THE CONCEPT OF LOCAL SELF-GOVERNMENT IN THE SLOVAK REPUBLIC

The article is focused on the problem of local self-government in the Slovak Republic as a practical application of the principle of subsidiarity. By introduction the historical background and examining the development of the idea of self-governance during last decades the authors bring attention to formal and material aspects of the reform of local self-government in Slovakia. Finally, they give successful evaluation to this process despite some deficiencies.

Key words: local self-government, Slovakia, municipality, self-governing regions, principle of subsidiarity, efficiency, independence, responsibility

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Introduction

A local self-government in the Slovak Republic is a practical application of the principle of subsidiarity. According to this principle it is believed that making policy at the lowest possible level of vertical state structure will ensure the lowest possible costs and the highest effectiveness. This idea was firstly explicitly mentioned in Pope Leo XIII´s famous Encyclical *Rerum Novarum*, published in 1891.[1] After the Second World War, there spread the principle of subsidiarity to the most countries of the western world as one of the prominent principles applied in the constitutions of European states and EU law.[2]

Practical implications, however, are different in many countries. In some countries this principle is embodied in the form of government – federal government. But subsidiarity can also be applied in the unitary states, either as an interests' self-government or as a local self-government.

[1] The principle of subsidiarity contained in the social doctrine of the Catholic Church has aimed to balance two contradictory approaches of the late 19th century: a laissez-faire doctrine on one side and the communism on another. In short, this principle means that state should intervene to lower spheres of society only if they cannot resolve a problem by their own, otherwise it should restraint form too much interventions, because of a need to respect a human liberty. Compare Rerum Novarum, par. 33. Available at https://w2.vatican.va/content/leo-xiii/en/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum.html

[2] Compare Section 5 of the Treaty on European Union.

In this article, we aim to describe shortly the concept of local self-government in Slovakia. We believe that the experience of Slovakia, which established first level of local self-government already in 1990, can be also interesting for debates in other countries, particularly in Ukraine, which has to resolve somehow the relevant question in the nearest future.

1. Historical Background

After the Velvet Revolution in 1989 took place a change of the state regime of the one party – the Communist Party of Czechoslovakia – to democratic pluralism, free market economy and parliamentary form of government. However, government has not only its horizontal structure, but vertical structure is also very important. Previously, during the rule of communists, there were three levels of territorial local "self-government" – so called "National councils" *(národné výbory)*. They were not independent at all. Between each higher and lower level existed strict subordination. Moreover, they were virtually subordinated to the supervision of the Communist party, which had also rather strong hierarchical structure.

From the early beginning of the democratic regime, it became obvious that the vertical division of power is a crucial question for the next development of the common Czechoslovak state. One of the weakest sides of the common state was improper constitutional solution of relationship between two state nations – Czech and Slovak. During the first period of its existence, 1918 – 1938, Czechoslovakia was indeed a unitary state. Moreover, centralization and concentration of decisive powers in Prague were relatively high. The aim of such vertical structure of the state was based mainly on the belief that there could easily occur secession movements in some regions, particularly in German speaking frontier in the Czech countries or in the southern Slovakia with Hungarian majority of inhabitants. However, such policy created strong nationalist movement among Slovaks, which demanded their participation on governing of the state. This internal situation enabled Hitler to destroy Czechoslovakia mostly from inside. After the Second World War, between 1944-1948, it was impossible to restore previous form of state and Slovakia had a specific status – something between asymmetrical federation and autonomy. In connection with the topic of this article we have to mention, that the national councils *(národné výbory)* – authentic local self-government based on democratic principle and holding significant self-governing competencies – may be considered as the first local self-government on the territory of the Slovak Republic in the modern history.

During the communist period (1948-1989) there were national councils with the same structure like previous one, but between them existed the relationships of strict hierarchical dependence. Basically there was a centralized system of local governance with some features of territorial deconcentration. Despite the creation of federation in 1968, real powers in the state were more connected with the Communist party then with the state bodies. Because of the fact that a formally standard federation didn't have a required positive impact on the relations

between both parts of the Republic, the centralization still prevailed.

