not suffice in providing compulsory services established by law in 1985. *Mancomunidades* and *consortia* have a different legal nature, although they both attempt to fulfil the same general purpose, i.e. to deliver services in rural and urban areas by fostering the association of municipalities (in the case of *mancomunidades*) and the association of local authorities and other entities in the case of *consortia*. While the political-administrative decentralisation process to empower local authorities in the French system provides the basic reasons for the increase in associations among municipalities, in Spain *consortia* and *mancomunidades* have increased their presence in the local arena as a combined effect of fragmentation, political autonomy and political decentralisation. This paper will focus on the Spanish example of *consortia* and *mancomunidades*.

4. Comparison of Spanish Intermunicipal Associations

Mancomunidades and *consortia* differ in several respects: purpose and partners of the association, the composition of the executive board, the finance system and, accordingly, the legal framework. Those aspects will be considered in turn. In order to illustrate the differences and similarities between *consortia* and *mancomunidades*, two examples will be used: Bilbao Water Consortium (BWC) and Uribe-Kosta Mancomunidad (Font and Parrado: 2003). Both associations are located in the Basque Autonomous Community (region).

4.1 Purpose of the association

There is a general debate between geographers and planners and public choice authors about the right scale for the provision of different public services. This debate helps in understanding the difference of purposes between *consortia* and *mancomunidades*.

Geographers and planners propose that the region is the right scale for providing municipal services within a region. The argument for a particular scale of region depends on the sense of place, which implies a centre where decisions are taken and boundaries that fit the purposes of different services. A single geometry, one territory, then provides *all services* in an area. With this territory as a basis, these specialists then recommend either *single metropolitan authorities* to provide services of the core city and peripheral cities of a metropolitan area or a *single association of local authorities* for multiple services. Different reasons are given to enhance a single geometry: "The scalar expansion of markets (continental and global

free trade agreements) makes a parallel expansion of scales on the sub-national level necessary in order to compete successfully but also in order to get a voice in the supra-national institutions; scarce resources on the municipal level must be pooled in order to finance major infrastructure projects; and finally socio-economic and environmental spill-over demand joint planning.” (Blatter, 2004).

Political economists advocate functional specialisation and variable geometry for different services. They consider that functions (i.e. services) should be the most relevant logic for institution-building (be it in metropolitan areas or in rural districts).

The influential work of Tiebout, Ostrom and Warren (1961) stressed that the optimal territorial boundaries of various services (e.g. police, fire department, water sanitation, water supply and social services) are not necessarily convergent because of the technical and socio-demographic nature of the services and of the recipients of the services. It would therefore not be wise to propose that a single, large-scale government be responsible for all services or that a single association of municipalities provide all services in all associated local councils. Instead, public choice theorists promote institutions that deal with a single service, thereby reducing the functional scope of each unit. Each unit should capture the specific economics of scale. Other authors further maintain that it is no longer feasible to try to establish uniform and homogeneous jurisdictions in order to deliver local services (Frey and Eichenberger, 1996 and 2001). They propose the concept of “functional, overlapping, competing jurisdictions (FOCJ)” and propose functional/sectoral differentiation as the new cornerstone for the architecture of governance that could be applied to rural communities. This is the case for special districts in the United States, single purpose governments in Switzerland, and *consortia* in Spain.

Mancomunidades and consortia, which deliver similar services, fit somehow into both sides of the debate. *Mancomunidades* are either multi-purpose organisations that deliver several services or single-service deliverers. The total list of services delivered by *mancomunidades* exceeds 60. The most preferred services by *mancomunidades* are refuse collection, water supply, cultural activities, fire services, social services, tourist and economic promotion.

Unlike the *mancomunidad*, the consortium is normally a one-purpose organisation. This is the case for at least 80 per cent of consortia. The three services most preferred by consortia are economic promotion, cultural promotion, fire department and water supply.

