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Fundamental self-governing principles of the Slovak Republic with a focus on the municipality

Summary. Self-government represents a significant factor of decentralization and deconcentration of political power within a particular state. Municipalities have the power to deal with some specific issues in their territory, as long as in accordance with the official rules of the state institutions. The presented article deals with the principles of local self-administration in the Slovak Republic and especially with the position of the municipality as the basic element of the whole system. The authors will also try to describe the decision-making process and the most important issues concerning municipalities.

Key words: municipality, self-government, municipal council, self-administration, state administration

In the current political reality, we are more and more aware of the sense, and the position, of higher territorial units and municipalities themselves, and not only within the framework of the administrative division of the country, but also within the framework of the overall political system. Realization of democratic principles, which in the contemporary situation has the party's character, is also established on direct delegation of political power from the central level to municipality¹. The process of the gradual delegation of the state's authority to local units, together with the transfer of responsibilities for their practical fulfilment, is aimed

¹ L. Štefániková, *Stranícka demokracia v diele G. Leibholza a jej fungovanie v podmienkach moderného politického systému*, CD s recenzovanými príspevkami z Mezinárodní Bat'ovy konference pro doktorandy a mladé vědecké pracovníky 2009, Univerzita Tomáše Bati v Zlíně, Zlín 2009.

at increasing the effectiveness of political decisions and represents one of the most important challenges for every modern society.

For a closer and better relationship from the point of view of the political science theory, we can strongly allege that: “The theory of self-government is not sufficiently clarified in scientific works from the first half of the 20th century that dealt with it, despite new ideas from last decades resulting in new views of this phenomenon”².

From the theoretical point of view of political science we understand the term self-governing as a decentralized and democratized civil service on the central level and shifted down, which is built up through elected representatives in a concrete framework of the state, which is delegated to the municipality.

At general level here are the most important elements of self-government administration:

- It is determined and protected by persons who are established according to state law
- This level is obligated to control and decide specific fields defined by the state law
- Its own endurance is constant
- Permission to make decisions on its own and to independently use common sense³.

Fortunately, self-government can be defined as an **independent sub-system of public administration**. Self-government – either in the form of interests or territories – surely represents a significant factor of de-centralisation and de-concentration of the execution of political power. It contributes to an increased level of democratisation of the political system, and therefore, it works as the most reliable system to counteract centralism.

From the complex view point on administration, we can conclude that it is a constituent of public administration that includes the administration of the common matters found in municipalities. Its independence is specifically manifested in relation to a territory, a region, or an organisation, in financial and tax issues, as well as, issues of development and statutory matters.

The political development in post-communist countries initiated a discussion about the theory of democracy itself, and about many other issues related to the transfer of political power to a citizen, as well as, the possibility of a citizen managing his own issues, as

there is quite widely accepted opinion in current political-legal concepts that the power of people should not only be restricted to the choice of representatives who will

² M. Řehůřek, *Právo účasti občanů na správě věcí veřejných*, VEDA, Bratislava 1997, s. 80.

³ <http://www.miestnasamosprava.sk/?pg=50> [20.03.2010].

represent a citizen in a decision making process, but it is necessary to allow a citizen to participate in the acceptance of important political decisions directly⁴.

This requirement was what resulted in the territorial restructuring of the relevant state.

Local self-administration in the Slovak Republic

After the breakdown of the communist regime in the year 1989, political leaders in the democratic country made the first innovative steps in the field of self-government and administration. We have improved functions of municipalities according to general democratic and other well-known character. In the beginning, the renewal of municipalities in Slovakia was connected with the idea of establishing a dual system of public administration, where the organisation of the state administration and municipalities would cooperate in functionality. In fact, the process of deetatization was not as successful as it was expected to be during the transformation in the Slovak Republic.

After separating the local administration from the state administration, the previous three stage model of territorial administrative divisions were replaced by a local level of self-government and a two stage model of local state administration.

The basic kinds of associations between self-administration and state administration are represented by both the relations between the self-administration and local state administration, and the relationship between self-administration and the central state administration.

In the general view of self-administration and governing in the situation of the Slovak republic, we distinguish a local level of self-administration with municipality and a higher form in the upper, and superior, territorial unit. Basic principles of organization and functioning of self-administration are caught up in the European chart of local administration and organization, which is a well-known and generally accepted document in this field. According to this document we understand local self-government as its own ability to decide self-administration by itself⁵.