2. Transformation of the public administration

True vertical division of power appeared only after the fall of the communism in 1989. Firstly, there was done true federalization in 1990; however, the political situation after decades of not dealing with the issue was very turbulent. Disputes about marginal questions, like the name of the state[1], or about more serious one, like the form of government, has resulted in the split of Czechoslovakia into two independent and sovereign states.

The solution of a local self-government was better. In 1990 there was adopted the Act No. 369/1990 Coll. on Municipalities[2], the Act No. 377/1990 Coll. on the Capital of the Slovak Republic[3] and the Act No. 401/1990 Coll. on the City of Košice[4]. These laws regulate the first level of the self-government in Slovakia till nowadays, of course in the wording of subsequent amendments. In 2001 there was added the second level of local self-government – the regional self-government – by the Act No. 302/2001 Coll. on the Administration of Higher Territorial Units (Self-governing regions)[5]. The establishment of municipalities as legal entities, which are entitled to enter into legal relations on their behalf and to their responsibility, led to the creation of dual system of public administration presented by the self-government on one side and the state administration on another.

In accordance with the Act No. 472/1990 Coll. on the organization of local state administration, the majority of competencies of the cancelled National committees *(národné výbory)* were transferred to municipal offices and town offices *(obecné a mestské úrady)*, and to newly established district offices and circuit offices *(okresné a obvodné úrady)* as local state administration authorities *(úrady miestnej štátnej správy)* as well as to some ministries (and other central state bodies). The local state administration was also exercised by the specialized state administration authorities, e.g. environmental offices or tax offices.[6]

The creation of the second level of self-government in a form of regional local self-governance was not successful due to some political reasons. The year 1996 brought some changes in the public administration but none of them strengthened the status of self-government. The National Council of the Slovak Republic adopted the Act No. 221/1996 Coll. on Territorial and Administrative Organization of the Slovak Republic[7] and Act No. 222/1996 on

[1] They passionately discussed about the following options: the Czechoslovak Federative Republic, the Czecho-slovak Federative Republic, the Czech – Slovak Federative Republic and the Czech and Slovak Federative Republic. However, there were also attempts to establish a unitary state or a confederation.

[2] Zákon č. 369/1990 Z.z. o obecnom zriadení.

[3] Zákon č. 377/1990 Z.z. o hlavnom meste Slovenskej republiky.

[4] Zákon č. 401/1990 Z.z. o meste Košice.

[5] *Zákon č. 302/2001 Z.z. o samospráve vyšších územných celkov(zákon o samosprávnych krajoch).*

[6] Public administration consisted of municipalities (towns), 38 district offices and 121 township offices, local state administration authorities and special state administration authorities and also central level presented by the government and the parliament.

[7] According to the Section 2 of the Act No. 221/1996 Coll. on Territorial and Administrative Organization of the Slovak Republic, Self-governing territorial units of the Slovak Republic are municipalities and Higher Territorial Units. The territory of

the Organization of Local State Administration.[1]

3. The current structure of public administration

Neither legal theory nor legal instruments define the term of "public administration". From the administrative law point of view, public administration presents administration of public affairs realized as the expression of executive power in the state. Furthermore, public administration is exercised by certain institutions like public administration authorities.[2]

Public administration authority presents fundamental term of public administration. The theory of administrative law defines the sphere of public administration authorities as follows: state administration authorities, local self-government authorities and self-government of interest groups authorities and the other public administration. It is necessary to point out that the term public administration authority is broader than state administration authority (all state administration authorities belong to public administration authorities but not all public administration authorities belong to the category of state administration authorities).[3]

State administration authorities are relatively independent parts of state mechanism. They may be established only by law and have competencies in order to carry out tasks in the field of public administration. We could divide state administration authorities into the following groups: firstly the Central government bodies including Ministries and Other central government bodies; secondly, State administration authorities with powers for the Slovak Republic; and finally, Local state administration authorities. For clearer overview of the structure of state administration authorities see the table No. 1.

