

The Position of Local Governance Units in the Process of Introducing and Legal Standardization of the e-Business

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Abstract - When it comes to electronic business on the level of local governance units, primarily is referred on their position in the process, responsibilities and barriers for development of the e-business. Since the municipal serve to citizens, it would be good to initiatives and proposals for improvement of e-business that already exists in different versions ranging "bottom-up", or toward higher levels, where higher levels would work on the improving and the legal framework, which would strive for required uniformity e-business, due to the fact that local governance units have the same statutory authority.

Keywords: e-Business, the legal framework, local governance units, laws, restrictions

1. Introduction

Local governance units (cities and municipalities) have largely been ignored in the policy documents related to the use of ICT. At the state level, neither the Constitution nor the law does not deal with local governance. Bosnia and Herzegovina has ratified Charter of Local Self-Government, which mitigates this legal gap. Entity laws in this field are conflicting. At the entity level (Federation of Bosnia and Herzegovina) was adopted the Law of principles local self-governing which are in authority of municipalities, without formal guidance making of any differences between them (population, size of territory, economic development, etc., whether municipalities within the city or an independent). In the Federation between the federal and municipal level there is an additional level of government-cantons, which are also regulating the local self-government [1]. Complex administrative organization of the Federation of Bosnia and Herzegovina, which consists of ten cantons, which have a high degree of autonomy, the problem is that it is difficult to determine who is responsible for this area, and to establish coordination between cantons and municipalities in the canton.

In the Serbian Republic is adopted the Law on Local Self-government in which the central authorities of the entities have a direct impact on the municipality. Finally municipalities have their own statutes, which also regulate the local self-government. None of these acts are not dealing with the problem of e-business, nor does it prescribe the obligation of using the same in order to improve the quality of services, larger transparency and citizen participation [2].

Because of that local governance units have taken the major duties and responsibilities, as are generally responsible for making a number of public policies and the provision of various services. Law on Principles of Local Self-Government in the Federation of Bosnia and Herzegovina prescribes the scope of local self-government, while Article 4 provides that municipalities are local governments, and to have legal personality (article 6) [14].

In the institutional segment, as already stated, there is no adequate authority on any level of government which would deal with both legal and technical aspects of the application of ICT in public administration, nor are even used legal possibility of forming a joint body (cantonal and municipal level). According to the current laws on local self-government there is no legal impediment for local governance units in Bosnia and Herzegovina to adopt and implement local e-government [3]. Municipalities may establish administrative organizations to carry out self-management activities, as well as the tasks that have been transferred from higher levels of government. Which means that there is a possibility for the establishment of special administrative organizations on the municipal level which would directly manage and implement e-government. However, the lack of these laws do not prescribe the obligation for the local governance units to use ICT in their business.

2. The problems of indistinctly responsibilities of the different levels of the government in the process of electronic business

The Dayton Peace Agreement, which is an integral part of the Constitution (1995), article III "Responsibilities and relationships between institutions of Bosnia and Herzegovina and entity," item 1 "Responsibilities of the Institutions of Bosnia and Herzegovina", are listed the issues that are the responsibility of the institutions of Bosnia and Herzegovina. Item 2, the constitutional authority of the entities are normalized. Item 3 "Legal system and the responsibilities of institutions," Item 5 stipulates "The additional responsibilities," while procedural powers as provided in Article IV. "Parliament-congress responsibilities"[10].

Item 3 of Article III stipulates that "All governmental functions and responsibilities which are not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina, they belong to Entities," which can be interpreted as the jurisdiction in favor of the entity.

The problem of authority is evident, especially between the Serbian Republic and Bosnia and Herzegovina, which affects the adoption and establishment of a harmonized state and entity policies in the domain of e-business, as well as an impediment to the establishment of an institutional framework for the development of e-government in Bosnia and Herzegovina [11]. Problems of the unclear responsibilities among the various levels of the government as well as the coordination of work, especially are expressed in the Federation of Bosnia and Herzegovina. By the adoption of the Law on Principles of Local Self-Government of the Federation of Bosnia and Herzegovina, many issues have become subject to the jurisdiction of the cantonal law, where the relationship between the various legal provisions and the jurisdiction of the federal and cantonal level is a problem[4]. These problems are directly reflected in local governance units, as well as a service which provide the services to citizens. No single normative act that regulates local governance units has not promoted e-government, which ignores the fact of the intensive use of ICT in cities and municipalities.

3. Legal regulations, general acts and documents on electronic business at the level of the local governance units

In addition to higher levels of government laws and general acts of local governance units also can be used to develop e-government [12]. General laws may be adopted in the form of: making, rules,

guidelines or policy documents, or other mechanisms prescribed by statutes, which establish the procedures for the implementation and development of e-government.

Municipalities have adopted different types of documents in the form of development strategies, action plans, project assignments, etc., while the specific decisions related to the development of e-governance and regulation of certain aspects of the implementation of e-governance is rarer practice. These data suggest to the conclusion that the potentials for supporting adoption of e-governance through various municipal acts are largely ignored [3].

The situation in this field shows that the majority of municipalities have introduced electronic business in their own management. Also, most of the municipalities through the Government Accountability Project (GAP) accelerated this process.

When it comes to the municipal authorities, the level of implementation of the Action Plan of Information Society Development in Bosnia and Herzegovina, which the Council of Ministers adopted in the November 2004, at the municipal levels vary widely from municipality to municipality and is directly related to the size and budget funds in each of the municipalities (Larger and richer municipalities have joined the earlier implementation of various ICT solutions) or it is a result of the initiative of the municipality and / or donor subsidies (UNDP, USAID, DFID, etc.): [3].