Mancomunidades do not adapt perfectly to the theory of single geometry because many *mancomunidades* deliver one service to the entire membership while others deliver only to a few, depending on the features of the service. Besides, a *mancomunidad* could create a consortium with other levels of government.

From the functional viewpoint, there are advantages in constituting a consortium (or a single-purpose organisation):

- *Institutional limits are easier to establish according to geography and economic principles.* For instance, a consortium for fire-fighting might consider all municipalities included in a forest, regardless of whether those municipalities are split on both sides of a mountain chain. However, for water supply purposes or for water sanitation, municipalities would prefer to establish consortia in each water basin, i.e. one on each side of the mountain chain.
- *Trade-offs between different services and municipalities disappear.* As territorial limits and the logic of different services differ, there is a continuous bargaining process between various local authorities for different services and, occasionally, decisions concerning these services might encourage local authorities to bid against each other.

A disadvantage of creating one single organisation for each service is that administrative costs might increase if each service has its own chief executive, administrative staff, headquarters, etc. For rural areas, an assessment of different strategies for pooling administrative infrastructure might be of help.

The examples chosen to illustrate the differences and similarities between consortia and *mancomunidades* fit the general definitions. The Bilbao Water Consortium (BWC) is a single-purpose organisation devoted to water supply and treatment while, the *mancomunidad* Uribe-Kosta, as a multi-purpose organisation, delivers social services, promotes the Basque language, treats home disposals, sensitizes communities to environmental issues, provides citizens with consumer information and retrieves abandoned animals.

4.2 Partners

The nature of the partners of the association is relevant to the topic of accountability (see next subsection). There are basically two possibilities for rural communities: a) public partnerships of municipalities, or b) public (-private) partnerships of different levels of government (and/or non-governmental entities, such as NGOs and private businesses). *Mancomunidades* belong to possibility a), while *consortia* fit with possibility b).

The *mancomunidad* in Spain is a local body made up of neighbour municipalities. There are three restrictions to the *mancomunidad* in Spain:

- The municipalities should belong to the same political region or state (autonomous community in the Spanish case).
- Higher levels of government (province or county) cannot constitute a *mancomunidad*.
- The *mancomunidad* is not allowed to deliver all services of associated municipalities, as this would imply in practice the disappearance of municipalities.

Political reasons are behind these three restrictions. Regarding restrictions a) and b), if municipalities from different regions join in a *mancomunidad* or if provinces (intermediate levels between municipalities and regions) create a *mancomunidad*, they constitute a counter-power to regional authorities, which has been avoided in Spain. However, from the point of view of services, the first two restrictions are dysfunctional, because *mancomunidades* of provinces might make a lot of sense in terms of fostering economic development, since two provinces might face the same tourist challenges, for instance. Likewise, neighbouring municipalities from different political regions (states) might find it functional to associate in order to provide a service (firefighting or health services) that cuts across different political regions. This problem disappears if the nature of the region is not political (i.e. only administrative) or if problems of national or regional identity do not arise.

The average number of (partner) municipalities in a Spanish *mancomunidad* is eight; 50 per cent of *mancomunidades* have six or fewer members, while some *mancomunidades* reach an impossible number of 94 local authorities.

Consortia are typical examples of vertical associations, as their members could come from any level of government (national, regional, provincial or local). In the past the participation in the consortium of at least one municipality was compulsory, but it proved to be dysfunctional, and some consortia (but very few) are made up exclusively of higher levels of government. Besides, non-profit organisations are allowed to take part in a consortium. One third of all consortia in Spain have at least one NGO as a partner.

The nature of the partnership is relevant because it is assumed that partners of equal status might have the same representation rights (if other dimensions are similar), while partners of different status might claim representation and powers according to their importance. In the case of partners of equal legal status (municipalities), differences in population sizes normally have an influence on the weight in decision-making processes. In the case of a vertical organisation, there is a temptation for higher levels of government to control the organisation, which could be counterproductive if co-operation is the main goal.