The self-government in the field of a public administration is characterized by the fact that it is exercised by the authorities different from state administration authorities. We could define these authorities like non-state legal entities that are established by law and their self-governing tasks are specified by law. According to the scope of activity we could divide self-government to local self-government and self-government of interest groups. The local self-government consists of municipalities and Higher Territorial Units (Self-governing regions). The self-government of interest groups includes professional chambers, associations of economical subjects and independent associations.[1] For clearer overview of the structure of self-government authorities see the table No. 2.

The other public administration as the third category of public adminis-

the Higher Territorial Unit is identical with that of territory of region. According to the Section 7 of the Act No. 221/1996 Coll. on Territorial and Administrative Organization of the Slovak Republic, Administrative units of the Slovak Republic are regions and districts. Regions are divided into districts.

[1] New organization of local state administration reflected in abolition of 121 circuit offices and new regional offices were instituted. State administration consisted from 8 regional offices and 79 district offices. Despite the effort of the government to integrate local state administration it was necessary to keep some of them.

[2] Vrabko, Marián et al. *Správne Právo Hmotné, Všeobecná časť*. 1.st ed. Bratislava: C. H. Beck, 2012. 5. Print.

[3] For example: a mayor of a municipality can be considered as public administration authority but cannot be considered as state administration authority.

tration includes public institutions and legal entities of private law and natural persons if the law entrusts such with decisions on the rights and obligations of natural persons and legal entities in the field of public administration. For clearer overview of the structure of self-government authorities see the table No. 3

4. Formal aspects of public administration decentralization

The public administration reform in the light of Strategy of public admini-

Table No. 1

<table>
<tr><th colspan="4">I. State administration authorities</th></tr>
<tr><td>Central government bodies</td><td>State administration authorities with powers for the Slovak Republic</td><td colspan="2">Local state administration authorities</td></tr>
<tr><td rowspan="2">Ministries
– Ministry of Finance
– Ministry of Interior
etc.

Other central government bodies
– Government Office
– Antimonopoly Office
– Statistical Office
etc.</td><td rowspan="2">Regulatory and control authorities
– Regulatory Authority for Electronic Communications and Postal Services
– Council for Broadcasting and Retransmission
– Office for Personal Data Protection of the Slovak Republic

Deconcentrate authorities
– The monuments board of the Slovak Republic,
– Public health Authority of the Slovak Republic
– Central Office of Labour, Social Affairs and Family

Inspection authorities
– State School Inspection
– Slovak Inspection of Environment
– Slovak Trade Inspection

Other authorities
– Social Insurance Agency in Slovakia</td><td>General competence</td><td>Special competence</td></tr>
<tr><td>– District offices
– District offices in the seat of the region</td><td>– District Mine Office etc.[2]</td></tr>
</table>

[1] Vrabko, Marián et al. *Správne Právo Hmotné, Všeobecná časť*. 1.st ed. Bratislava: C. H. Beck, 2012. 140-145. Print.

[2] One of the aim of public administration reform called ESO (Effective, Reliable, Open), which is currently running, is to decrease number of state administration offices from 613 to 72 (on the 1 October 2013 were established 72 district offices) and the integration of specialised local state administration offices to district offices.

Table No. 2

II. Self-government authorities	
Local Self-government	Self-government of interest groups
– Municipalities – Higher Territorial Units (Self-governing regions)	Professional chambers – Chamber of Notaries – Slovak Medical Chamber etc. Economic associations – Industrial, agricultural, trade chambers Independent associations – Municipal associations, Associations of interest activities

Table No. 3

III. The other public administration	
Public institutions	Legal entities of private law and natural persons
– Radio and Television Slovakia	– Churches and religious communities – Private Universities – Guards (Nature Guard, Fishing Guard etc.)

stration reform adopted by the government in 2000[1] included also a transfer of state competencies to the local self-government. In theory, decentralization means the process whereby competencies in the field of public administration and the responsibility for its exercise are divided between state and other administrative subjects of a public administration. This process is characteristic for self-government. It is necessary to point out that despite of delegated exercise of state administration, control over original self-government competencies has been retained.[2]

