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Recent processes of segregation and incorporation of municipalities in Andalucía. Fusion or cooperation as a solution to local minifundism?

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ARTICLE SECTION

Recent processes of segregation and incorporation of municipalities in Andalucía. Fusion or cooperation as a solution to local minifundism?

Abstract: The Andalusian municipal map is currently composed of 785 municipalities, although this political, administrative and territorial reality has experienced a significant boom in segregationist phenomena during the constitutional period, being especially numerous during the last decade, with the creation of 14 municipalities, with a majority legal basis in the Local Autonomy Law of Andalusia (2010). With the State Law on Rationalization and Sustainability of the Local Administration (2013), the conditions for segregation have been tightened, establishing a minimum population threshold of 5,000 inhabitants and their financial viability. The objective of this research is to deepen the current position of the Junta de Andalucía in the processes of segregation and incorporation of municipality, as well as future segregationist possibilities. For this end, a review of all the regulations on local government and their repercussions on the Andalusian municipal map will be applied as a methodology. The main results set out the current overview in this regard. And as a conclusion, various alternatives will be presented: either the merger of municipalities with small population and financial problems, or the strengthening of territorial cooperation figures (communities of municipalities, consortiums) or the creation of supra-municipal entities (administrative regions, metropolitan areas).

Key words: Local autonomy, Municipal map, New councils, Segregation, Andalucía.

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IDEAS CLAVE / HIGHLIGHTS / IDEES CLAU

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| <ol style="list-style-type: none">1. Las segregaciones municipales tienen un carácter excepcional según la actual legislación estatal (LRSAL, 2013) y su exigencia de superar los 5.000 habitantes.2. En Andalucía se han producido 14 segregaciones por debajo de este umbral demográfico, pues su tramitación se inició antes de la entrada en vigor de la LRSAL.3. A futuro se dificultan las segregaciones en Andalucía, pues solo existe una localidad que cumple ese umbral demográfico.4. Se considera conveniente mantener los municipios como comunidad política y de participación, y gestionar los servicios públicos en un marco supramunicipal.5. La estrategia organizativa territorial debe primar la voluntad en la fusión de municipios y en el asociacionismo intermunicipal. | <ol style="list-style-type: none">1. Municipal segregations are exceptional according to the current state legislation (LRSAL, 2013) and its requirement to exceed 5.000 inhabitants2. In Andalucía there have been 14 segregations below this demographic threshold, as their processing began before the entry into force of the LRSAL.3. In the future, segregation in Andalucía will be difficult, as there is only one town that meets this demographic threshold.4. It is considered appropriate to maintain the municipalities as a political and participatory community and to manage public services in a supra-municipal framework.5. The territorial organizational strategy must give priority to the voluntary merging of municipalities and inter-municipal associations. | <ol style="list-style-type: none">1. Les segregacions municipals tenen un caràcter excepcional segons l'actual legislació estatal (LRSAL, 2013) i la seua exigència de superar els 5.000 habitants.2. A Andalusia s'han produït 14 segregacions per davall d'aquest llindar demogràfic, perquè la seua tramitació es va iniciar abans de l'entrada en vigor de la LRSAL.3. A futur es dificulten les segregacions a Andalusia, perquè només existeix una localitat que compleix aqueix llindar demogràfic.4. Es considera convenient mantindre els municipis com a comunitat política i de participació, i gestionar els serveis públics en un marc supramunicipal.5. L'estratègia organitzativa territorial ha de prevaldre la voluntarietat en la fusió de municipis i en l'associacionisme intermunicipal. |
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EXTENDED ABSTRACT¹

The Andalusian municipal map is currently made up of 785 councils, although this political, administrative and territorial reality has experienced a significant boom in segregationist phenomena during the constitutional period. As a result, the number of municipalities has increased: 26 segregations compared to only 2 additions to neighbouring municipal terms, especially numerous municipal independences during the last decade, with the creation of 14 new councils, most of them with a legal basis in the Local Autonomy Law of Andalusia (LAULA, 2010), all of that despite the restrictive requirement to obtain municipal independence subject to ratification by the plenary session of the parent council, and the condition of the minimum threshold of 5.000 inhabitants established by the Law of Rationalization and Sustainability of the Local Administration (LRSAL, 2013) for the segregation files initiated as of January 1, 2014. All that in accordance with the technical and, in general political, postulates that, in theory, a significant reduction in the number of municipalities.

The objective of this research has been to deepen the current position of the Junta de Andalucía in relation to the processes of creation and deletion of municipal terms, applying for it, as a methodology, a review of all the regulations on local regime and its repercussions on the Andalusian municipal map. The main motivations to grant or deny municipal segregation have been studied in depth, although it seems quite clear that the Andalusian Community has opted for the use of article 95.1 a) of the LAULA, that is, by means of a plenary agreement of the parent council, discarding section c) of the same article, which refers to the initiation of the procedure by the competent Regional Ministry on local regime, since to date *ex officio* segregation procedure has not been promoted by this Autonomous Community.

However, this rigorous character has not been established as an insurmountable barrier that has prevented the successful completion of segregation initiatives, and in fact, up to 14 segregation decrees have been published in recent years, 7 of them in October 2018, with population clearly reduced, despite various unfavourable opinions from the Andalusian Advisory Council.