The *mancomunidad* Uribe-Kosta and the consortium BWC vary in terms of partners. The *mancomunidad* Uribe-Kosta was promoted by the provincial government that had given financing priority to *mancomunidades* over individual local authorities. In addition, the regional government had invested heavily in the areas under the responsibility of this *mancomunidad*. Once the regional government withdrew its financial support, the municipalities decided to make the *mancomunidad* stronger, as citizens had become used to the level of services provided by the entity.

The *mancomunidad* is an agent with two principals: the six founding local councils (full members) and the province and regional government (regular grant-givers and not members). In this arrangement, the province and regional authorities do not have the possibility of directly intervening in the daily matters of the *mancomunidad*. However, they provide economic incentives that might guide the main strategies of the association.

The consortium BWC has partners from different levels of government, each with a different role in the association:

- The 54 local councils have a number of votes according to population size, with a maximum of five votes for strategic decisions. They also have executive powers to control the performance of the consortium.
- The Basque regional government and the province finance the activities of the consortium, but they do not possess executive powers to control performance or vote capacity, although their representatives can express a voice in the governing bodies.
- The European Union supports the activities of the consortium with financial aid for infrastructure (water treatment plants). Since the EU is not a member of the consortium, information and transaction costs seem to be greater in this relationship than in relationships between the consortium and other levels of government that are members.
- Finally, users also pay to the consortium taxes on water bills, but they do not have direct representation in the consortium.

In the case of the BWC, the consortium has been a formula whereby higher levels of government finance the consortium's activities but are not allowed to vote in its decision-making bodies. According to general legislation, they could form part of the association, but they have maintained a role in the background. At the same time, they can voice their expectations and strategies in those bodies. In other consortia, however, higher levels of government also take part in the decision-making process. In the BWC case, the absence of any voting capacity of higher levels of government was part of the strategy to get autonomous municipalities involved in a consortium without the fear of being ruled by other levels of government in the governing commission. Likewise, the city council of Bilbao was persuaded to play a lesser role than its population size would have warranted.

The staff of the consortium has high managerial and technical skills and operates like a private utility. Besides, all of the government members of the consortium have committed themselves to avoid exercising any political interference on the technical decisions made by the staff.

4.3 The governing body

The differences between *mancomunidades* and consortia are also relevant in the composition of the governing body. In a *mancomunidad*, the governing body typically consists of three tiers: president, general assembly and board. Below these levels, a general manager acts as interface between the services and the political body. For instance, in one *mancomunidad* of 11 municipalities, the general assembly has 66 members appointed by councils according to population size and political party majorities; the board is made up of the mayors of the associated municipalities of the *mancomunidad*, 11 board members (also members of the assembly), and a president from outside the board. In many instances, the members of the governing board are too numerous to make efficient decisions.

Local councils are reluctant to give up power to managers of the *mancomunidad*, and they prefer to be present in the daily decisions of the association through mayors or delegated councillors. This attitude could partly be explained by the nature of the service (social services or cultural services), which more readily attracts political action, while some typical services of consortia – such as water supply (with a higher technical component) – are less amenable to political action.

In consortia a different governing structure dominates. According to Nieto (1997), there are three typical governing bodies of consortia: A less common type is similar to that of *mancomunidades*, whereby the governing body is made up mainly of appointed politicians from among the members. The other two most common types are highly influenced by the presence of a strong executive manager in charge of the daily affairs of the consortium.

In terms of recent trends in management reforms, *mancomunidades* belong to a traditional model of public administration, while consortia are more influenced by the dimensions of managerial reforms in recent decades.

4.4 Finances

Some *mancomunidades* have severe financial weaknesses because they inherit the financial problems of small local authorities. There are several instances in which quotas to the *mancomunidad*, established according to population size, were not paid by local authorities. If small local authorities are already financially weak, there is a heightened chance that they will miss payments to the association. In fact, many *mancomunidades* have faced this problem. *Mancomunidades* might receive grants from higher levels of government (in Spain, from the provinces), but this option does not cover the missing payments of members, who should be co-responsible for the *mancomunidad's* functioning.