According to the current state of each municipality, mainly seek out the solution for itself in the field of ICT application. Influence of the obstacles to the development of ICT in municipalities has resulted in uneven development and various ICT solutions. As a service of the citizens, undertaken municipal daily activities are processed and issued of various documents internally and externally to service users so system for process management (document management system), led to municipalities to establish databases implement software solutions that will accompany the request of a party to the final answer to the same [9]. It is questionable how these procedures are legally regulated, and how local governance units have used the jurisdiction of the executive and representative bodies which are prescribed by statute. Legal regulation of this segment must start between the representative body and the executive body of the adoption of new acts as follows:

The representative body should bring the following documents:

- The municipal development strategy that will have a segment of the application and development of ICT.

- Action plan for the development of the municipality, which will elaborate the steps of application and development of ICT.
- The plan of the computerization, with the terms and obligations of the organizational units.
- The budget plan funds for the implementation and development of ICT.

Based on these acts of executive authority could adopt laws that would concrete the activities, identify individual obligation with deadlines for implementation, such as:

- Decision on the compulsory use of software applications in a single system operating institutions.
- The decision on the establishment of electronic databases for certain areas.
- Regulation on defining procedures document flow
- Regulation for data protection
- Instructions how to use ICT

If it tends toward uniformity in the application of ICT and procedures in the municipalities and the establishment of an institutional framework, Law on Principles of Local Self-Government (Article 9) provides the possibility for works from within their own jurisdiction, and to works from within the assigned activities of the local governance can perform through shared services, organizations or institutions with public authorities and through other forms of cooperation local governance units [13],[14]. The progress in the application and implementation of ICT in municipalities and establishment of uniform procedures of business, it would facilitate the establishment of a joint body on the cantonal level, which could act toward higher levels in order to develop and complement already existing legal framework, financial support, and easier way to overcome the problem.

4. Interferences to the development of e-business in local governance units

In addition to missing legal regulations of higher levels of government, planning approaches, strategies, lack of institutional preconditions for failure to deliver municipal decisions related to the introduction and development of e-business, local governance units have had the internal interferences for the implementation and development of e-business [7]. Interferences can be classified as legal, institutional, policy, financial, hardware, software and human .The degree of influence of these

interferences is not the same in each municipality, it depends primarily of the size of the municipality and is directly related to budget. Listed interferences should be linked with the conflict of jurisdiction between the different levels of the government, with the level of representation of e-services and cooperation with other government institutions in the leading of the administrative procedures and the collection of evidence ex officio, and the fact that municipalities apply ICT in their business, but hardware and software access is uneven [5]. Software solutions are generally different, although the municipalities are engaged in the same business, operational bases are in various fields of business. Financial, interferences related to the limited financial capacity of municipalities and transferring obligations without financial support from higher levels of government. The financial factor is reflected in the improvement in domain of ICT application, but the budget does not allocate sufficient funds for this purpose, so majority of users remains neglected in the area of training, or are forced to finance themselves [6]. The human factor is divided into the IT staff who maintain ICT and users.

Municipalities in its rules about the internal organization does not pay enough attention to these matters or adaptation these work places to new way of doing business. For other members in regulation is mentioned this segment. Additionally, there is no clear vision and goals of ICT development by the municipal authorities, which is a very negative connotation for the municipality as a service for its citizens, because the same is to enable greater transparency of administration and powerful incentive for citizens to participate in local community life [8]. For these are necessary online services and web services, which would constantly update with information. To alleviate of these difficulties, the local governance units rely on themselves.

5. Conclusion

The local governance units as a service to citizens have largely been neglected in policy documents, and it is totally logical that with the limited resources , lack of transparency and responsibility, undefined procedures are lagging behind in this domain, which result that the people as direct beneficiaries of their services are set aside.

The question is the role of the cantons as the level of government between municipalities and the Federation of Bosnia and Herzegovina and its impact on municipalities and the implementation of e-business. The issue of legislation relating to the

regulation of local governance is that there is no law which makes obligatory the apply of e-business. Local governance units apply e-business, but separately, even do not coordination between the municipalities of the same canton, so the technical solutions are different from one municipality to another. Also, most of local governance units did not legally regulate the electronic business, or did not use the authority of their authorities, for what they have a basis in law.

Here we can ask a question:

Can the municipality, without comprehensive legal regulations and instructions from higher levels of government to make plans to introduce computerization and electronic way of doing business, to establish an electronic database, and provide adequate protection for them?

The answer may be yes, simply because the municipalities in their business already apply e-business, then because there are law possibilities, because they can make their own strategic documents, which have so far been silent on e-business, what is necessary to correct, also in their budgets they plan resources for this purpose, which has not been the case until now. The municipalities may also adopt plans of computerization, so far not sufficiently paying attention plans, because in most cases still use donated equipment, but in the future must take care of the adequate IT plans. The municipalities established electronic database, since they realized their significance. However, it is questionable how many different solutions in the future can be connected and how many bases are compatible for data exchange. Although the answer is yes, the process is slow and patchy and shows a complete lack of legal regulations and instructions from higher levels of government which would contribute to the establishment of a unified e-commerce in every local governance unit. For the introduction of the e-business in local governance units there is no legal impediment, municipalities can use competence from their authorities in this field. Law on Principles of Local governance allows municipalities to establish institutions for self-government business, so each municipality for itself could create a body for the implementation and development of ICT, also, the law allows the formation of a joint body consisted of several municipalities, however, until now we do not have recorded such cases.

The lack of clear programs for the development of e-government, and the lack of human and financial resources are the main reason why the institutions of Bosnia and Herzegovina do not have a clear action plan for the development of e-government. Bearing in mind that Bosnia and Herzegovina is a future

member of EU, so it must meet and satisfy ICT standards and adopt European practice in many fields.

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