However, future options for municipal segregation are subject to exceeding the minimum population threshold of 5.000 inhabitants, which is a strict requirement, since 85 % (a total of 528) of Andalusian municipalities do not even reach this limit. This implies that of the more than 13.000 existing settlements in Andalusia (counting both population centres and scattered at the toponymical level), only 34 of them would meet the demographic requirement. In addition, it should be borne in mind that none of these settlements has become an Autonomous Local Entity, and that most of the secondary centres are actually coastal urbanizations very close to their municipal capital or to the main population centres of another municipality, lacking identity own, so that, in practice, puts a stop to segregation, despite the fact that in certain populations there is still a strong feeling of differentiated identity.

Regarding mergers, despite the fact that the LRSAL has placed special emphasis on them, establishing some promotion measures in the economic and tax field, it does not seem that, with the new regulation, the voluntary merger of municipalities will be followed by many of them, not even in those cases that are immersed in processes of economic sanitation. In addition, there is no option for one of the merged municipalities to maintain

¹ Authors' exclusive translation. The full version of the article is available in Spanish.

a position of differentiated administrative identity, since they cannot be constituted as EATIM (ELA in Andalusia), but only as a form of decentralized, and not decentralized, organization, such as EATIMES, which we can consider as residual local entities, by not allowing, with the current legislation, the creation of new ones.

However, although the new article 116 bis of the Local Regime Bases Regulatory Law (LRBRL, 1985), advocates a case of merger of a forced or sanctioning nature, by formulating an economic-financial plan that will include, among other issues, a proposal for a merger with an adjoining municipality, within the same province, it is not foreseeable that the Junta de Andalucía will make use of this possibility, since the aforementioned forced mergers are a more than debatable measure in constitutional terms and although there are many proposals from the political sphere to reduce the number of municipalities, a real generalized and consensual political will would be needed.

Furthermore, since the Junta de Andalucía has transferred competences in matters of local regime, there have only been two cases: the incorporation of Almería municipalities of Benínar (1984) and Darrícal (1997), bordering those of Berja and Alcolea respectively, as a consequence of the construction of the Benínar reservoir, and therefore caused by an unforeseen reason.

It is necessary to overcome the opposing positions between those who bet on a significant reduction in the number of primary territorial entities, following the line set by countries in Southern Europe such as Portugal, and those that position themselves by strengthening municipal cooperation or creation of supra-municipal figures. It should be borne in mind that the problem of local minifundism does not have the same territorial affection, so that the organizational-territorial solutions must not be homogeneous either. Thus, within the population threshold of 250 inhabitants, the Autonomous Communities with the highest percentage of municipalities would be Castilla y León (61,9 %), La Rioja (61,5 %), Aragón (57,6 %), Castilla-La Mancha (44,5 %), Navarra (40,4 %) and Catalonia (19,3 %).

Therefore, keeping in mind the specificity of each region, a possible solution to local minifundism could be to create a double local level: maintaining the municipalities as a political community and citizen participation that would allow the local identity to be preserved, except in the case that it does not reach the minimum population threshold; while the management and provision of services are carried out within the framework of a supra-municipal territorial space.

It should be said that municipal cooperation under the figure of the communities of municipalities has an important roots in Andalusia, although in certain cases they coincide with well-defined territorial areas, it is still not possible to speak of an embryonic regionalization of Andalusian territory based on the territorial division of the communities of municipalities, since in Andalusia only 522 municipalities (66,5 %) belong to some of them, so the voluntary association of municipalities for the joint management of their own competencies is not sufficiently widespread throughout the region.

For Andalusia, as a consequence of the low number of small municipalities compared to other regions (3,9 % in the range of up to 250 inhabitants and 27,9 % up to 1.000 inhabitants), the most appropriate would be the empowerment of political-administrative organizations of supra-municipal scope (without resorting to coercive formulas for the merger of municipalities), through the regulatory development of administrative regions, establishing their own competence framework that would allow them to bring together the supra-municipal services that up to now are being carried out by the provincial council

and the communities of municipalities, and that, on occasions, involves a duplication of efforts towards the achievement of the same objective.

However, the state strategy is far from approaches that promote the grouping of municipalities in supra-municipal entities. Thus, with the entry into force of the LRSAL (2013), the role of the provincial councils has been strengthened, entrusting them with the coordination of certain minimum services of the municipalities with a population of less than 20.000 inhabitants or the attribution to these provincial entities of new functions in collaboration with the autonomous communities.

In conclusion, to achieve the long-awaited economic sustainability and efficiency in the management of competencies, various formulas can be applied, such as reducing the number of municipalities (groups or mergers), promoting municipal cooperation (communities of municipalities and consortiums), the creation of supra-municipal figures (administrative regions and metropolitan areas), and even the appearance of a double local level. However, any legislative initiative that involves the reduction of the municipal map will, with great probability, entail political-social tensions between those who promote it and local corporations, so its processing must be transparent and as participatory as possible.

In addition, it is important to reach specific solutions to the problem of local minifundism, since each space has characteristics of settlement that require different solutions, and what has been taken into account, in relation to territorial delimitation, must be taken into account in the European Charter of the Local Autonomy (1985), which indicates that for any modification of the local territorial limits, the affected native communities must be consulted beforehand, if necessary, by way of referendum, wherever the law allows it, as it could perfectly well be in the Andalusia case.