In the Spanish case, in 1995 the provincial parliament of Vizcaya passed legislation to resolve this problem. This piece of legislation does not apply to the rest of the country. The new legal framework applied to *mancomunidades* and consortia. The new law allowed the president of the *mancomunidad* to request the withdrawal of provincial grants from those member municipalities which had not fulfilled their financial obligations with the *mancomunidad*. It also conferred on the president of the *mancomunidad* the power to start proceedings against any member municipality which had not included the duties to the *mancomunidad* in its budget. The question of finances is therefore important not only in backing the capacity for service delivery but also in showing co-responsibility among members.

4.5 Accountability

The association is accountable to its members and financial supporters from different perspectives: legal, financial, managerial and political. The importance placed by different stakeholders on one type of accountability or another shows not only how the association responds to the demands of others but also the national context in which the association operates. In Spain, as in many other countries dominated by a

Napoleonic or Prussian tradition, public authorities are more concerned with legal and financial accountability. Nonetheless, some auditing bodies (Basque and Catalan auditing courts) in Spain have started to claim that information on the performance of local services would be needed in order to adequately assess how different local entities and associations are investing taxpayers' money (directly paid by municipalities or by higher levels of government).

In terms of accountability, it is important to know the expectations of responsibilities, the flow of information between the agent and principals, evaluation of results, and incentives. These concepts will be applied to the consortium BWC and to the *mancomunidad* Uribe-Kosta. Expectations of different types of responsibility are shown in Table 1. In the case of the consortium, accountability to member municipalities is related to their needs of meeting citizens' requirements for water supply and treatment at a relatively affordable cost. In the Uribe-Kosta *mancomunidad*, politicians worry about the charges for refuse collection. Municipalities are agents of the electorate, and they are likely to oppose large increases in water consumption charges or refuse collection charges. Municipalities therefore expect the consortium or the *mancomunidad* to raise external funding (from higher levels of government or from the EU) to carry out infrastructure projects. Accountability expectations of municipalities are mostly political rather than managerial. Thus, fixing the price of water or refuse collection becomes a key political decision for municipal leaders. There are other types of political incentives. Positive political incentives include the expansion of the consortium's autonomy, functions and boundaries. Negative political incentives are usually the opposite (i.e. restriction rather than expansion), as well as open criticism in the media by local political leaders.

Table 1 Expectations of responsibility of the Bilbao Water Consortium (BWC) and the *Mancomunidad* Kosta-Urbe (MKU) vis-à-vis stakeholders

	Legal-Finances		Managerial		Political	
	BWC	MKU	BWC	MKU	BWC	MKU
Local councils	xx	xx	x	x	xxx	xxx
Provincial government of Vizcaya	xx	xx	xx	xx	xxx	xx
Regional Basque government	xx	xx	xxx	xx	xx	x
Central government	xx	-	xx	-	xx	-
European Commission	xx	-	xxx	-	x	-
Audit courts	xxx	xxx	-	-	-	-

Source: Font and Parrado (2003)

xxx	high	xx	Medium	X	low	-	does not apply
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Unlike other higher levels of government, the provincial government aims to expand its political influence in the consortium. Due to its financial power, for the last two decades the provincial government has managed to take over certain services previously delivered by municipalities. In most cases, this has resulted in increased funding and improved quality of service. Water supply and treatment provided by many municipalities outside the consortium offer a poor quality and, sometimes, at a higher price. The question of equality is then raised here, and the provincial government tries to encourage municipalities to enter the consortium. The province also tries to influence the executive decisions of the consortium, as it has eventually obtained voting and executive powers, and sometimes the presidency of the consortium. All of these facts underline the growing importance of the consortium's political accountability to the provincial government. However, the political accountability of the Kosta-Urbe *mancomunidad* to the province is lower than that of the consortium, since the *mancomunidad* is composed of six municipalities

(2% of the province's population), while the consortium comprises 54 municipalities (85% of the province's population). The autonomy of the *mancomunidad* (with municipalities as members) would be endangered if the province decided to increase its intervention, for instance by setting performance standards.