The year 2001 was very important for the process of decentralization. First of all, the second level of the local self-government, Higher Territorial Units (Self-governing regions), were established. The necessity of creation of the second level of local self-government was introduced by the Constitutional Act No. 90/2001 Coll.[3] amending and supplementing the Constitution of the Slovak Republic No. 460/1992 Coll. By this amendment, Territorial Units (Self-governing regions) were implemented in compliance with the Act No. 302/2001 Coll. on the Administration of Higher Territorial Units (Self-governing regions).[4]

[1] Stratégia reformy verejnej správy v Slovenskej republike. Adopted by the Government Resolution No. 695/1999 Coll. Available at: http://www.vlada.gov.sk/uznesenia/1999/0818/u_0695_1999.html [retrieved 19 April 2015]

[2] Vrabko, Marián et al. *Správne Právo Hmotné, Všeobecná časť*. 1st ed. Bratislava: C. H. Beck, 2012. 22. Print.

[3] The Constitution of the Slovak Republic has enacted in the Chapter Four (Art. 64 - Art. 71). For more details see Chapter five of this article.

[4] Act No. 302/2001 Coll. on the Administra-

The establishment of the second level of the local self-government brought new grounds for the process of transfer of certain local state administration competencies to municipalities and Higher Territorial Units (Self-governing regions). This process is embedded in the Article 71 of the Constitution of the Slovak Republic. According to the paragraph 1 of the Article 71 the costs of delegating the exercise of state administration are to be borne by the state. The Constitution prohibits a sub-delegation of self-government´ competencies to an interest group.

The constitutional amendment of 2001 and adoption of the Act No. 416/2001 Coll. on the transfer of some competencies from the state administration to municipalities and Higher Territorial Units (hereinafter referred to as Act No. 416/2001 Coll.) affected significantly the operation of municipalities and Higher Territorial Units (Self-governing regions). From this moment on, the local self-government authorities could conduct some activities on their own responsibility and cost. Other activities, which passed on to municipalities and Higher Territorial Units (Self-governing regions) within delegated exercise of state administration, are exercised on state's behalf, on state's responsibility and the costs are borne by the state. In other words, we can distinguish between the tasks that are exercised within the original powers of local self-government authorities and the tasks of local self-government authorities that are exercised within the delegated exercise of the state administration. When exercising the original competencies, a local self-government authority is bound by the constitution, statutes etc. but the exercise of competencies is at its own discretion. The situation is different when the exercise of state administration is transferred. During the exercise of transferred exercise of state administration, a local self-government authority is a mere "executor" of certain powers that are still considered as state powers. In such cases, the local self-government is bound by the constitution, statutes as well as legal norms of inferior power, e.g. local notices, regulations and directives of hierarchically higher state authorities. It is necessary to point out that delegation of exercise of state administration has to be expressly stated in an act of parliament.

In case of uncertainty whether a competence of a local self-government should be exercised within the original competencies or as delegated competence of the state administration, following to the Act No. 416/2001 Coll. the task is entrusted in local self-government authorities within the original competence unless otherwise is stated in the law.[1]

The commencement of the transfer of state administration competencies to municipalities and Higher Territorial Units (Self-governing regions) is dated on 1 January 2002 when the Act. No. 416/2001 Coll. came into effect. The transfer of state administration compe-

tion of Higher Territorial Units (Self-governing regions) *(Zákon o samospráve vyšších územných celkov (zákon o samosprávnych krajoch))* regulates the legal status of Higher Territorial Units.

[1] Section 4 Paragraph 2 of the Act No. 416/2001 Coll. on the transfer of certain competencies from state administration bodies to municipalities and Higher Territorial Units *(Zákon o prechode niektorých pôsobností z orgánov štátnej správy na obce a na vyššie územné celky)*.

tencies was executed in five phases from 2002 to 2004. During this period more than 400 state administration competencies were transferred to municipalities and Higher Territorial Units (Self-governing regions).[1]

The scope of state administration competencies transferred to municipalities is stated in the Section 2 of the Act. No. 416/2001 Coll. According to the aforementioned provision, the municipality exercises delegated competencies in the field of road communication, registers, social welfare, landscape planning and construction order as a construction office, nature protection, education, physical culture, theatre activities, healthcare, regional development and tourist industry.