One of the most important issues from this document is that municipalities and superior territorial units manage their own finance from local taxes and fees implemented on their own. In addition, these bodies are financially supported by the center of political power as well – the state.

⁴ P. Kulašik, F. Briška, *Lokálna moc v transformačnom procese*, Friedrich Ebert Stiftung, Slovenské združenie pre politické vedy, Bratislava 1995, s. 22.

⁵ <http://www.miestnasamosprava.sk/?pg=49> [20.03.2010].

In our opinion, it is justified to require, from any democratic state, a contribution to things that the individual local governments cannot ensure by their own efforts. Based on this thesis, we can conclude that a democratic state should offer self-administration subsidies, as it cannot remove the responsibility of cover financial expenses that are deemed necessary. Furthermore, the state has no power to ensure supervision of enforcing laws regulating self-administration objectively. Therefore, in our opinion, the narrowest extent of relations between self-administration and state administration relates just to these two spheres: to the sphere of rendering funds to self-administration when in need, and to the sphere of the state's supervision over self-administration.

The position of the municipality as the fundamental element of self-governing in Slovak's conditions

The execution of self-administration under the conditions of the Slovak Republic is based on the **municipality** connecting the citizens who have their permanent place of residence in its territory.

The municipality, or city, is an autonomous and self-administrative territorial unit and it is a legal entity managing its assets independently. According to Act No. 369/1990 Coll. on municipalities, as amended, and in accordance with the wording of the Constitution, the so-called freedom of municipality is recognised; i.e. it is only possible to lay obligations to municipalities or to enter into its competences in the form of law. With respect to this in practice,

the expression of the municipality's free decision making is also expressed in the possibility to execute the right of association; i.e. any municipality may associate for the purpose to achieve common goals with other municipalities, and regardless the administrative-legal division of the state⁶.

Current legislation confers full rights to the citizens of a municipality. From the point of view of political theory, these rights are as follows:

- to elect the members of a municipality and the opportunities to be elected as a member of a municipality,
- to vote on the important issues of a municipality's life and development,
- to participate in the meetings of residents and to express one's own opinion,
- to use municipal equipment and any other property of a municipality that is used for public purpose in a common manner,
- to require cooperation for the protection of oneself and one's family and property situated in the municipality,

⁶ M. Čič et al., *Komentár k Ústave Slovenskej republiky*, Matica slovenská, Martin 1997, s. 173.

- to require help in case of an emergency.

In addition to the above mentioned rights, citizens have the following obligations:

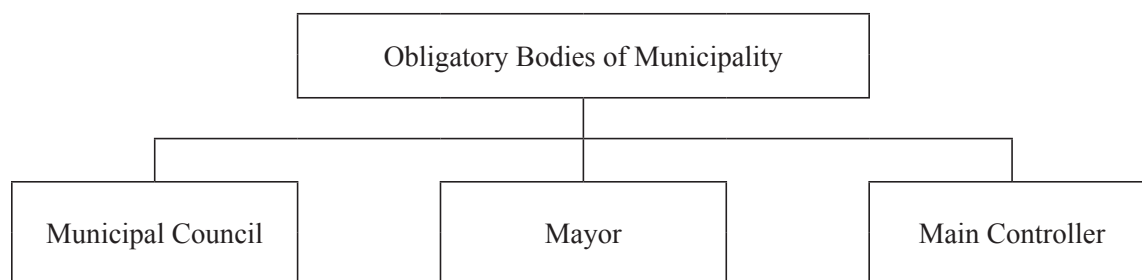
- to protect the property of the municipality and to participate in contributing to the expenses of a municipality,
- to participate in the protection and improvement of a municipality's environment,
- to assist in keeping of the order in a municipality,
- in accordance with one's abilities and possibilities, to render personal help for liquidation and elimination of the consequences of natural disaster or accidents in a municipality.

The inhabitants of a municipality may decide on public matters; i.e. execute the self-administration of their own matters in the following manner:

- by the members of a municipality,
- by the voting of a municipality's citizens,
- the right to freely associate with the municipality's citizens.

The obligatory bodies of municipality – city

The basic obligatory bodies of a municipality comprise of: the Municipal Council, the Mayor, and the Main Controller. In the case of a city, we refer to them as a City Council and the Main Controller of the city.



The Main Controller is an employee of the municipality who controls the income and expenses of the municipality's budget, as well as, any disposal of the municipality's property. The effects of the control are submitted directly to the Municipal Council.