Other higher levels of government make more extensive use of financial incentives. Given the consortium's great need for funding to carry out its infrastructure works, it is quite successful in using financial incentives to guide its performance. The higher the level of government, the less of a priority is given to the affordability of water consumption charges. The regional or the central government tends to view the financing of the consortium as an unfair transfer of the financial burden from the citizens of the consortium area to all Basque or Spanish taxpayers. However, this view usually changes when these governments are able to involve the EU in funding the consortium's activities.

The EU, the central government and regional governments are more interested in legal and managerial accountability than in political accountability. None of these three layers of government seems eager to play a more active political role in the consortium (they are not entitled to do it in the *mancomunidad*) because their electorates stretch far beyond the boundaries of the consortium area. Hence, they have rarely asked for executive powers or voting rights in the governing bodies of the partnership.

As a result of the predominantly bureaucratic culture of Spanish public administration, most relevant external stakeholders place greater emphasis on legal accountability than on managerial accountability. This is the case of the Audit Court, which only complains about the lack of performance data that prevents it from evaluating efficiency and equality. Similarly, the Prices Supervisory Board, which must approve any increase in prices of basic goods, usually focuses on the legal aspects, ignoring issues related to performance.

In both of the examples of *mancomunidad* and consortium, while it is relatively easy to design performance measures for the consortium, particularly if they are based on outcomes – such as water quality standards – it is more difficult to find agreed performance data for quality and outcomes of social or cultural services. For that reason, most yearly reports of consortia or *mancomunidades* are filled with indicators related to resources, activities or (occasionally) outputs. In this sense, the accountability in managerial terms is rather low.

Even though the leading team of the consortium is rather managerial, the members have chosen a politician (the mayor of one of the more important municipalities) as president of the consortium in order to ensure political responsibility. Finally, while in the *mancomunidad* there is a collective governing body made up of politicians, in the consortium the political executive has been streamlined to one person.

4.6 Performance management

Due to the high interest in political and legal accountability, the consortium provides information to all members (including the province and higher levels of government), while the province is excluded as a recipient of information in the case of the *mancomunidad*. In both organisations, the information is self-assessed, and the auditing exercise by external organisations is focused on finance and legal matters (Basque Audit Court).

In the Kosta-Urbe *mancomunidad*, local councils use political incentives. The *mancomunidad* has less autonomy than the consortium, but local councils are willing to give up power inasmuch as their preferences are accomplished by the *mancomunidad*. Those preferences become problematic when there are severe political disputes between political parties of the various municipalities or when the number of

municipality representatives in the governing board of the *mancomunidad* makes binding agreements impossible.

Attempts to change the approach to managerial accountability and to measure achievements towards standards have been very limited in the Spanish context. Another section of this report will examine an example of the voluntary use of performance indicators to report on the level of achievement of Catalanian municipalities.

From the analysis of consortia and *mancomunidades* in Spain, some conclusions can be drawn:

- Associations may differ in terms of purpose. There is no problem in principle about being multi-purpose or single-purpose as long as the territory covered by each service makes sense from the economic point of view, the relevant socio-demographic features, and the monitoring capacity of the association. Each service (refuse collection, fire department, social services) follows a distinct logic in terms of geographical limits, and this logic should be respected when organising the association.
- Associations may differ in terms of governing body. In any case, in order to ensure political and democratic control, local politicians (or provincial politicians) should be placed at the top of the association. It seems that in order to strengthen the managerial capacity of the association it would be wiser to have a separate management team, which would be bound by performance contracts including negotiated standards of services that could be assessed periodically.
- Associations may differ in terms of membership. Consortia allow the presence of higher levels of government (with or without executive powers and voting capability) as well as NGOs and private capital. *Mancomunidades* and EPCIs have only municipalities as members. If higher levels of government have a strong political interest in the association, it might be wise to devise a system in which they have executive powers and voting capability without undermining the autonomy of local-level authorities. If their interests are more managerial or are generally concerned with service standards, they could set up frameworks for commitments on both sides.