Higher Territorial Units (Self-governing regions) exercise transferred state administration competencies in the field of road communication, railways, road transport, civil defense, social welfare, landscape planning, education, physical culture, theatre activities, museums and galleries, public enlightenment, libraries, healthcare, human pharmacy, regional development and tourist industry.[2]

5. Material aspects of the local self-government reform

The local self-government authorities (hereinafter referred to as "LSGs") in the Slovak Republic are built according to the principle of subsidiarity. Constitution of the Slovak Republic lays down a basic legal frame for territorial self-government in the Chapter IV. We will describe in this chapter therein contained basic principles of self-government and some other basic principles.

1. LSGs are independent territorial and administrative units comprising permanent residents on their own territory[3].

In this provision there are 3 features of LSGs, i.e. territoriality (they have their own territory within which they apply their competencies), personality (their power come from people with permanent residence within their territory) and administrative character of their operations (significant part of tasks are resolved by administrative methods).

2. LSGs are legal entities.

LSGs are legal entities *ex constitutione*.

3. LSGs manage independently their own property and financial resources[4].

The property of LSGs can consist of buildings, land parcels, enterprises, natural sources (or rights to them), money, etc. – they can own basically everything. However, they can also manage a property of the state – in such case they are not independent in its managing. In general they have to follow the *Act No. 138/1991 Coll. on Property of Municipalities*[5], the *Act No. 446/2001 Coll. on Property of Higher Territorial Units*[6]

[1] Nižňanský, Viktor, and Marta Hamalová.Decentralizácia a Slovensko.1.st ed. Trenčín: Inštitút Aplikovaného Manažmentu, 2013. 44-45. Print.

[2] Section 3 of the Act No. 416/2001 Coll. on the transfer of certain competencies from state administration bodies to municipalities and Higher Territorial Units *(Zákon o prechode niektorých pôsobností z orgánov štátnej správy na obce a na vyššie územné celky)*.

[3] Article 64a of the Constitution of the Slovak Republic.

[4] Article 65 Section 1 thereof.

[5] *Zákon č. 138/1991 Z.z. o majetku obcí.*

[6] *Zákon č. 446/2001 Z.z. o majetku vyšších územných celkov.*

and some other special laws[1]. With regard to their income, except of a profit from their own property, they have right to impose some fees and local taxes according to the special laws[2].

4. LSGs finance their needs primarily from their own revenues (taxes, fees, gains from the property…), as well as from state subsidies[3].

This principle is strongly related with the previous one. The law creates possibility of certain financial independence of LSGs. However, it is obvious that LSGs cannot finance all necessary projects within their original competencies only by their own sources. For that purposes the state and the EU have created special funds for covering certain significant expenses, which exceed financial possibilities of LSGs. Nevertheless, also in such situation is guaranteed independence from the state by commencement of contact on providing with financial sources – a public contract which stipulates conditions for providing with money. The state cannot force LSGs to enter into such a contract.

5. LSGs have a right to associate with other LSGs of same level in order to provide matters of common interest.[4]

The section 20 of the Act on Municipalities recognizes two types of cooperation of municipalities. They can conclude a special public contract in order to reach easier their tasks. They can also create an association of municipalities, which is legal entity, e.g. for creation of common enterprise. The next section 21 is dedicated to international cooperation of municipalities with foreign municipalities, regional self-government, or administrative bodies. Analogically, the section 5 and the section 7 of the Act on Self-governing Regions covers the same issues with regard to the regional self-government between themselves and in a foreign cooperation.

6. LSGs are performed at the meeting of municipality residents, by local referendum, by regional referendum and by LSGs organs[5].

Special laws also govern issues of execution of power. As the most frequent and ordinary may be considered execution of the power by self-government´s bodies, which are elected by the people.

The "quasi-legislative" power is held by a municipality council (or a council of region in case of self-governing regions), which consists of certain number of deputies, who are elected in direct elections every four years by all residents of the certain territory (including non-citizens who are permanently residing there and excluded underage people). The most important competence of the council is adoption of municipal by-laws. They also approve a budget, control management of municipal property, declare a local referendum, approve local taxes and fees, as well as local municipal territorial plan

[1] In this context we have to mention the general law on budgeting of LSGs – the Act No. 583/2004 Coll. on Budget Rules of the Regional Self-Administration *(Zákon 583/2004 o rozpočtových pravidlách územnej samosprávy)*.

