

Local Autonomy, Territorial Organization and Municipal Segregation

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The Law 5/2010 of Local Autonomy of Andalusia (LAULA) deepens in the capacities of the municipalities to decide on themselves: the procedures of segregation of municipal area need express agreement of the absolute majority of the plenary session of the town council of the municipality that suffers the segregation. On the other hand, municipalities have the possibility of spatially organizing their municipal area, or part of it, into territorial districts as a manifestation of their full political autonomy, which may be of a deconcentrated nature (hamlets, parishes, small villages, neighborhoods, parish churches, councils, rural district, etc.) or decentralized (Autonomous Local Entities or Neighborhood Entities). As for the Autonomous Local Entities conformed in Andalusia, they are usually a previous step to the creation of a new municipality, for which the Law 27/2013, of Rationalization and Sustainability of the Local Administration has set a population limit that, in the practice, suppresses segregationist aspirations.

To successfully address the dissertation on the concept of local autonomy and the territorial organization of the municipality in Andalusia, it was necessary to resort to two unpublished documents that fall within the competence of the General Directorate of Local Administration of the Junta de Andalucía: "The municipal demarcation in Andalusia" and "The spatial component of the municipality and its administration in light of the power of self-organization" (Medina, J.A., unpublished), where it deepens in the concepts of local autonomy, municipal demarcation and administration of the territory; as well as the scientific article called "The Autonomous Local Entities in the Law of Local Autonomy of Andalusia (LAULA)" (Pérez, M.M., 2010).

It has also been essential to know in detail the legislation currently in force, mainly Law 7/1985, of 2 April, on Bases of the Local Regime and Law 5/2010, of June 11, on Local Autonomy of Andalusia, which repealed Law 7/1993, of July 27, Regulator of the Municipal Demarcation of Andalusia, and amended its regulation (Decree 185/2005, of August 30, which approves the Municipal Demarcation Regulation of Andalusia and the



Andalusian Registry of Local Entities), as well as Law 27/2013, of December 27, on Rationalization and Sustainability of Local Administration.

As for the Autonomous Local Entities, two types can be distinguished depending on the definition of a territory on which to exercise their powers:

- a) those that have a specific territorial scope through official publication by the Junta de Andalucía,
- b) and those others absent from a well-defined territory in which to exercise their functions effectively. The andalusian legislator did not take into account that for the proper management of own and / or delegated competences, apart from the determination of the same, it was necessary to establish physical or territorial limits, for which it did not require the municipalities to establish a territorial scope for those ELA that did not have it assigned.

Focusing on the first, we find several situations that should be specified in an approval of its limits and its publication in BOJA, so that the exercise of the competences of these ELA is fully-fledged:

- a) Entities whose constitutional regulations refer to the delimitation established in the Colonization Plans, being referred to the area of influence of the villages, so that it can be considered informal but not official: La Barca de la Florida, Guadalcazín, San Isidro del Guadalete, El Torno, Torrejera, Facinas, Tahivilla, Algallarín, Encinarejo de Córdoba, Fuente Carreteros, La Ropera, Los Villares and La Quintería.
- b) Entities without any delimitation in historical documentary sources, for which a restrictive criterion must be used, adjusted to the limits of urban and developable land: El Centenillo.
- c) Entities without official delimitation that were formerly independent municipalities, so that its possible delimitation is known approximately: Fuente Victoria, Fornes, Picena, Mairena and El Mármol.

On the other hand, most of the andalusian municipalities that have a significant urban population have districts, understood as divisions of the main urban centre for the management of diverse aspects, such as the participation of citizens of the associations of neighbors, information and management of urban planning files and licenses, etc. With the same conception, but with obvious territorial differences, since the delimitation of the full municipal area is required, title X of Law 7/1985 Regulating the Bases of the Local Regime, relating to the organization regime of large population municipalities, establishes two procedures (article 121) for the inclusion of the municipalities in said regime:



1. Those whose population exceeds 250,000 inhabitants and provincial capitals that exceed 175,000 inhabitants, whose inclusion in this regime will occur directly and imperatively by state legislation.
2. The autonomous capitals or headquarters of the autonomous institutions and the provincial capitals with independence of their population, and the municipalities of more than 75,000 inhabitants that present special economic, social, historical or cultural circumstances, as long as their inclusion is decided by the legislative assemblies of the autonomous community at the initiative of the respective town councils.

The novelty proposed by this State Law in relation to local administrative delimitation is the requirement raised to large population municipalities (Article 128) for the creation of districts as their own territorial divisions, equipped with deconcentrated management bodies, to promote and develop citizen participation in the management of municipal affairs and their improvement, without prejudice to the unity of government and management of the municipality.

There are currently 10 andalusian municipalities (Seville, Malaga, Cordoba, Granada, Almeria, Jerez de la Frontera, Marbella, Dos Hermanas, Mijas and Vélez-Málaga) regulated by the regime of large municipalities that must have a administrative delimitation of the whole of its municipal area, existing the possibility that other municipalities can reach this category either by their condition as provincial capitals of less than 175,000 inhabitants (Huelva, Cádiz and Jaén), or because they are municipalities with a higher population to 75,000 inhabitants (Algeciras, San Fernando, Roquetas de Mar, El Puerto de Santa Maria, El Ejido, Chiclana de la Frontera and Fuengirola).

Finally, in relation to the segregationist possibilities of the submunicipal entities, the current andalusian regulation on the local regime (LAULA), in its article 93.2, makes clear the exceptional nature of the creation of a new municipality by segregation of another existing one, requiring "the express consent, agreed by absolute majority, of the plenary session of the town council of municipality that suffers the segregation", as well as the concurrence of some circumstances such as the existence of permanent reasons of public interest related to the territorial planning of Andalusia, that the territory of the new municipality has its own identity based on historical, social, economic, geographic and urbanistic reasons, that there is an evident difficulty of access with the parent urban centre, that the new municipality has of sufficient resources and that the quantity and quality of services provided are not affected negatively.

Therefore, the quantitative requirements regarding the population size of the urban centre that intends to segregate are eliminated, as well as the minimum distance of



undeveloped land of said urban centre with respect to the one that holds the capital of the municipality, being the main obstacle the requirement of the conformity of the absolute majority of the plenary session of the town council of the municipality that suffers the segregation, which, in principle, could seem difficult to solve since it would not be easy to obtain such compliance, since it would mean a reduction in resources and municipal heritage. However, since the entry into force of the LAULA have been 7 new municipalities emerged by segregation: Valderrubio (Pinos Puente, Granada), Montecorto (Ronda, Malaga), Dehesas Viejas (Iznalloz, Granada), Serrato (Ronda, Málaga), Játar (Arenas del Rey, Granada), Domingo Pérez de Granada (Iznalloz, Granada) and Balanegra (Berja, Almería).

Law 27/2013, of December 27, on Rationalization and Sustainability of the Local Administration, toughens the conditions for the creation of new municipalities by segregation of others already existing, establishing a population threshold of 5,000 inhabitants (article 13), which would imply that of the 1,958 secondary urban centre existing in Andalusia, only 34 of them (1.7%) could meet the aforementioned demographic requirement. In addition, most of these secondary urban centre are really coastal urbanizations very close to their municipal seat or the main urban centre of another municipality, lacking own and differentiated identity. As for the existing ELA, only Guadalcaçín, located in the municipality of Jerez de la Frontera and integrated into the urban land of the same, would exceed this population limit if we count the population of its disseminated, reaching 5,256 inhabitants.