Löffler (1999: 17-18) proposes performance partnerships in order to achieve responsible and efficient contract relationships between the agent (association) and its partners. These partnerships should ideally have the following features:

- clear delimitation of functions and responsibilities and identification of risks;
- joint agreement on performance expectations, according to available resources;
- circulation of trustworthy information between the agent and the different stakeholders;
- joint evaluation of results;
- feedback on results and necessary adjustments for continual improvement.

5. Conclusions

1. There is no single approach across Europe for tackling the problem posed by fragmented local government and small-sized local authorities in order to advance a national agenda aimed at enhancing service delivery. National options historically vary from compulsory amalgamation of small or rural municipalities to incentives for co-operation among municipalities or between municipalities and other layers of government, private capital and/or NGOs.

2. Compulsory amalgamation is no doubt the toughest national policy, which might find strong opposition from recently autonomised local authorities. No final study has evaluated how partnerships of all kinds – EPCIs in France, *mancomunidades* and consortia in Spain – improve service delivery in small municipalities. Judging from the increasing number of this type of co-operation, it can be concluded that it raises the level of services in small municipalities.

If the role of upper-tier local authorities is used to overcome the problems of fragmentation, legislation should reflect *when* and *how* upper-tier local authorities may or have to substitute small municipalities. Otherwise there is the risk that upper-tier local authorities interfere with local autonomy when conditions are not ripe for their intervention.

If countries opt for fostering co-operation through associative formulas (also including non-governmental partners as the consortia in Spain), they may want to consider certain issues:

1. Unless the central government is prepared to allocate financial resources directly to the associations, it seems to work far better when there are different types of partners (from different levels of government) so that financial support can be better ensured.
2. Experience has shown that the functioning of the association is improved if higher levels of government do not interfere to any great extent in the decision-making process and in the voting system. It would be wise to devise a system in which higher levels of government have executive powers and voting capability without undermining the autonomy of local-level authorities. Ideally, local politicians – rather than nationally appointed managers – should be at the top of the association. An autonomous and professionalised managerial team recruited by the association and bound by performance contracts, including negotiated standards of service, would strengthen the managerial capacity of the association.
3. Assuming that all partners contribute resources, national legislation should ensure that lack of compliance with financial payments is dealt with in an effective way.
4. It is also feasible to grant taxing powers to the associations. This feature entails in the long run direct elections by citizens of those governing the association (“no taxation without representation”).
5. Associations could be all-purpose, multi-purpose or single-purpose. Each type has its advantages and disadvantages; however, it seems that different public services have different geographical fits. Each service makes sense from an economic point of view and in terms of the relevant socio-demographic features and monitoring capacity of the association. Therefore, whatever type is chosen, consistency should be ensured between the purposes of the association and the territory that the public service is to cover. At the same time, the issue of overlapping territories of different associations should be taken into account and dealt with when drafting a national system of associated municipalities.
6. If municipal association is chosen as an option, financial incentives seem to work far better than compulsory legislation without financial compensation or incentives.
7. This association strategy needs to be accompanied by adequate support at central level. It also needs to be taken into account when designing a national system of performance indicators so that indicators are collected at the association level. This would facilitate the evaluation of performance of these associations.
8. Finally, while drafting the statutes or the legal founding document of the association, apart from defining the scope of the association, partners should also clearly identify functions and responsibilities of partners, determine performance expectations, circulate trustworthy information among partners, and establish managerial structures and accountability lines – including

mechanisms for joint evaluation of results. They should also design an adequate management reporting scheme to partners, donors and citizens.

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