The Main Controller is elected by the **Municipal Council** for an unlimited period of time. The election of the Main Controller for an unlimited period of time means an unusual entrenching, as according to our legal procedure, every election of official is determined by the length of the term of office in every other case. Though the independence and objectivity of control in local self-administration represents

a fundamental attribute of its successful progress, the manner of creation by the Municipal Council need not always mean the independence of the Main Controller, as in some cases the Controller may be recalled by the Municipal Council⁷.

The Main Controller participates in the meetings of the Municipal Council and the Municipal Board through the advisory vote.

The positions of Main Controller and the Mayor are paid positions. In case any municipality cannot afford to constitute the position of Main Controller due to financial reasons, the municipality may agree with neighbouring municipalities on constituting the position of a common controller.

The Municipal Council is a representative body comprising of the deputies elected by citizens in a direct election for a **4 year term of office by a majority relative (1st round First-past-the post) electoral system**; i.e. the candidates who had acquired the largest number of votes in the electoral district are elected deputies.

Any person may stand in election for the Municipal Council after satisfying the following conditions:

- minimum age of **18 years**,
- **citizenship of the Slovak Republic**,
- **permanent place of residence in the town or municipality where he/she runs for office.**

The municipal elections are declared by the **Speaker of the National Council of the Slovak Republic**. **Multi-seat electoral districts** are created in every municipality for the purpose of this election, and the deputies are elected according to the proportional number of inhabitants in each municipality; **however, there is a maximum of 12 deputies in one electoral district⁸**. **Electoral districts and the number of deputies are determined by the Municipal Council.**

The ballots for election to the Municipal Council are submitted by the **political parties – separately for every electoral district – and in this case, also by independent candidates**. The **petition**, signed by the voters supporting his candidacy, is a component of the candidate list of an independent candidate. The political party **may offer up as many candidates as the number of deputies to be elected to the Municipal Council in the relevant electoral district.**

The candidate for the position of the Mayor may also be a candidate for the position of deputy for the Municipal Council.

The **Municipal Council** decides on the fundamental issues in the life of the municipality, specifically:

- determines the principles of economy and the disposal of the municipality's property and the property of the state temporarily left for administration by the municipality; it also approves the most important acts related to the property and control of its administration,

⁷ P. Průcha, *Místní správa*, MV, Brno 1991, s. 87.

⁸ A municipality that is to elect 12 or less deputies may create just one electoral district.

- approves the budget of the municipality and its modifications; also controls budget expenses and approves financial statements,
- decides on implementing and cancelling local taxes and local fees in accordance with special regulations,
- decides on accepting a credit or a loan,
- declares a voting of inhabitants for the most important issues of the municipality's life and development, and convenes public meetings of inhabitants,
- decides on ordinances,
- establishes, constitutes and checks municipal enterprises, budgetary and allowance organisations, and appoints their heads,
- establishes the bodies necessary for the self-administration of the municipality and determines their working obligations,
- grants honorary citizenship of the municipality, as well as, honours and prizes of the municipality.

The above mentioned, demonstratively stated, competencies of the Municipal Council indicate that the Municipal Council influences the force of other municipality's bodies that are established by it in accordance with the law.

The voting done by the inhabitants of the municipality is considered to be one of the main forms of direct democracy, by which voting may results in approval of a specific binding resolution. The results of voting done by inhabitants may be substituted by the resolutions of the Municipal Council. The validity of voting is conditioned by the majority of the inhabitants entitled to vote in accordance with special regulations. The resolution of the municipality's inhabitants is accepted if it receives the majority of valid votes. The Municipal Council declares a voting of inhabitants if a law stipulates it, the voting is facultative, or the voting is requested based on the petition of the municipality's inhabitants.

The Municipal Council meets when necessary, but at a minimum once every two months. The meeting of the Municipal Council is convened and managed by the Mayor. The Mayor is also obliged to convene the meeting of the Municipal Council if requested by a minimum of 1/3 of the deputies. The Municipal Council always discusses in sessions, and only **constitutes a quorum if the majority of all deputies are present. The resolution is considered to be accepted if approved by the majority of present deputies, and the ordinance is considered to be accepted if approved by a 3/5 majority of present deputies.** On principle, the meetings of the Municipal Council are always public.

The **Mayor** is the highest executive body. The position of Mayor is also a public position. The Mayor is elected by the inhabitants of the municipality in a direct election **for a period of four years**. His/her term of office ends after a new Mayor is elected and takes an oath. The **majority relative electoral system – First-past-the post** is applied for the election of Mayor.