[2] E.g. The Act No. 582/2004 Coll. on local taxes and local charges for municipal and minor construction waste *(Zákon č. 582/2004 Z.z. o miestnych daniach a miestnom poplatku za komunálne odpady a drobné stavebné odpady)*.

[3] Article 65 Section 2 of the Constitution of the Slovak Republic.

[4] Article 66 Section 1 thereof.

[5] Article 67 Section 1 thereof.

(by by-law), vote for a main controller of a municipality or self-governing region, create or dismiss bodies of a municipality (except of the statutory), etc.

A head of executive power is a mayor (in municipality) and president (in self-governing region). He is elected in direct elections by the people for four year period. He is a main representative of a municipality, a statutory organ (signs agreement in the name of municipality), an administrative authority (makes final decisionz in administrative procedures, where municipality is competent), he assembles the council, he may suspend a by-law approved by council (but only once and it may be reversed by a qualified majority of the municipality council), etc.

The body of an internal control is the main controller. He is elected by the council for six years period and controls finances of a municipality or a self-governing region.

A local referendum is regulated by the Section 11a of the Act on Municipalities. The law distinguishes two situations: obligatory referendum[1] and voluntary referendum[2]. A result of a local referendum is valid, if there has taken a part at least one half of all entitled voters. Analogically, this issue is governed by the Section 15 of the Act on Self-governing Regions.

In some relevant cases, there can be summon a folk-gemote (session of inhabitants) in municipality or in its part. A decision made by this meeting has only the consultative relevance.

7. Duties and restrictions of competencies may be imposed on LSGs only by law or by international treaty.[3] State can intervene to activities of LSGs only in a manner prescribed by law.[4]

The Constitution guarantees independence of LSGs from the state. The state is, however, sovereign and can determine a status, scope of rights and duties and other requirements on LSGs. But this sovereignty cannot be absolute. In Slovakia there is applied the principle of rule of law, which require material and formal qualities of regulatory acts of the government. With regard to regulation of original competencies of LSGs there are possible only laws and some international treaties.[5] Hence the state cannot restrict rights or impose duties on LSGs by any administrative instruments, even government ordinances.[6] However, executive bodies can regulate rights and obligations of LSGs in manner prescribed by law, i.e. with the law or on the grounds of laws.

In order to ensure the independence of LSGs, the Constitution empowers[7]

[1] It is referendum about these question:

1. discharge of a mayor from his office

2. merger, division or cancelling of a municipality

3. other question by virtue of petition signed by 30 % of entitled voters.

[2] E.g. about other important questions of self-government.

[3] Article 67 Section 2 of the Constitution of the Slovak Republic.

[4] Article 67 Section 3 thereof.

[5] LSGs are obliged to follow only international treaties according to the Section 7 Subsection 5 of the Constitution. There are defined tree types of treaties: the human rights international treaties, the self-executive treaties and the international treaties, which directly establish rights and duties of natural and artificial persons.

[6] In the Article 120 the Constitution distinguishes two types of government ordinances – i.e. "common government ordinance" and "approximate government ordinance". By the first one government cannot restrict rights and impose duties on LSGs within the original competencies of LSGs. However, by the second they can do so, because they implement the EU law to national Slovak legal order. Regardless the fact that some scholars consider such approach as unconstitutional, in practice the LSGs has to follow these approximate government ordinances.

[7] Article 127a thereof

LSGs to make a special claim on the Constitutional Court of the Slovak Republic. By this "communal claim" LSGs may ask for cancelling excessive unlawful or unconstitutional decision, act or other violation, which limits their competencies beyond statutory frame-work.

8. LSGs may issue generally binding ordinances in matters of their original competence[1]

Within their original competencies LSGs are entitled to adopt by-laws, which have to be in compliance with the Constitution, constitutional acts, (normal) acts and ratified international treaties, as well as approximate government ordinance pursuant to the Article 120 Section 2 of the Constitution. In case of violation of the aforementioned legal instruments, only the courts may put such by-law aside, whereas state administrative authorities are precluded to intervene to original competencies of the local self-government.