The candidate for the office of Mayor must comply with the following conditions:

- minimum age of **25 years** (attained on the day of election at the latest),
- **citizenship of the Slovak Republic**,
- **permanent place of residency in the municipality where he stands as a candidate.**

Every municipality creates a single-seat **electoral district** for the election of the Mayor. The list of candidates for the election of the Mayor may only be submitted by **political parties**. Each of the political parties may **only** state **one candidate**, and **political parties may submit a list of candidates stating their common candidate.**

Independent candidates may also stand as a candidate for the position of Mayor. The **petition**, signed by the voters supporting his candidacy, must be a component of the list of candidates. With respect to the competencies entrusted to the Mayor, he/she:

- convenes and chairs the meetings of Municipal Council and Municipal Board, and signs their resolutions,
- executes the administration of the municipality,
- represents the municipality with relation to state authorities, legal entities, and ordinary persons,
- decides on all the issues of the municipality's administration that do not belong to the competence of the Municipal Council in accordance with legislation or the organisational order of the municipality.

With respect to the proprietary relationship, the Mayor is a statutory body and with respect to employment and administrative relationship, he is an administrative body.

Facultative bodies of the municipality or city

The Municipal Council may establish the **Municipal Board**. The Municipal Board consists of the deputies of the Municipal Council who are elected by the Municipal Council for the term of office as a whole. The **Municipal Board** and its members may be recalled by the Municipal Council at any time. The maximum number of the Municipal Board's members is 1/3 of all the municipal deputies. It is an initiating, executive, supervising body of the Municipal Council. At the same time, it fulfils the function of advisory body for the Mayor.

The Municipal Board, specifically:

- works out, and ensures the fulfilment of, tasks resulting from the resolutions of Municipal Council, and it organizes the preparation of documents for the discussion of the Municipal Council,

- deals with all the common issues related to the municipality's property, funds, budget, local taxes and fees, and submits proposals on them to the Municipal Council or the Mayor,
- prepares meetings of the Municipal Council and submits its own proposals,
- deals with issues related to the municipality, as well as, life in the municipality, and submits its standpoints to the Municipal Council and the Mayor,
- organizes and unites the activities of the municipality's committees,
- fulfils any other tasks in accordance with the Municipal Council's resolutions.

The Municipal Board is a collective body; its purpose is not to operate as an independent body of the municipality's administration outright, but as a body that can play a positive role in relations between the Municipal Council and the Mayor.

The Committees represent other facultative bodies of the municipality.

The Municipal Office is an executive body of the Municipal Council and the Mayor. The Municipal Office specifically:

- ensures the written agenda of all the bodies of the municipality and the Municipal Council, and it is also a registry and a forwarding office for the documents that are to be discussed by the Municipal Council and the Municipal Board,
- ensures professional documents and any other documents for meetings of the Municipal Council and the Municipal Board,
- works out the Mayor's resolutions that were issued in administration procedures, in writing,
- executes the orders and resolutions of the Municipal Council and the resolutions of the Mayor.

The office of the head of the Municipal Office is established in most municipalities. The head of the Municipal Office is appointed by the Municipal Council for an unlimited period of time based on the proposal of the Mayor. The head of the Municipal Office is an employee of the municipality and answers to the Mayor for their activities. The head of the Municipal Office together with the Mayor sign the memorandum – a report of the Municipal Council's meetings.

Conclusion

After the communist breakdown in 1989, all fields of the political system have changed. The system of self-governing and administration has a stable position in the Slovak constitution closely in the fourth head article 64 and etc. The complete process of decentralization of the central political power is not finished yet. People who live together know best their own problems of governing and cooperation. Therefore, each democratic system has to shift its own competencies of governing to the municipality and upper units.

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Podstawowe zasady systemu samorządowego Republiki Słowackiej ze szczególną rolą samorządów miejskich

Streszczenie. Instytucja samorządu stanowi istotny element decentralizacji i dekoncentracji władzy politycznej w danym państwie. Gminy mają prawo do rozpatrywania niektórych szczegółowych kwestii na ich terytorium, oczywiście zgodnie z obowiązującymi przepisami instytucji państwowych. W artykule tym autorzy omawiają zasady systemu samorządowego w Republice Słowackiej, wskazując na szczególną rolę gmin będących podstawowym elementem całego systemu. Autorzy podjęli również próbę opisu procesu decyzyjnego i najważniejszych zagadnień dotyczących samorządów miejskich.

Słowa kluczowe: gmina, samorząd, rada gminy, administracja samorządowa, administracja państwowa