Municipalities and self-governing regions are also entitled to adopt a "generally binding ordinances"[2] in delegated issues. However, in such situation they need to be explicitly empowered by a law in each and every instance. Such ordinances have to be in compliance with government ordinances (of both types), generally binding ordinances of ministries and other central administrative bodies.

9. To LSGs may be transferred tasks of local state administration. Such competencies are conducted by LSGs in behalf and account of the state.[3]

The law also recognizes situations, when for certain reasons it is more effective, if some competencies of the state are administrated by LSGs, for example administration of registrars (of births, deaths or marriages), constructing administrative procedures (but the creation of a binding planning documents is govern by municipalities as their original competence), managing of state elementary schools (by municipalities) or state secondary schools (by regional self-governments), etc.

In cases when LSGs exercise their delegated competencies, they have a position of local state administrative body. It means that they are fully subordinated to hierarchically higher state bodies, they approve their decision in the name of the state, costs of procedure is fully covered by the state budget, fees are income of the state, in case of appellation, their decisions can be change by higher authority[4] and caused damage goes on account of the state.

10. Municipalities and Self-governing regions do not create a hierarchical structure

Municipalities and Self-governing regions have their own competencies which are divided strictly among them. Both levels of LSGs are independent not only from the state, but also from each other.

11. In Bratislava and Košice there is double-structure of municipal bodies

In Bratislava and Košice there are two levels of municipalities. There is the central level headed by a mayor and

[1] Article 68 thereof

[2] The law, unfortunately, use this very same term as well as for by-law as for delegated generally binding ordinances. This terminological match has created many problems in practice, because municipal authorities sometimes mix these two types and create unlawful regulations.

[3] Article 71 thereof

[4] By contrary, decision of LSGs in administrative procedure within their original competencies can be change only by court. However, courts usually just dismiss the unlawful decision and return case back to municipality to proper resolution (a cassation).

a city council. The second level consists of several self-governmental districts with the same structure – mayor of a district and a district council. Both level of municipality are elected by inhabitants of city or districts. The competencies are divided by the abovementioned laws and a city charter.[1]

To complete the picture, in both cities reside also the self-governing regions, which operate there in a same manner that in other territory. For example, in the capital city of Slovakia – Bratislava – there are two levels of the municipal self-government, both elected in direct democratic elections, and there is also the self-government region *(Bratislavský samosprávny kraj)*, which territory covers only the territory of the city and several other surrounding municipalities.

Conclusion

After 25 years from adoption of the first law, which contained the concept of local self-government, we can allege, that through numerous problems connected with implementation and some problems also with legislation, there have been successfully applied theoretical postulates of subsidiarity to practice in Slovakia. This system delegated unprecedentedly more power to the people, who can now more easily control managing the wider scope of public issues. There were also created better conditions for public initiatives, cooperation with NGOs or other organizations within Slovakia and cross-borders. However, full positive impact of this approach will be obvious after the people will truly realize their rights. This cannot be established by any law, real social changes are needed, which require good condition of democratic institutions and a lot of time. We believe that relatively good conditions of regulation have been already achieved and right now we need to cultivate interest of ordinary people in public issues.

On the other hand, practical realization of the concept of local self-government in Slovakia has still some significant mistakes. First of all, there are plenty of villages and each of them has the same status – i.e. rights and duties, bodies, etc. This creates plenty of practical problems, mainly with delegated state competencies, finances, etc. We believe that there is acute need of the reduction of the number of municipalities by their mergers.

The self-governing regions are also rather problematic. People mostly do not fully understand, what these bodies do, why, and what for they are important. We believe that it is a result of not respecting historical regional borders and creation of more or less artificial territories which have not sufficient authority. In such situation the advantages of self-government, as better public control and increased public initiatives, are reduced and disadvantages, as higher fragmentation of the state power, getting more relevance. However, we strongly believe that cons still prevail.

[1] i.e. the special by-law of the pertinent municipality, which governs issues like division of competencies between two levels of municipal self-governance, etc. It is something like a „municipal constitution" and it is approved independently by the bodies of municipality.

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